

BOARD OF COUNTY COMMISSIONERS
SARPY COUNTY, NEBRASKA

RESOLUTION APPROVING INTERLOCAL AGREEMENT WITH THE CITY OF
PAPILLION, NEBRASKA FOR COST SHARING FOR THE SARPY COUNTY
STADIUM PROJECT

WHEREAS, pursuant to Neb. Rev. Stat. §23-104(6) (Reissue 2007), the County has the power to do all acts in relation to the concerns of the county necessary to the exercise of its corporate powers; and,

WHEREAS, pursuant to Neb. Rev. Stat. §23-103 (Reissue 2007), the powers of the County as a body are exercised by the County Board; and,

WHEREAS, an agreement with the City of Papillion, Nebraska has been proposed pursuant to the Interlocal Cooperation Act, Neb. Rev. Stat. §13-801 to 827 (Reissue 2007), to provide for certain revenues to assist in the financing of the Sarpy County Stadium Project; and,

WHEREAS, said agreement is in the best interest of the citizens of Sarpy County.

NOW, THEREFORE, BE IT RESOLVED BY THIS BOARD OF COUNTY COMMISSIONERS THAT THE COUNTY OF SARPY, STATE OF NEBRASKA, that the Interlocal Agreement on Cost Sharing for Improvement to the Schewe Farms, Sarpy Count Stadium Area, a copy of which is attached hereto, is hereby approved.

BE IT FURTHER RESOLVED that the Chairman and Clerk are hereby authorized to sign said Agreement on behalf of Sarpy County, and to take such other action as may be necessary to consummate the transaction contemplated by said agreement.

DATED this 14th day of December, 2010.

Moved by Rich Jansen, seconded by Jim Nekuda, that the above Resolution be adopted. Carried.

YEAS:

NAYS:

ABSENT:

<u>Rich Jansen</u>	<u>Jim Nekuda</u>	<u>none</u>
<u>Donna J. Richard</u>	_____	_____
<u>John ...</u>	_____	_____
<u>...</u>	_____	_____

ABSTAIN:

none



Approved as to form:

Debra Broughtaling
County Clerk

[Signature]
Deputy County Attorney

MEMO

TO: COUNTY BOARD
FROM: JOHN REISZ
RE: BASEBALL AGREEMENT
DATE: DECEMBER 14, 2010

I have submitted an Agreement for your review which differs slightly with the one provided in your packets. The differences are:

The page numbers were added to the document.

At the top of the first page of the document, the text "Draft 09101/10" was deleted and the spelling of the word STADIUM was corrected.

Paragraph VI. The word "tax" is replaced by the word "fee"

Paragraph VII The language "bonds issued for more than 27.055" has been replaced by the number 26. This reflects that the maximum exposure to the City under this agreement is 26 Million Dollars.

Paragraphs X and forward were re-formatted to reflect proper numerical order.

Paragraph XII (paragraph XI in your packet version) was changed to add the words "or has participated in" within the seventh line.

END

**INTERLOCAL AGREEMENT ON COST SHARING FOR IMPROVEMENTS TO
THE SCHEWE FARMS, SARPY COUNTY STADIUM AREA**

This Agreement is by and between the County of Sarpy, of the State of Nebraska, hereinafter "County," the City of Papillion, Nebraska, hereinafter "City."

WHEREAS, the parties hereto are political subdivisions, duly authorized and existing under the laws of the State of Nebraska; and,

WHEREAS, the Parties hereto are desirous of improving the area known as Schewe Farms, commonly known as the area of the Sarpy County Baseball Stadium near Nebraska State Highway 370 at 120th Street in order to provide access, services and facilities to develop the local community and promote public health, safety and welfare; and,

WHEREAS, the Mayor of the City of Papillion has provided to the County's legal representative a letter outlining the City's position and expectations regarding the cost sharing contemplated herein; and,

WHEREAS, pursuant to the Interlocal Cooperation Act, Neb. Rev. Stat. §13-801, *et seq.* (Reissue 2007), the Parties wish to permit their local government units to make the most efficient use of their powers by enabling them to cooperate with each other on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population, and other factors influencing the needs and development of local communities;

