

**BEFORE THE BOARD OF COMMISSIONERS
OF THE COUNTY OF LANCASTER, NEBRASKA**

**A RESOLUTION OF THE COUNTY OF)
LANCASTER, NEBRASKA APPROVING)
(A) AN AMENDED AND RESTATED SITE)
LEASE AMONG THE LINCOLN-LANCASTER)
COUNTY PUBLIC BUILDING COMMISSION,)
AS LESSEE, AND THE COUNTY AND THE)
CITY OF LINCOLN, NEBRASKA, JOINTLY,)
AS LESSOR, (B) AN AMENDED AND)
RESTATED LEASE AGREEMENT AMONG)
THE COUNTY AND THE CITY, JOINTLY, AS)
LESSEE, AND THE COMMISSION, AS)
LESSOR, AND (C) THE ISSUANCE OF NOT)
TO EXCEED \$7,500,000 IN PRINCIPAL)
AMOUNT OF THE COMMISSION'S TAX)
SUPPORTED LEASE RENTAL REVENUE)
REFUNDING BONDS, SERIES 2010B; AND)
RELATED MATTERS.)**

RESOLUTION NO. R-10-0094

WHEREAS, the Board of Commissioners (the **“Board”**) of The County of Lancaster, Nebraska (the **“County”**) has previously approved (a) the acquisition by the Lincoln-Lancaster County Public Building Commission (the **“Commission”**) in the name of the County and The City of Lincoln, Nebraska (the **“City”**) of real property together with the building and facilities located thereon at 3145 “O” Street and (1) remodeling, renovating, equipping, furnishing and otherwise improving such building and facilities and (2) constructing an addition and other improvements thereto, together with such related equipment and furnishings as is appropriate (collectively the **“Health Department Building”**) to house the operations of the health department jointly operated by the County and the City, (b) the acquisition by the Lincoln-Lancaster County Public Building Commission (the **“Commission”**) in the name of the County and the City of real property legally described as Block 101, Original Plat, Lincoln, Lancaster County, Nebraska, and the construction thereon of a parking structure for the County and the City (the **“Parking Facilities”**) (c) the acquisition by the Commission in the name of the County and the City of real property together with the building and facilities located thereon at 645 and 701 South 9th Street (the **“Courthouse Plaza Building”**), (d) the execution and delivery of (1) a Lease Agreement, dated August 21, 2002, together with a First Amendment to Lease Agreement, dated August 18, 2004 (collectively, the **“Health Department and Parking Site Lease”**), among the County and the City, jointly, as lessor, and the Commission, as lessee, and (2) a Lease Agreement, dated August 21, 2002, together with a First Amendment to Lease Agreement, dated August 18, 2004 (collectively, the **“Health Department and Parking Lease Agreement”**), among the Commission, as lessor, and the County and the City, jointly, as lessee, in connection with the Health Department Building and the Parking Facilities, and (e) the execution and delivery of (1) a Lease Agreement, dated December 20, 2005 (the **“Courthouse Plaza Site Lease”**), among the County and the City, jointly, as lessor, and the Commission, lessee, and (2) a Lease Agreement, dated December 20, 2005 (the **“Courthouse Plaza Lease Agreement”**), among the Commission, as lessor, and the County and the City, jointly, as lessee, in connection with the Courthouse Plaza Building.

(b) The Commission has previously issued its (1) \$9,895,000 original principal amount Tax Supported Lease Rental Revenue and Refunding Bonds, Series 2002, dated August 21, 2002 (the **“2002**

Bonds”), for the purpose of (1) providing for the payment and redemption of \$1,580,000 principal amount of the Commission’s General Obligation Bonds, Series 1993, (2) paying the costs and expenses incident to the acquisition, purchase, construction and installation of the Parking Facilities for use by the County and the City, and (3) paying expenses incident to the issuance of the 2002 Bonds, of which \$6,175,000 principal amount are presently outstanding (the “**Outstanding 2002 Bonds**”), and (2) \$1,700,000 original principal amount Tax Supported Lease Rental Revenue Bonds, Series 2005B, dated December 20, 2005 (the “**2005B Bonds**”), for the purpose of (1) paying the costs and expenses incident to acquiring the Courthouse Plaza Building for use by the County and the City, (2) funding a debt service reserve fund with respect to the 2005B Bonds and (3) paying expenses incident to the issuance of the 2005B Bonds, of which \$1,410,000 principal amount are presently outstanding (the “**Outstanding 2005B Bonds**”).

(c) The County, the City and the Commission have determined that it is necessary, desirable, advisable and in the best interest of the County, the City and the Commission to issue not to exceed \$7,500,000 in principal amount of its Tax Supported Lease Rental Revenue Refunding Bonds, Series 2010B, dated the date of delivery thereof (the “**2010B Bonds**”), for the purpose of (1) providing for the payment and redemption of (A) the Outstanding 2002 Bonds and (B) the Outstanding 2005B Bonds, and (2) paying certain costs of issuing the 2010B Bonds.

(d) In connection with the issuance of the 2010B Bonds, it is necessary, desirable, advisable and in the best interests of the County, the City and the Commission that the Health Department and Parking Site Lease, the Courthouse Plaza Site Lease, the Health Department and Parking Lease Agreement and the Courthouse Plaza Lease Agreement be amended and restated.

