

**AGREEMENT FOR FABRICATION AND INSTALLATION OF
LAW ENFORCEMENT MEMORIAL**

1. **Introduction.** This Agreement is between the Lincoln-Lancaster County Public Building Commission (“PBC”) and Lincoln Police Union, a Nebraska nonprofit corporation (“LPU”) regarding funding and development of a law enforcement memorial as outlined below.

2. **Memorial.** A memorial sculpture (“Memorial”) has been proposed to be installed on approximately five hundred (500) square feet of new landscape and plaza space on the east side of the Hall of Justice located at 575 S. 10th Street, Lincoln, Nebraska 68508 in the location shown on Exhibit “A” attached hereto and incorporated herein by this reference (“Premises”). A photo simulation of the Memorial is included as Exhibit “B” and made part of this Agreement.

3. **Expenses.** PBC shall pay for the site design, structural engineering, and construction of the pad site for the Memorial. LPU shall pay for design and fabrication of the Memorial by the artist, installation, and ongoing repair and maintenance of the Memorial. LPU shall be the owner of the Memorial upon installation. PBC shall have no responsibility for expenses related to the Memorial.

4. **Term.** The term of this Agreement shall commence upon execution and shall continue until completion of all of the obligations of this Agreement, but in no event longer than ten (10) years after the date of execution by PBC. It is anticipated that the Memorial will be installed on or before October 2021. The parties may renew this Agreement for additional five (5) year terms by written amendment.

5. **Termination.** Either party may terminate this Agreement if the other party fails to perform as required; termination for breach may be exercised only after the non-breaching party notifies the breaching party of the failure to perform by giving the other party thirty (30) days written notice. PBC may, in its sole discretion, determine that for any reason that it is no longer willing or desirous of publicly displaying such Memorial on the Premises and may terminate the Agreement for its own convenience in writing and decommission the Memorial under the terms provided for herein.

6. **Responsibilities of the Parties.** The parties shall undertake the following responsibilities:

Both parties shall:

- a. Contract with an engineering firm to review plans and specifications for the Memorial and have the structural engineer design any footing/mounting for the Memorial.

Public Building Commission shall:

- a. Provide keys and/or personnel to allow access to the required spaces, including mechanical/electrical, housekeeping, and telecom rooms as necessary;
- b. Review and approve the final plans of the Memorial prior to fabrication and installation;
- c. Provide electronic copies of all existing CAD files, past construction documents, studies, and current site survey and geotechnical report of the Premises, if available.

Lincoln Police Union shall:

- a. Contract with artist to have the Memorial fabricated;
- b. Contract for installation of the Memorial;
- c. Pay for all costs of fabrication, installation, and future repairs and maintenance;
- d. Provide for regular inspection of the Memorial;

- e. Provide for an endowment of \$20,000 for repair, maintenance, and replacement of the Memorial.
7. **General Duties.** LPU and its agents, artist, contractors, and subcontractors agree to timely and professionally complete the services as described above, conduct all activities related to the services in a lawful manner; and provide and perform all necessary labor and design in a professional and workmanlike manner and in accordance with the provisions of this Agreement. LPU warrants to the PBC that the services to be performed under this Agreement shall be in accordance with accepted and established practices and procedures and shall conform to the requirements of this Agreement. The parties all agree that this Agreement is conditioned upon approval of this Agreement by the Public Building Commission.
8. **No Joint Venture.** Neither the funding nor any other provisions contained in this Agreement nor any acts of any party shall be deemed or construed to create the relationship of partnership or of joint venture, other than contractual relationships stated in this Agreement. It is expressly understood that neither party nor any of its staff or contractors are employees of the other party and, thus they are not entitled to any respective benefits.
9. **Additional Improvements.** Prior to the construction of any additional improvements or appurtenances to the Memorial, LPU shall submit the proposed improvements in writing to PBC for approval of design, location, and any public use issues. Upon written approval and the securing of all required permits and licenses, LPU may commence construction of the additional improvements on the Premises. After construction of any improvements or appurtenances, LPU shall submit a request to PBC to accept the improvements in writing.
10. **Risk of Loss; Condition of Premises.** PBC assumes no responsibility for any loss of property through theft, vandalism, or any other happening whatsoever related to the Memorial. PBC shall have no duty or responsibility to protect, secure, or defend the Memorial from acts of vandalism, defacing, or any other damage incurred, other than those police protections provided to other property in the City of Lincoln. In the event the Memorial becomes dangerous to persons or property, PBC is authorized to take such steps as may be necessary to secure or make the Memorial safe until such time as LPU can make or plan for repairs, renovation, removal, or replacement of the Memorial. The cost of such work shall be the responsibility of the LPU. LPU accepts the Premises in its then current “as is” condition and acknowledged to be in good and satisfactory condition. LPU and its contractor has inspected and determined the Premises to be suitable for the uses intended.
11. **Surrender and Restoration Upon Termination or Expiration.** It is agreed that at the expiration or termination of the term of duration in this Agreement that peaceful exclusive possession of the Premises shall be given to PBC, including if PBC makes the determination to decommission for its convenience. LPU shall, within sixty (60) days after termination or expiration of this Agreement, and at the sole expense of LPU, remove the Memorial and related improvements from the Premises, unless otherwise agreed to between the parties in writing. The Premises shall be restored to their original condition prior to the Agreement. Any property not removed within sixty (60) days shall be deemed abandoned. All improvements, alterations, additions, and fixtures that remain shall be the property of PBC and shall be surrendered with the Premises as a part thereof.
12. **Indemnification.** To the fullest extent permitted by law, LPU shall indemnify, defend and hold harmless PBC, its officers, agents and employees from and against claims, damages, losses and