NOW, THEREFORE, IT IS AGREED BY AND BETWEEN THE PARTIES, PURSUANT TO NEB. REV. STAT. §13-807 (REISSUE 2007), AS FOLLOWS:

- I. This contract shall expire when the bonds issued by the County pursuant to paragraph IV hereof have been paid in full or twenty-five (25) years from the November 23, 2010 initial issuance date of the 2010 Tax Exempt bonds. Furthermore, if the bonds are for a period shorter than twenty-five years, the City's concessions hereunder shall be adjusted accordingly.
- II. No separate legal or administrative entity will be created hereunder. Existing agents of the respective Parties will complete the terms of this contract.
- III. The purpose of this Contract is to share costs of improving the area known as SID 290, Schewe Farms, commonly known as the area of the Sarpy County Baseball Stadium near Nebraska State Highway 370 at 120th Street pursuant to the conceptual representations as outlined in the City of Papillion's letter previously addressed herein.
- IV. It is understood and agreed that the County has issued and will issue bonds for the construction of the Baseball Stadium project referred to as "Bonds" hereafter and described as follows: Series 2009 A Tax Exempt Bonds, Series 2009 B Taxable Build America Bonds, Series 2009 C Taxable Bonds and one or more Series 2010 Tax Exempt Bonds. Any obligations imposed upon the City shall be for purposes of debt payments only for the original principal amount, debt service and term of the bonds, issued in an initial principal amount not to exceed 27 Million Fifty-Five Thousand and 00/100 dollars. The County may refinance said bonds to reduce interest but not increase principal and any refinancing shall not

include any additional costs being added to the bonds throughout the life of the bonds without the specific consent of the City.

- V. During the terms of this Agreement, and once the City is legally able to impose, capture and pledge tax and fee revenue within the City's taxing jurisdiction, the City shall, after receiving all information from each lessee or owner pursuant to section IX of this agreement, commit and pay to the County any verified local optional taxes collected by the State and imposed by the City pursuant to Neb. Rev. Stat. §77-27, 142 generated and collected from within the area of SID 290 pursuant to the following:
- a. All local sales tax generated from sales at the stadium itself for the life of the original bonds issued by Sarpy County to finance the construction of the stadium pursuant to the time constraints as outlined in paragraph I of this Agreement;
 - b. One-half (1/2) of any local option sales tax collected by the City pursuant to Neb. Rev. Stat. §77-27, 142 generated within the mixed-use area of SID 290 for a period of eight years (Years 1-8) after annexation by the City or the bonds issued pursuant to paragraph IV hereof have been paid in full, whichever event occurs first payable only to the principal and interest attributable to the bonds as stated in paragraph IV above;
 - c. One-third (1/3) of any local option sales tax collected by the City pursuant to Neb. Rev. Stat. §77-27, 142 generated within the mixed-use area of SID 290 for a period of eight years (Years 9-16) after annexation by the City or the bonds issued pursuant to paragraph IV hereof have been paid in full, whichever event occurs first, payable only to the principal and interest generated on bonds as stated in paragraph IV above;
 - d. One-sixth (1/6) of any local option sales tax collected by the City pursuant to Neb. Rev. Stat. §77-27, 142 generated within the mixed-

use area of SID 290 for the remainder of the bond issues on bonds as stated in paragraph IV above payable only to the principal and interest;

- e. All seat tax collected by the City during the life of this Agreement;
- f. One-half (1/2) of any hotel tax generated within the area encumbered by this Agreement for a period not to exceed ten years after annexation by the City or the bonds issued pursuant to paragraph IV: hereof have been paid in full, whichever event occurs first.