(e) Section 13-1306, Reissue Revised Statutes of Nebraska, as amended, provides that with the prior approval of both the County and the City, the Commission shall have the power and is authorized to issue its bonds for any corporate purpose in such amounts as may be required to carry out and fully perform the purposes for which the Commission was established.

Section 2. The Amended and Restated Site Lease, dated the date of execution and delivery thereof (the “**Site Lease**”), among the County and the City, jointly, as lessor, and the Commission, as lessee, a copy of which is attached hereto as **Exhibit A** and incorporated herein by reference, with respect to the Health Department Building, the Parking Facility and the Courthouse Plaza Building is hereby approved.

The Chair is hereby authorized and directed to execute the Site Lease for and on behalf of the County, but with such changes, additions or deletions with respect to the Site Lease as may be in the best interests of the County, the City and the Commission, to carry out refunding the Outstanding 2002 Bonds and the Outstanding 2005B Bonds prior to the signing thereof upon advice of the County Attorney and bond counsel.

Section 3. The Amended and Restated Lease Agreement, dated the date of execution and delivery thereof (the “**Lease Agreement**”), among the Commission, as lessor, and the County and the City, jointly, as lessee, a copy of which is attached hereto as **Exhibit B** and incorporated herein by reference, with respect to the Health Department Building, the Parking Facility and the Courthouse Plaza Building is hereby approved.

The Chair is hereby authorized and directed to execute the Lease Agreement for and on behalf of the County, but with such changes, additions or deletions with respect to the Lease Agreement as may be

in the best interests of the County, the City and the Commission, to carry out refunding the Outstanding 2002 Bonds and the Outstanding 2005B Bonds prior to the signing thereof upon advice of the County Attorney and bond counsel.


Section 4. The issuance of the 2010B Bonds in an aggregate principal amount not to exceed \$7,500,000 having the principal maturities, interest rates and redemption provisions determined by the Finance Director of the City in accordance with the terms and conditions specified in the resolution of the Commission authorizing the issuance of the 2010B Bonds is hereby ratified, confirmed and approved.

Section 5. This resolution shall take effect and be in force from and after its passage according to law.

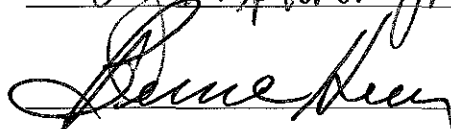
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DATED: November 9, 2010.

BY THE BOARD OF COUNTY
COMMISSIONERS OF LANCASTER
COUNTY, NEBRASKA









Hudkins Absent

APPROVED AS TO FORM
this 9 day of November, 2010



(Deputy) County Attorney

**AMENDED AND RESTATED SITE LEASE
PROVIDING FOR THE LEASE OF
3145 "O" STREET,
BLOCK 101, ORIGINAL PLAT
AND
645 AND 701 SOUTH 9TH STREET
FROM
THE CITY OF LINCOLN, NEBRASKA
AND
THE COUNTY OF LANCASTER, NEBRASKA
TO
LINCOLN-LANCASTER COUNTY PUBLIC BUILDING COMMISSION**

This **AMENDED AND RESTATED SITE LEASE** (the "**Site Lease**"), dated [Closing Date], 2010, is by and among **THE CITY OF LINCOLN, NEBRASKA** (the "**City**"), and **THE COUNTY OF LANCASTER, NEBRASKA** (the "**County**"), jointly as lessor, and the **LINCOLN-LANCASTER COUNTY PUBLIC BUILDING COMMISSION** (the "**Commission**"), as lessee.

RECITALS

1. The Commission is a public building commission, political subdivision, body politic and corporate and an instrumentality of the State of Nebraska (the "**State**") exercising essential governmental functions and existing pursuant to Chapter 13, Article 13, Reissue Revised Statutes of Nebraska, as amended (the "**Act**"), which has been duly activated by the City and the County pursuant to the Act for the purpose of facilitating the ownership and use of any project (as defined in the Act) for the benefit and use of the City and the County.

2. The Act authorizes the Commission to acquire by purchase, in the name of the City and the County, real property or rights and easements thereon necessary or convenient for its corporate purposes, subject to approval by both the City and County pursuant to the Interlocal Agreement dated July 10, 1996 among the City, the County and the Commission.

3. The City, the County and the Commission have previously entered into the following agreements:

(a) Lease Agreement, dated August 21, 2002, among the City and the County, as lessor, and the Commission, as lessee, with respect to the following property (collectively, the "**Health Department/Parking Properties**"):

(1) Lots 1, 8, 9, 10, 11, 12, 13, and 14, Block 1, together with the vacated east-west alley abutting said Lots 1 and 14, Block 1, and the South ½ of the vacated east-west alley abutting Lot 13, Block 1, and the north 10 feet of vacated "N" Street abutting Lots 8 through 14, Block 1; Lots 1, 2, 3, and 4, Block 4, and that portion of the east-west alley south of and abutting Lots 1 through 4, Block 4, all in Plainview Addition, Lincoln, Lancaster County, Nebraska; together with a limited nonexclusive easement for use of a parking lot located upon Lot 2, Block 1, Plainview Addition, together with the right of ingress and egress to and from "O" Street for the purpose of parking entered into by Clinic Building Corporation and B & J Partnership, Ltd. filed October 16, 1991, as Instrument No. 91-34313;

(2) Block 101, Original Plat, City of Lincoln, Lancaster County, Nebraska;

with a First Amendment to Lease Agreement, dated August 18, 2004, among the City, the County and the Commission (collectively, the “**Health Department/Parking Site Lease**”).

