

MEMORANDUM OF UNDERSTANDING
CONCERNING SUB-LEASE OF VOIP SYSTEM

The City of Lincoln, Nebraska ("City") and the County of Lancaster ("County") (collectively referred to as the "Parties") hereby enter into this Memorandum of Understanding concerning sub-lease of a voice over internet protocol system.

RECITALS:

WHEREAS, City and County are desirous of upgrading telephone service and equipment for their respective organizations; and

WHEREAS, voice over internet protocol ("VOIP") technology offers both County and City potential savings and advantages, including increased efficiency, in equipping and operating telephone services; and

WHEREAS, City has conducted an extensive Request for Proposals process that involved obtaining of information and proposals from several providers of VOIP equipment and service ("VOIP System"), has reviewed and evaluated the proposals to ascertain the most qualified provider at the most advantageous cost, and is now prepared to enter into a lease-purchase arrangement with NACR to obtain a VOIP System; and

WHEREAS County has satisfied itself that City's process of selection and the VOIP System selected by City would meet County's needs and that cooperation with City in acquisition and implementation of the VOIP System provides the most economical and satisfactory option for County's acquisition of a VOIP System; and

WHEREAS it is necessary for the Parties to finance acquisition and implementation of the VOIP System; and

WHEREAS City is in a position to achieve favorable financing by issuing certificates of participation ("COPs") for VOIP System expenses and costs in combination with other projects for which it requires financing and is agreeable to share any financial advantage of such financing with County in connection with financing the parties' respective VOIP Systems; and

WHEREAS, the Parties are agreeable to financing County's share of the VOIP System acquisition by a sub-lease agreement ("Sub-Lease") under City will sub-lease the County portion of the VOIP System to County; and

WHEREAS, it is necessary to obtain approval of the Parties' respective governing bodies in order to obtain financing, and prior to the preparation of the Sub-Lease as part of that financing, the Parties hereby memorialize their intent to enter into the Sub-Lease by this Memorandum of Understanding Concerning VOIP System.

NOW THEREFORE, City and County enter into the following Memorandum of Understanding:

County's governing body shall authorize Dennis Meyer, Director of the County Budget and Fiscal Office, or his designee, to approve the interest rate upon City's issuance of COPs, which shall apply to County's obligations under the Sub-Lease.

Terms of the Sub-Lease shall be consistent with the intent of this Memorandum of Understanding except for modifications mutually agreed to by the Parties.

The Sub-Lease shall provide VOIP equipment to County to meet County's needs under terms which shall be substantially similar in its operative terms to the equipment lease for VOIP equipment between City and NACR.

Term of the Sub-Lease is expected to be five years or less, or until all costs of financing acquisition of County's portion of the VOIP System shall be paid.

County shall make rental payments in an amount that will cover its portion of acquisition and financing of the VOIP System, amortized over the term of Sub-Lease, which portion shall include County's pro rata share of costs of acquisition of the VOIP System, including issuance costs and debt service for that portion of the COPs financing for County's portion of the VOIP System, and all other costs fairly allocable to acquisition and implementation of County's portion of the VOIP System.

City shall retain ownership of the portion of the VOIP System supplied to County under the Sub-Lease as security for payment of amounts payable by County under Sub-Lease until County has paid the full amount due under Sub-Lease. Sub-Lease shall provide that ownership of that portion of the VOIP System covered by the Sub-Lease will pass free and clear to County upon final payment of all amounts due under the Sub-Lease. Unless modified by mutual agreement, each Party shall retain all remedies available at law or equity for enforcement of the Sub-Lease.

City's Information Services Division will offer operational support for County's VOIP System under the Parties' existing interlocal agreement concerning information services. If it is determined that the terms of that agreement would not encompass these services the Parties agree to cooperate in amending the interlocal agreement as necessary.

County agrees to commit appropriations from its annual budgets as necessary to meet its financial obligations under the Sub-Lease.

Parties agree to cooperate in arranging components of the financing of the VOIP System including preparation and execution of the Sub-Lease and other documents necessary to successfully complete the financing, acquisition and implementation thereof.

IN WITNESS WHEREOF, the Parties' duly authorized representatives have affixed their signatures hereto.

Dated this _____ day of _____, 2012.

COUNTY BOARD:

CITY OF LINCOLN:

Chris Beutler
Mayor

Attest:

City Clerk

APPROVED AS TO FORM:

Deputy County Attorney
For JOE KELLY
Lancaster County Attorney