

INTERLOCAL AGREEMENT FOR LINCOLN PUBLIC SCHOOLS SCIENCE FOCUS PROGRAM WITH LINCOLN CHILDREN'S ZOO AND CITY OF LINCOLN, NEBRASKA

This Agreement, dated this 1st day of July 2007 ("Effective Date"), is made by and between Lincoln Children's Zoo, a Nebraska nonprofit corporation f/k/a Folsom Children's Zoo and Botanical Gardens ("Zoo"); the City of Lincoln, Nebraska ("City"); and Lancaster County School District 001, a/k/a Lincoln Public Schools (hereinafter referred to as "LPS").

WHEREAS, Article XV, Section 18 of the Constitution of the State of Nebraska, the Interlocal Cooperation Act of the State of Nebraska, Neb. Rev. Stat. §13-801 *et seq.*, (the "Act"), and the Joint Public Agency Act of the State of Nebraska, Neb. Rev. Stat. §§ 13-2501 *et seq.*, (the "Public Agency Act"), authorize any two or more public agencies to enter into agreements for the joint or cooperative exercise of any power, privilege or authority exercised or capable of exercise individually by such public agencies, and Zoo, City and LPS are public agencies within the meaning of these laws; and

WHEREAS, Zoo, City and LPS have jointly determined:

A. LPS has established a school on the grounds of Zoo (the "Science Focus Program" or "SFP") and has operated the SFP in cooperation with the Zoo since 1997, pursuant to that certain Agreement among LPS, Zoo and City, dated June 30, 1997 (the "Previous Agreement").

B. One of the purposes of the Zoo is to provide educational opportunities for members of the community. Zoo and the City have provided and are willing to continue to provide space on Zoo's grounds to locate the SFP and to cooperate with LPS in the operation of the SFP. Under the Act, all expenditures incurred by LPS under this Agreement shall be Interlocal Cooperative Act expenditures.

C. The parties intend that (i) the operation of the SFP shall be accomplished without any monetary contribution by or indirect cost to Zoo or the City, and (ii) this Agreement shall supersede and replace the Previous Agreement and shall govern the rights and obligations of the parties concerning the SFP from and after the Effective Date.

NOW, THEREFORE, based on the foregoing Recitals (which are hereby incorporated into and made a material part of this Agreement), and subject to the terms and conditions contained in this Agreement, LPS, Zoo and the City agree as follows:

1. TERM AND RENEWAL – The initial term of this Agreement shall be for a period of three years commencing on the Effective Date and ending June 30, 2010; upon expiration of the initial term, the Agreement shall automatically renew thereafter for successive one-year periods unless Zoo, City or LPS provides written notice of its election to not renew the Agreement at least 270 days prior to expiration of the then-current term of the Agreement. Upon expiration or termination of this Agreement, LPS shall be responsible for all costs associated with removing the Portables and any other property of LPS from the Zoo grounds and returning the grounds to a condition consistent with their condition at the time of initial installation of the Portables; and such obligations of LPS shall survive the expiration or termination of this Agreement.

2. ADMINISTRATION OF THE PROGRAM - A separate legal entity will not be created. LPS and Zoo shall each assign or designate a "Program Administrator" to provide for program administration and operations under this Agreement.

3. SERVICES OF THE PROGRAM

A. Facilities Zoo has constructed a multi-purpose building on its grounds known as "Camelot Commons," and Zoo has provided sufficient space on its property to enable LPS to locate two portable buildings (four classrooms) on the site to be used in conjunction with the SFP (the "Portables"). During the term of this Agreement, for purposes of operating the SFP during LPS's normal approximate 9-month, annual academic year ("school year"), Zoo shall permit LPS to continue

to use and occupy, in each school year during the term of the Agreement (a) those portions of Camelot Commons which have historically been used by LPS to operate the SFP, and such other portions of Camelot Commons, as LPS may reasonably require from time to time for operation of the SFP and to conduct related programs or special events, as mutually identified and agreed upon by the Program Administrators (the portions of Camelot Commons used by LPS for operation of the SFP and any related programs or special events shall be referred to herein as the "Camelot SFP Areas"), and (b) those portions of Zoo's grounds on which the Portables are now situated. The Camelot SFP Areas and the Portables are collectively referred to herein as the "SFP Facilities." Nothing contained in this Agreement shall be construed to grant to LPS any permanent rights to or interest in the Camelot Commons or the real property on which the Portables are situated, including any leasehold interests. LPS shall use the SFP Facilities only for the purposes specified herein and such use shall be in accordance with all applicable laws, rules and regulations.

B. Responsibilities. The parties agree as follows:

(i) LPS shall be responsible for the following items:

- maintenance, repair and replacement of the Portables at all times during the term of the Agreement to the satisfaction of the Zoo, provided that Zoo shall repair any damage to the Portables caused by its use thereof;
- payment of all charges for all utility services provided to the Portables and Camelot Commons during the term of the Agreement, and payment of all charges for janitorial services provided to the Portables, Camelot Commons and restrooms in each school year during the term of the Agreement;
- provision of janitorial services to the Portables, Camelot Commons and restrooms in each school year during the term of the Agreement;
- provision of phone service to the SFP Facilities and payment of all charges relating thereto; and
- provision of internet services to the SFP Facilities and to the Zoo and its facilities, and payment of all charges relating thereto.