(b) Lease Agreement, dated December 20, 2005 (the “**Courthouse Plaza Site Lease**”), among the City and the County, as lessor, and the Commission, as lessee, with respect to the following property (collectively, the “**Courthouse Plaza Property**”):

(1) Lots 11 and 12, Block 130, Original Platte, Lincoln, Lancaster County, Nebraska; and

(2) Lots A and B, Billingsley’s Subdivision of Lot 1 and Lot 2, Block 145, Original Plat, Lincoln, Lancaster County, Nebraska.

4. The City and the Commission have executed and delivered the Health Department/Parking Site Lease in connection with the issuance by the Commission of its (a) Tax Supported Lease Rental Revenue and Refunding Bonds, Series 2002, dated August 21, 2002 (the “**2002 Bonds**”) and (b) Tax Supported Lease Rental Revenue Bonds, Series 2004, dated August 18, 2004 (the “**2004 Bonds**”).

5. The City, the County and the Commission have executed and delivered the Courthouse Plaza Site Lease in connection with the issuance by the Commission of its Tax Supported Lease Rental Revenue Bonds, Series 2005B, dated December 20, 2005 (the “**2005B Bonds**”).

6. The City, the County and the Commission have determined to provide for the payment and redemption of the outstanding 2002 Bonds and the outstanding 2005B Bonds (collectively, the “**Refunded Bonds**”), and for such purpose, the Commission will issue \$[Principal Amount] of its Tax Supported Lease Rental Revenue Refunding Bonds, Series 2010B, dated the date of delivery ([Closing Date], 2010) thereof (the “**2010B Bonds**”).

7. In connection with the refunding of the Refunded Bonds and the issuance of the 2010B Bonds, the City, the County and the Commission that it is necessary, desirable, advisable and in the best interests of the City, the County and the Commission to amend and restate the Health Department/Parking Site Lease and the Courthouse Plaza Site Lease.

NOW THEREFORE, in consideration of the mutual covenants contained herein, the parties hereto do agree as follows:

Section 1. Demise. The City and the County do hereby lease to the Commission the Health Department/Parking Properties and the Courthouse Plaza Property (collectively, the “**Premises**”), together with any and all structures located thereon.

Section 2. Term. The term of this Site Lease shall commence upon the execution and delivery hereof by the City, the County and the Commission and expire on December 1, 2026, unless extended by the written agreement of the City, the County and the Commission; provided, however, that this Site Lease may be terminated on such date as may be mutually agreeable to the City, the County and the Commission but not earlier than the date (a) all of the 2004 Bonds and the 2010B Bonds, together with all bonds of the Commission issued in whole or in part to refund the 2004 Bonds and the 2010 Bonds directly or indirectly have been paid in full or the payment of the Bonds provided for in accordance with **Section 26** of Resolution No. ____ of the Commission authorizing their issuance and (b) the Lease Agreement, dated the

date of its execution and delivery, by and among the Commission, as lessor, and the City and the County, jointly, as lessees, or any extension thereof has been terminated as is of no further force and effect.

Section 3. Use of Premises. The Commission shall use the Premises only for the purpose of providing space to City and County departments, agencies, and functions; provided, however, that the Commission may, with the approval of the City and the County, lease to the State of Nebraska or any body, board, agency, corporation or other governmental entity of either of them, or other governmental units for use by them, all or any part of the Premises to the extent that such use is not required by the City or the County. Except as may be otherwise provided by agreement with the City and the County, the Commission shall be responsible for maintaining, improving, remodeling, operating, and reconstructing the Premises, as may be from time to time deemed necessary or desirable.

Except as may be otherwise provided by agreement with the City and the County, the Commission shall furnish services, including, but not limited to: heat, water, electricity, air conditioning, elevator services, cleaning services, and all other upkeep, maintenance, and repair and shall provide such services in a good and workmanlike manner; provided, however, that the Commission shall not be liable to the City or the County for damages for failure to furnish or delay in furnishing any service mentioned above, or any part thereof, when such failure to furnish, or delay in furnishing, is occasioned by a need for repairs, renewals, or improvements, or in whole or in part by any strike or labor controversy, or by any accident or casualty whatsoever or by any unauthorized act or default of any employee of the Commission, or for any other cause or causes beyond the reasonable control of the Commission.

Section 4. Building Policies. The Commission shall be responsible for the promulgation of appropriate policies regarding smoking, signage, and use of common areas within and upon the Premises, and for the promulgation of appropriate parking regulations within parking areas open to the public.

Section 5. Books and Records of Commission. All books and records of the Commission with reference to the cost of operating, maintaining, and repairing the Premises shall at all reasonable times be open for inspection and audit by properly designated officers of the City or County.

Section 6. Insurance. The Commission shall keep the Premises insured against damage or loss by fire or other casualty. It is agreed that in the event of loss of, or damage to, the Premises, the Commission may, at its option, rebuild or repair the demised premises, or in the event the Commission elects not to rebuild or repair the Premises, this Site Lease shall, upon written notice of such determination by the Commission to the County and the City, thereupon terminate and the proceeds of all insurance shall be used and applied to the payment and redemption of the Bonds.