expenses, including but not limited to attorneys fees, arising out of or resulting from performance of this Agreement, that results in any claim for damage whatsoever, including without limitation, any bodily injury, sickness, disease, death, or any injury to or destruction of tangible or intangible property, including any loss of use resulting therefrom that is caused in whole or in part by the intentional or negligent act or omission of LPU or the artist, or anyone for whose acts any of them may be liable. This section will not require LPU to indemnify or hold harmless PBC for any losses, claims, damages, and expenses arising out of or resulting from the sole negligence of PBC. PBC does not waive its governmental immunity by entering into this Agreement and fully retains all immunities and defenses provided by law. This section survives any termination of this Agreement. LPU shall indemnify and defend PBC from suits or claims for infringement of any patent, copyright, trademark, or other intangible rights related to the production of the Memorial related to this Agreement.

13. **Insurance.**

- A. LPU shall maintain General Liability Insurance at its own expense during the duration and any renewals of this Agreement, naming and protecting LPU and PBC, its officials, employees and volunteers as insured, against claims for damages resulting from (a) all acts or omissions, (b) bodily injury, including wrongful death, (c) personal injury liability, and (d) property damage which may arise from operations under this Agreement whether such operations by LPU and LPU employees, or those directly or indirectly employed by LPU. The minimum acceptable limits of liability to be provided by such insurance shall be as follows:
1. All Acts or Omissions - \$1,000,000 each Occurrence; \$2,000,000 Aggregate; and
 2. Bodily Injury/Property Damage - \$1,000,000 each Occurrence; \$2,000,000 Aggregate; and
 3. Personal Injury Damage - \$1,000,000 each Occurrence; and
 4. Contractual Liability - \$1,000,000 each Occurrence; and
 5. Products Liability and Completed Operations - \$1,000,000 each Occurrence; and
 6. Medical Expenses (any one person) - \$10,000;
 7. Fire Damage (any one fire) - \$100,000.
- B. The following shall be provided and attached to this Agreement by LPU:
1. A Certificate of Insurance for its General Liability Insurance. The Public Building Commission shall be specifically named as an additional insured on the General Liability Insurance.
 2. Proof of Workers Compensation Insurance, where appropriate.
- C. LPU is required to provide PBC with thirty (30) days notice of cancellation, non-renewal or any material reduction of insurance as required by this Agreement.

14. **Further Assurances.** Each party will use its best and reasonable efforts to successfully carry out and complete each task, covenant, and obligation as stated herein. Each of the parties shall cooperate in good faith with the other and shall do any and all acts and execute, acknowledge, and deliver any and all documents so requested in order to satisfy the conditions set forth herein and carry out the intent and purposes of this Agreement.

15. **Integration; Amendment; Assignment; Severability; Waiver.** This Agreement represents the entire agreement between the parties. All prior negotiations and representations are hereby expressly excluded from this Agreement. This Agreement may be amended only by written agreement of both parties. This Agreement may not be assigned without the prior written consent of the other party. Each section of this Agreement is hereby declared to be independent of every other section so far as inducement for acceptance of this Agreement. and invalidity of any section of this

Agreement shall not invalidate any other section thereof. The failure of either party to enforce any provision of this Agreement shall not be construed as a waiver or limitation of that party's right to subsequently enforce strict compliance with every provision of this Agreement. This Agreement shall be construed and interpreted under the laws of the State of Nebraska.

16. **Capacity.** The undersigned do hereby agree and represent that he or she is legally capable to sign this Agreement and to lawfully bind each party to this Agreement.

IN WITNESS WHEREOF, Lincoln Police Union and Lincoln-Lancaster County Public Building Commission do hereby execute this Agreement.

Lincoln Police Union Signature: _____

Print Name and Title: _____

Lincoln-Lancaster County
Public Building Commission Signature: _____

Date of Execution: _____