- VI. In the event that the County has imposed a seat fee on the users of the stadium, City agrees not to impose any additional seat fee.
- VII. The combination of City concessions under paragraph V, subsections a through f above shall not exceed 26 Million dollars, nor extend beyond the performance period as stated in paragraph 1 herein.
- VIII. The City shall remit the local option sales tax, seat tax and the hotel tax as collected per this Agreement to the County on a quarterly basis, with all such quarterly remittances to be received by the County not later than thirty (30) days following the end of each such quarterly period as indicated below and to the address listed below:

January 1 to March 31
April 1 to June 30
July 1 to September 30
October 1 to December 31

Sarpy County Treasurer
Sarpy County Administration
Building 1210 Golden Gate Drive,
Suite 1126 Papillion, NE 68046

- IX. The quarterly remittance to the County shall include detailed reports setting forth the sales tax, seat tax and, if applicable, the hotel tax collections within

the area SID 290. At the County's request, the City shall make available all records relating to such collections for verification purposes. The parties hereby acknowledge that because of applicable Nebraska Department of Revenue regulations and statutes governing the same that the accessing of sales tax reports and revenue may be problematic and the parties hereto agree to cooperate with each other to the full extent of the law and with the Nebraska Department of Revenue. The County shall, through a development agreement with the developer of the subject property and area, require the developer to impose by means of written agreements such as real estate agreements, lease agreements, or other forms of written agreements, that all commercial property owners and occupants who have Gross Receipts and whose premises are located in the subject property and area shall provide to the developer a confidential quarterly statement of Gross Receipts, signed by an authorized representative of such owner or occupant which statement shall show in reasonable detail the monthly and quarterly Gross Receipts information which shall be used in calculating the quarterly payment to the County, which information shall be provided to both County and City. Statements submitted to the State of Nebraska by said owners or occupants shall be sufficient for reporting purposes. The agreement to provide a confidential quarterly statement of Gross Receipts shall be binding on each and every owner of premises located in the subject property and area and shall run with the land for so long as the terms of this Interlocal Agreement are in force and effect. Gross Receipts shall be as defined in the Nebraska Revenue Act and shall include the total amount of the sale price of the retail sales of retailers, or of those otherwise furnishing taxable goods or services deriving from the premises located in the subject property and area, which Gross Receipts shall only include amounts taxable by the City of Papillion.

- X. Pursuant to Neb. Rev. Stat. §13-804(5) (Reissue 2007), the Parties hereto acknowledge, stipulate, and agree that this Contract shall not relieve any public agency of any obligation or responsibility imposed upon it by law.

- XI. The City's obligations herein shall terminate upon the sale or transfer of the County's interest in the stadium.
- XII. Pursuant to Neb. Rev. Stat. §23-3113 (Reissue 2007), the Parties hereto declare and affirm that no officer, member, or employee, and no member of their governing bodies, and no other public official of parties who exercises any functions or responsibilities in the review or approval of the undertaking described in this Contract, or the performing of either Parties' obligations pursuant to this Contract, shall participate, or has participated, in any decision relating to this Contract which affects his or her personal interest, or any partnership, or association in which he or she is directly or indirectly interested; nor shall any employee, nor any member of their governing bodies, have any interest, direct or indirect, in this Contract or the proceeds thereof.
- XIII. It is understood and agreed by the Parties hereto that if any part, term, condition or provision of this Contract is held to be illegal or in conflict with any law of this State or of the United States, the validity of the remaining parts, terms, conditions, or provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if the contract did not contain the particular part, term, condition or provisions held to be invalid.

IN WITNESS WHEREOF, we, the contracting parties, by our respective and duly authorized agents, hereto affix our signatures and seals in duplicate this 22nd day of December, 2010.

COUNTY OF SARPY, NEBRASKA
A Body Politic and Corporate

(SEAL)



ATTEST:

Derral J. Houghtaling
Sarpy County Clerk

By: Jon Albrecht
Chairman, Sarpy County Board of Commissioners 12/14/2010

Approved as to form and content

Michael N. Kunka
Deputy County Attorney

CITY OF PAPILLION,
A Body Politic and Corporate

(SEAL)



ATTEST:

[Signature]
Clerk

By: [Signature]
Mayor

Approved as to form and content

Michael N. Kunka
City Attorney