The Commission shall carry premises liability insurance covering the Premises.

Section 7. Utilities; Taxes; Special Assessments. The Commission shall pay all charges for electricity, water, gas, and other utility services (except telephone, cable television, and any computer cable services) used on the Premises. The Commission further agrees to pay all taxes and assessments, if any, upon the Premises which are payable during the term hereof.

Section 8. Assignment and Subletting. The Commission may assign or transfer this Site Lease, or underlease or sublet the whole or any part of the Premises only with the written consent of the City and the County.

Section 9. Quiet Possession. The City and the County each covenant that they are jointly seized of the Premises and have full right to make this Site Lease, and that the Commission shall have quiet and

peaceful possession of the Premises during all of the term hereof as against lawful acts of third parties and as against the acts of all parties claiming title to, or a right to the possession of the Premises.

Section 10. Unlawful Use. The Commission shall not make or suffer any use or occupancy of the Premises contrary to any law or ordinance now in effect or hereinafter enacted.

Section 11. Personal Property of City and County. Personal property in the Premises shall be kept there at the risk of the tenants of the Premises only, as their interests may appear. The Commission shall not be liable for any damage to any property at any time in the Premises caused by steam, electricity, sewage, gas, or odors, or from water, rain, or snow which may leak into, issue, or flow from any part of the building of which the Premises are a part, or from pipes, or plumbing works of the same, or from any other place or quarter, or for any damage done to property of any tenant in moving the same to or from the building or Premises. Each tenant shall give to the Commission, or its agent, prompt written notice of any accident to or defects in water pipes, gas, or heating or cooling apparatus in areas occupied by such tenant, of which such tenant has knowledge, which defects shall be remedied with due diligence by the Commission.

Section 12. Successors and Assigns. This Site Lease shall inure to the benefit of and be binding upon the respective parties hereto, their successors and assigns.

Section 13. Effect of Amended and Restated Site Lease. The provisions of this Site Lease are intended to replace and supersede all of the provisions of the Health Department/Parking Site Lease and the Courthouse Plaza Site Lease.

Section 14. Counterparts of Lease. This Site Lease has been executed in several counterparts, each of which may be considered as an original.

Section 15. Electronic Transactions. The transactions described herein may be conducted and related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

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IN WITNESS WHEREOF, the City, the County and the Commission have caused this Site Lease to be executed by their duly authorized officers.

DATED: [Closing Date], 2010.

ATTEST:

THE CITY OF LINCOLN, NEBRASKA

By: _____
City Clerk

By: _____
Mayor

ATTEST:

THE COUNTY OF LANCASTER, NEBRASKA

By: _____
County Clerk

By: _____
Chair

**LINCOLN-LANCASTER COUNTY PUBLIC
BUILDING COMMISSION**

By: _____
Chair

ACKNOWLEDGEMENTS

STATE OF NEBRASKA)
)ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this ____ day of _____, 2010, by Christopher J. Beutler, Mayor of The City of Lincoln, Nebraska, on behalf of the City.

Notary Public

STATE OF NEBRASKA)
)ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this ____ day of _____, 2010, by _____, Chair of the Board of Commissioners of The County of Lancaster, Nebraska, on behalf of said County.

Notary Public

STATE OF NEBRASKA)
)ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this ____ day of _____, 2010, by _____, Chair of the Board of Commissioners of the Lincoln-Lancaster Public Building Commission, on behalf of said Commission.

Notary Public

**AMENDED AND RESTATED LEASE AGREEMENT
PROVIDING FOR THE LEASE OF
3145 "O" STREET,
BLOCK 101, ORIGINAL PLAT
AND
645 AND 701 SOUTH 9TH STREET
FROM
LINCOLN-LANCASTER COUNTY PUBLIC BUILDING COMMISSION
TO
THE CITY OF LINCOLN, NEBRASKA
AND
THE COUNTY OF LANCASTER, NEBRASKA**

This **AMENDED AND RESTATED LEASE AGREEMENT** (the "**Lease Agreement**"), dated [Closing Date], 2010, is by and among the **LINCOLN-LANCASTER COUNTY PUBLIC BUILDING COMMISSION** (the "**Commission**"), as lessor, and **THE CITY OF LINCOLN, NEBRASKA** (the "**City**") and **THE COUNTY OF LANCASTER, NEBRASKA** (the "**County**"), jointly, as lessees.

RECITALS

1. The Commission is a public building commission, political subdivision, body politic and corporate and an instrumentality of the State of Nebraska (the "**State**") exercising essential governmental functions and existing pursuant to Chapter 13, Article 13, Reissue Revised Statutes of Nebraska, as amended (the "**Act**"), and has been duly activated by the City and the County pursuant to the Act for the purpose of facilitating the ownership and use of facilities (as defined in the Act) for the benefit and use of the City and the County.