(ii) Zoo shall be responsible for the following items:

- provision of restroom facilities for use by LPS in connection with operation of the SFP, and payment of all utility charges related to such restroom facilities;
- provision of parking and sidewalk facilities and snow removal and general maintenance services relating thereto;
- provision of janitorial services to the Portables and Camelot Commons during non-school year periods during the term of the Agreement, and payment for those services;
- provision of personnel to perform general maintenance and upkeep of the SFP Facilities, as agreed upon by the Program Administrators; and
- provision of alarm services and security patrols, and payment of the costs associated therewith.

C. Reciprocal Use of Buildings and Facilities. The parties acknowledge and agree that

without any additional costs or expense LPS and Zoo shall have the right to use each other's facilities located at the Zoo for their programs and operations; provided, however, Zoo shall have first priority to use its facilities and LPS shall have first priority to use the SFP Facilities; and provided further, that students and staff of the SFP shall not have access to the Zoo's animal collection unless accompanied by an employee of Zoo or unless they have received prior consent from Zoo or its Program Administrator. The Program Administrators shall be responsible for coordinating the use of each other's facilities. LPS agrees Zoo shall have the right to use SFP Facilities in summer (non-school year) months during the term of the Agreement.

D. Use of Zoo Personnel. The parties contemplate that Zoo personnel will periodically be used to supplement instruction at the SFP; provided, however, that such personnel's primary responsibility shall first be to perform their regular duties for Zoo. Zoo's Program Administrator shall designate one staff member to be responsible for coordinating LPS's use of Zoo personnel and all requests for Zoo staff time shall be directed to that individual.

E. Security. LPS will only have access to Zoo property for the SFP when Zoo's staff are on duty, or as otherwise mutually agreed upon by the Program Administrators.

F. Parking. All students and staff of the SFP shall park in areas designated by Zoo or its Program Administrator for that purpose.

G. Miscellaneous.

- (i) This Agreement shall be governed by and construed in accordance with the laws of the State of Nebraska.
- (ii) This Agreement supersedes and replaces the Previous Agreement and all other prior or contemporaneous agreements or understandings of the parties with respect to the subject matter. This Agreement shall not be amended or modified as to any party without the written consent of the parties affected by the amendment or modification.
- (iii) This Agreement may be executed in multiple counterparts; each counterpart shall be deemed an original and all counterparts, taken together, shall constitute one and the same instrument.
- (iv) This Agreement shall be binding on and enforceable by and against the parties hereto and their respective agents, administrators, successors and permitted assigns. No party hereto shall assign any rights or delegate any obligations arising hereunder without the prior written consent of the other parties.

4. PAYMENTS AND BILLINGS – In consideration of the grounds and facilities to be provided to LPS by Zoo hereunder, LPS hereby agrees to pay Zoo a user fee in each year during the term of this Agreement, as follows:

- A. During the initial 3-year term of the Agreement, the amount of the user fee shall be \$24,215 and said fee shall be paid to Zoo by LPS on August 15, 2007 ("Payment Date") and on each anniversary of the Payment Date occurring during the initial term; and
- B. In each one-year renewal period during the term of the Agreement, as applicable, the user fee shall be paid to Zoo by LPS on the anniversary of the Payment Date occurring during the applicable renewal period and the amount of such fee shall be determined by multiplying the amount of the user fee paid or payable by LPS hereunder for the immediately preceding year of the term by

1.03; for example, the user fee to be paid in the first renewal period (July 1, 2010 to June 30, 2011) shall be \$24,941.45 (\$24,215 x 1.03) and such fee shall be paid to Zoo by LPS on August 15, 2010, and the user fee to be paid in the second renewal period (July 1, 2011 to June 30, 2012) shall be \$25,689.70 (\$24,941.45 x 1.03) and such fee shall be paid to Zoo by LPS on August 15, 2011.

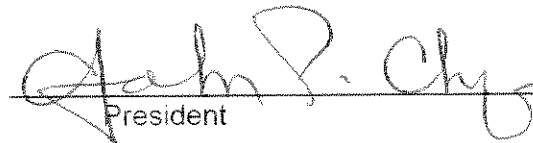
5. INDEMNIFICATION – Each party hereto agrees to indemnify and hold harmless the other parties from and against all losses, liability, expenses, damages and claims, including attorneys fees, arising out of or resulting from the indemnifying party's acts or omissions in performing under this Agreement, except to the extent caused by negligent or willful act or omission of the other party or parties. All parties agree to provide liability insurance to indemnify themselves in the event that they become liable for the payment of a judgment based upon their acts or omissions, or the acts or omissions of their agents or employees in performing this Agreement.

IN WITNESS WHEREOF, LPS, Zoo and the City have executed this Agreement, pursuant to authority duly given, as of the date first written above.

LANCASTER COUNTY SCHOOL DISTRICT 001, a/k/a
Lincoln Public Schools

By: 
Associate Superintendent for
Business Affairs

LINCOLN CHILDREN'S ZOO

By: 
President

CITY OF LINCOLN

By: _____
Mayor