2. The City, the County and the Commission have previously entered into the following agreements pursuant to which the Commission has leased to the City and the County the property identified therein:

(a) Lease Agreement, dated August 21, 2002, among the City and the County, as lessee, and the Commission, as lessor, with respect to the following property (collectively, the "**Health Department/Parking Properties**"):

(1) Lots 1, 8, 9, 10, 11, 12, 13, and 14, Block 1, together with the vacated east-west alley abutting said Lots 1 and 14, Block 1, and the South ½ of the vacated east-west alley abutting Lot 13, Block 1, and the north 10 feet of vacated "N" Street abutting Lots 8 through 14, Block 1; Lots 1, 2, 3, and 4, Block 4, and that portion of the east-west alley south of and abutting Lots 1 through 4, Block 4, all in Plainview Addition, Lincoln, Lancaster County, Nebraska; together with a limited nonexclusive easement for use of a parking lot located upon Lot 2, Block 1, Plainview Addition, together with the right of ingress and egress to and from "O" Street for the purpose of parking entered into by Clinic Building Corporation and B & J Partnership, Ltd. filed October 16, 1991, as Instrument No. 91-34313;

(2) Block 101, Original Plat, City of Lincoln, Lancaster County, Nebraska;

with a First Amendment to Lease Agreement, dated August 18, 2004, among the City, the County and the Commission (collectively, the "**Health Department/Parking Lease Agreement**").

(b) Lease Agreement, dated December 20, 2005 (the "**Courthouse Plaza Lease Agreement**"), among the City and the County, as lessee, and the Commission, as lessor, with respect to the following property (collectively, the "**Courthouse Plaza Property**"):

(1) Lots 11 and 12, Block 130, Original Platte, Lincoln, Lancaster County, Nebraska; and

(2) Lots A and B, Billingsley's Subdivision of Lot 1 and Lot 2, Block 145, Original Plat, Lincoln, Lancaster County, Nebraska.

3. The Commission, the City and the County have executed and delivered the Health Department/Parking Lease Agreement in connection with the issuance by the Commission of its (a) Tax Supported Lease Rental Revenue and Refunding Bonds, Series 2002, dated August 21, 2002 (the "**2002 Bonds**") and (b) Tax Supported Lease Rental Revenue Bonds, Series 2004, dated August 18, 2004 (the "**2004 Bonds**").

4. The City, the County and the Commission have executed and delivered the Courthouse Plaza Lease Agreement in connection with the issuance by the Commission of its Tax Supported Lease Rental Revenue Bonds, Series 2005B, dated December 20, 2005 (the "**2005B Bonds**").

5. Pursuant to Resolution No. _____ duly adopted by the Commission on November 2, 2010 (the "**Bond Resolution**"), the Commission has authorized the issuance of \$[Principal amount] principal amount of its Tax Supported Lease Rental Revenue Refunding Bonds, Series 2010B, dated the date of delivery thereof (the "**2010B Bonds**") to provide for the payment and redemption of the outstanding 2002 Bonds and the outstanding 2005B Bonds and pay the costs of issuing the 2010B Bonds.

6. The City and the County have approved the issuance of the 2010B Bonds by the Commission pursuant to Ordinance No. _____ of the City adopted on November 15, 2010 and approved by the Mayor on November ____, 2010 (the "**City Ordinance**") and Resolution No. 10-_____ of the County adopted November 9, 2010 (the "**County Resolution**"), respectively.

7. The Bond Resolution, the City Ordinance and the County Resolution each contemplate, approve and authorize the execution of this Lease Agreement for the purpose of governing the occupancy and use of the Health Department/Parking Properties and the Courthouse Plaza Property (collectively, the "**Premises**") and certain matters related to the 2004 Bonds and the 2010B Bonds.

NOW THEREFORE, in consideration of the foregoing, the Act, the terms and conditions of this Lease Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Commission, the City and the County hereby agree as follows:

Section 1. Ratification of Acts of Commission. All agreements and actions of the Commission with respect to the Premises, the 2004 Bonds and the 2010B Bonds prior to the date of this Lease Agreement are hereby approved, confirmed and ratified by the City and the County.

Section 2. Use of the Premises. The City and the County shall jointly use the Premises and the City and the County shall each be allotted one-half (½) of the space in the Premises; provided, however, that the City and the County may agree, in writing, to revise the percentage of allocation of space between themselves at any time. The Commission may at any time permit use by either party of allotted but unoccupied space of the other on a temporary basis until such time as the space is required by the party to whom it is allotted. The specific amount of space in the Premises to be occupied by the City and the County, up to their maximum allotment, shall be based upon their respective requests to the Commission for

space. Except as specifically provided by an amendment or amendments to this Lease Agreement and except for any space which is leased to another party, the Premises shall be occupied by and used exclusively to provide office and working facilities for the City and the County; provided, however, that the City and the County may lease to the United States of American (the "**United States**"), the State of Nebraska or any body, board, agency, corporation or other governmental entity of either of them, or other governmental units for use by them, the Premises to the extent that such use is not required by the City or the County. The Commission, the City and the County jointly and severally certify and covenant to each other and to and for the benefit of the purchasers and owners of the 2004 Bonds and the 2010B Bonds that so long as any of the 2004 Bonds remain outstanding under the resolution pursuant to which they were issued (the "**2004 Resolution**") or the 2010B Bonds remain outstanding under the Bond Resolution, respectively, the Premises will not be used or otherwise occupied in any manner which would cause the interest on the 2004 Bonds or the 2010B Bonds to be includable in gross income for federal income tax purposes. The Commission, the City and the County shall, prior to entering into any lease or other agreement for the use of any portion of the Premises with the United States, or any body, board, agency, corporation or other governmental entity of the United States, obtain a written opinion of bond counsel to the Commission that such leasing or other use will not cause the interest on either the 2004 Bonds or the 2010B Bonds to be includable in gross income for federal income tax purposes.

The City and the County each hereby appoint the Commission as their agent for the purposes of leasing any space in the Premises allotted to either of them and not required by the City or the County, as the case may be. The Commission is authorized to enter into leases for any such space upon such terms and conditions as the Commission shall, in its sole discretion, determine. The Commission shall give notice to the City and the County of any such lease not less than ten (10) days prior to the effective date of such lease.

Section 3. Payment of Operating Expenses. The City and the County shall each pay to the Commission their Pro Rata Share (hereinafter defined) of the Operating Expenses (hereinafter defined) for the entire term of this Lease Agreement as provided in this Section. On the date of execution and delivery of this Lease Agreement, the Commission shall deliver to the City and the County an estimate of the Operating Expenses for calendar year 2011. By the end of each calendar year thereafter during the term of this Lease Agreement, the Commission shall deliver to the City and the County an estimate of the Operating Expenses for the following calendar year. The City and the County shall each pay to the Commission on December 15, 2010 and on the 15th day of each month during the term of this Lease Agreement an amount equal to the Pro Rata Share of the average monthly Operating Expenses for such year as estimated by the Commission. Following the end of each calendar year during the term of this Lease Agreement, the Commission shall deliver to the City and the County a statement of the Operating Expenses for such calendar year. If the Operating Expenses for such year exceeds the amount paid by the City and the County to the Commission with respect to Operating Expenses for such year, the City and the County shall each pay their Pro Rata Share of such excess to the Commission within 15 days of delivery to the City and the County of the statement of the Operating Expenses for such year. If the amounts paid by the City and the County to the Commission with respect to Operating Expenses for such year exceed the Operating Expenses for such year, such excess shall be credited against the amounts due from the City and the County, respectively, thereafter pursuant to this Section, or, if this Lease Agreement has terminated, such excess shall be credited against any amounts which the City or the County, respectively, owes the Commission pursuant to this Lease Agreement and, to the extent all amounts which the City or the County owes the Commission pursuant to this Lease Agreement have been paid, the Commission shall promptly pay such excess to the City or the County as their interests may appear. Any delay by the Commission in delivering any estimate or statement pursuant to this Section shall not relieve the City and the County of their obligations pursuant to this Section, except that the City and the County shall not be obligated to make any payments based on such estimate or statement until 15 days after receipt of such estimate or statement.

“Operating Expenses” shall be determined on an accrual basis for each calendar year by taking into account on a consistent basis all costs of operation, management, maintenance, and repairs of the Premises, whether undertaken by the Commission pursuant to the specific provisions of this Lease Agreement or undertaken by the Commission in the exercise of its reasonable discretion, including, but not limited to, the costs of air conditioning, heating, and ventilation, cleaning and custodial services, water and sanitary sewerage service, normal trash removal services, snow removal services, plumbing, casualty and liability insurance, Property Taxes, accounting and a reasonable management fee. Operating Expenses shall not include the costs of tenant improvements, leasing commissions, depreciation, interest, ground rent, and administrative costs not specifically incurred in the operation, management, maintenance, and repair of the Facilities. Operating Expenses shall not include any expense to the extent paid or reimbursed from insurance proceeds, but Operating Expenses shall include any deductible amount excluded from insurance coverage.

“Property Taxes,” as used in this Section, shall mean all real and personal property taxes and assessments, license tax, rental tax, improvement bonds, and other governmental levies imposed on or with respect to the Premises and any property of the Commission or the Commission’s agents used principally in the operation, management, maintenance, or repair of the Premises, together with any taxes or assessments imposed in substitution of or as a supplement to any taxes or assessments previously included within the definition of property taxes and assessments, but excluding any federal, state or local income, franchise, estate, or inheritance tax, and excluding any tax of a type allocated to the City and the County pursuant to **Section 4** hereof.

Because the Premises are owned by the Commission, in the name of the City and the County, each a political subdivision of the State of Nebraska, and the Premises will be occupied and used by the City and the County pursuant to the Agreement exclusively for governmental purposes and not for financial gain or profit, under present law, the Premises would not be subject to real estate taxes. It is understood and agreed, however, that the City and the County each agree to pay their Pro Rata Share of any taxes and assessments, general and special, and all other impositions, ordinary and extraordinary, of every kind and nature which might be levied or assessed on the Premises to the extent not paid from revenues of the Premises pursuant to the 2004 Resolution, the Bond Resolution or this Lease Agreement.

Section 4. Operating Expenses Payable by the City and the County. The City and the County shall pay the cost of any telephone system or services, personal property taxes, or any other utility or services not listed in **Section 3** hereof. The City and the County shall pay a reasonable charge determined by the Commission for any utilities, custodial services, maintenance, and other services required to be provided by the Commission by reason of any use by the City and the County of any utilities or services in excess of utilities or services customarily provided for general use in the Premises by reason of any recurrent use of the Premises at any time other than the normal business hours of generally recognized business days and shall also pay any costs reasonably incurred by the Commission to meter or otherwise measure the amount of such utilities or services used by the City and the County.

Section 5. Definition of Pro Rata Share. For purposes of this Lease Agreement, the Pro Rata Share of any Operating Expenses, Property Taxes or debt service on the 2004 Bonds or the 2010B Bonds payable by the City or the County shall be determined by dividing the amount of square footage occupied by each entity by the sum of the square footage occupied by both entities and applying the resulting percentages to the total of such expenses or taxes. The Commission shall credit towards the Pro Rata Share of Operating Expenses, Property Taxes and debt service on the 2004 Bonds and the 2010B Bonds due from the City and the County any amount received from any other occupant of the Premises for such Operating Expenses, Property Taxes or debt service payments on the 2004 Bonds and the 2010B Bonds.

Section 6. Services and Utilities.

(a) **Services by the Commission.** The Commission shall furnish to such portions of the Premises as are appropriate during normal business hours of generally recognized business days such amounts of air conditioning, heating, and ventilation as may be reasonably necessary for the comfortable use and occupation of such portions of the Premises. The Commission shall at all times furnish appropriate portions of the Premises with elevator service and reasonable amounts of electricity for normal heating, air conditioning, lighting and office machines and shall furnish hot and cold water for lavatory and drinking purposes. The Commission shall provide sewer service, normal trash removal services, and snow removal services. The Commission shall provide custodial service equivalent to that furnished in comparable buildings, including empty waste paper baskets, dry mop and wet mop, vacuum, clean restrooms, supply toiletries, clean window sills, and clean carpet as reasonably needed. The Commission shall replace, at the expense of the City and the County, fluorescent tubes, ballasts, and light bulbs as required.

(b) **Maintenance and Repair by the Commission.** The Commission shall maintain the Premises in a good condition, shall maintain the plumbing, heating, ventilating, air conditioning, elevator, electrical, and other mechanical systems of the Premises in good working order, shall make necessary repairs to the roof and the shell of the Premises and shall repair promptly any damage to the Premises as provided herein.

(c) **Interruption of Service.** The Commission shall not be liable and no payment to the Commission shall be abated for interruptions to the telephone, plumbing, heating, ventilating, air conditioning, elevator, electrical or other mechanical or utility systems or cleaning services, by reason of accident, emergency, repairs, alterations, improvements, or shortages or lack of availability of materials or services. At any time during the term of this Lease Agreement, any utilities or services may be conserved by the Commission without abatement of rent or other expenses if undertaken by the Commission as required by any governmental agency or in a reasonable effort to reduce energy or other resource consumption.

Section 7. Authority of Commission. The Commission is hereby authorized and directed to enter into agreements from time to time, without further approval or authorization by the City or the County, for the acquisition, construction, improvements, equipping, furnishing, maintenance, repair, replacement, operation and management of the Premises, and the expenditure of funds in connection therewith. Without limiting the generality of the foregoing, the City and County hereby authorize the Commission to use the services of agents, employees and facilities of the City in connection with its obligations pursuant to this Lease Agreement.

Section 8. Contributions for Payment of 2004 Bonds and 2010B Bonds. The City and the County each agree to pay to the Commission from legally available funds an amount equal to its Pro Rata Share of the debt service on the 2004 Bonds and the 2010B Bonds. To the extent such payments are not made from other sources, the City, subject to the specific limitations set forth in Section 13-1311(5) of the Act, and the County hereby each covenant, warrant and agree to levy and collect taxes on all the taxable property in their respective jurisdiction, and to appropriate such funds or other funds of the City or County, sufficient in rate and amount, in the aggregate, to pay the principal or redemption price of and interest on the 2004 Bonds and the 2010B Bonds when due. The Commission, the City and the County may, by a supplemental agreement or agreements from time to time, provide for a different formula for contribution of amounts for payment of the principal or redemption price and interest on the 2004 Bonds and the 2010B Bonds, which shall include the appropriation of funds and levy of taxes by the City and the County sufficient to pay all the principal or redemption price of and interest on the 2004 Bonds and the 2010B Bonds without contribution by the Commission.

The Commission, pursuant to the 2004 Resolution, Bond Resolution and the Act, shall levy a tax on all the taxable property in the County sufficient in rate and amount to pay the principal or redemption price of and interest on the 2004 Bonds and the 2010B Bonds as the same shall become due to the extent the payments made by the City and the County hereunder are insufficient for such purposes. The City hereby pledges its authority to levy taxes and appropriate funds pursuant to Section 13-1306 of the Act and this Section and the County hereby pledges its obligation to levy taxes and appropriate funds as provided in this Section for the security and benefit of the registered owners of the 2004 Bonds and the 2010B Bonds. The Commission, the City and the County agree that all payments received by the Commission pursuant to the provisions of this Lease Agreement shall be applied first to payment of the principal or redemption price of and interest on the 2004 Bonds and the 2010B Bonds, and the remainder to the payment of Operating Expenses and other amounts payable to the Commission pursuant to this Lease Agreement.

The obligations of the Commission, the City and the County pursuant to this Section shall be performed without setoff, counterclaim, or defense for any reason and without abatement or deduction or defense and notwithstanding any breach or failure of performance by any other party to this Lease Agreement. Neither party will suspend or discontinue any such obligations or payments and will perform and observe all of their other agreements in this Lease Agreement and will not terminate this Lease Agreement for any cause, including but not limited to any acts or circumstances that may constitute failure of consideration, destruction or damage to the Premises, the taking of the Premises by condemnation or otherwise, the lawful prohibition of the use of the Premises, the interference with such use by any private person, the invalidity or unenforceability or lack of due authorization or other infirmity of this Lease Agreement, eviction by paramount title, commercial frustration of purpose, bankruptcy or insolvency of any party, change in the tax or other laws of administrative rulings or actions of the United States or the State of Nebraska or any political subdivision thereof, or failure of any part to perform and observe any agreement, whether express or implied of any duty, liability or obligation arising out of or connected with this Lease Agreement, or for any other cause whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention of the parties hereto that the obligations and amount payable by the Commission, the City and the County hereunder shall be performed and paid in full when due without any delay or diminution whatsoever.

Section 9. Observation of Budget and Spending Limitations. The Commission, the City and the County each represent, warrant and agree to observe all budget and spending limitations now or hereafter imposed by law in such a manner that a sufficient portion of their tax levies or other money shall be lawfully available to pay and satisfy all of their obligations under this Lease Agreement, and further covenant and agree that such obligations, including the obligations related to levy and appropriations for payment of the principal or redemption price of and interest on the 2004 Bonds and the 2010B Bonds are not such as may reasonably be expected to require levies or appropriations in excess of any applicable levy limit. Specifically, but without limitation, the Commission covenants and agrees that its obligations under this Lease Agreement will not exceed the limitation imposed pursuant to Section 13-1304 of the Act, the City covenants and agrees that its obligations under this Lease Agreement will not exceed the limitations imposed pursuant to Section 13-1306 of the Act, and the County covenants and agrees that its obligations will not exceed the limitations imposed pursuant to Article VIII, Section 5 of the Nebraska Constitution.

Section 10. Benefit of Agreement. This Lease Agreement is entered into for and shall accrue to the benefit of and be enforceable by the Commission, the City, the County and the registered holders from time to time of the 2004 Bonds and the 2010B Bonds.

Section 11. Amendments. The parties hereto may from time to time, without the approval of the registered owners of the 2004 Bonds and the 2010B Bonds, consent to any amendment, change or modification of this Lease Agreement for the purpose of curing any ambiguity, formal defect, or omission or

making any other change therein which, in the judgment of the Commission, is not to the material prejudice of the Commission or the owners of 2004 Bonds and the 2010B Bonds.

Except for amendments, changes or modifications as provided in the preceding paragraph, no amendment, change or modification of this Lease Agreement shall be made without the consent of a majority of the registered owners of all of the 2004 Bonds and the 2010B Bonds outstanding; provided, however, that no such amendment shall be permitted which would have the effect of causing the Commission to be in default in making the payments on the 2004 Bonds and 2010B Bonds outstanding under the 2004 Resolution and the Bond Resolution, respectively.

Section 12. Term of Agreement; Miscellaneous. This Lease Agreement shall be in full force and effect from and after the date hereof, and shall remain in full force and effect so long as any of the 2004 Bonds are outstanding under the 2004 Resolution or the 2010B Bonds are outstanding under the Bond Resolution. At such time as none of the 2004 Bonds or the 2010B Bonds are no longer outstanding under the 2004 Resolution or the Bond Resolution, respectively, this Lease Agreement may be extended for such period as may be agreed in writing by the parties hereto or this Lease Agreement may be terminated by the mutual agreement of the parties hereto. This Lease Agreement constitutes the entire agreement of the Commission, the City and the County with respect to the subject matter hereof. This Lease Agreement is governed by the laws of the State of Nebraska, including specifically but without limitation, the Act.

Section 13. Effect of Amended and Restated Lease Agreement. The provisions of this Lease Agreement are intended to replace and supersede all of the provisions of the Health Department/Parking Lease Agreement and the Courthouse Plaza Lease Agreement.

Section 14. Electronic Transactions. The transactions described herein may be conducted and related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

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IN WITNESS WHEREOF, the Commission, the City and the County have duly executed this Lease Agreement by their appropriate officers as of the year and date first written above.

DATED: [Closing Date], 2010

ATTEST:

THE CITY OF LINCOLN, NEBRASKA

By: _____
City Clerk

By: _____
Mayor

ATTEST:

THE COUNTY OF LANCASTER, NEBRASKA

By: _____
County Clerk

By: _____
Chair

**LINCOLN-LANCASTER COUNTY PUBLIC
BUILDING COMMISSION**

By: _____
Chair

ACKNOWLEDGEMENTS

STATE OF NEBRASKA)
)ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this ____ day of _____, 2010, by _____, Chair of the Board of Commissioners of the Lincoln-Lancaster Public Building Commission, on behalf of said Commission.

Notary Public

STATE OF NEBRASKA)
)ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this ____ day of _____, 2010, by Christopher J. Beutler, Mayor of The City of Lincoln, Nebraska, on behalf of the City.

Notary Public

STATE OF NEBRASKA)
)ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this ____ day of _____, 2010, by _____, Chair of the Board of Commissioners of The County of Lancaster, Nebraska, on behalf of said County.

Notary Public