

11/002283

BOARD OF COUNTY COMMISSIONERS SARPY COUNTY, NEBRASKA

RESOLUTION AUTHORIZING MEMORANDUM OF UNDERSTANDING BETWEEN THE COUNTY OF SARPY, NEBRASKA AND SERGEANT'S PET CARE PRODUCTS, INC.

WHEREAS, pursuant to Neb. Rev. Stat. § 23-104 (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, a Memorandum of Understanding, a copy of which is attached as Exhibit A, has been proposed between the County of Sarpy, Nebraska and Sergeant's Pet Care Products, Inc. for the purpose of distributing Community Development Block Grant funds to Sergeant's Pet Care Products, Inc., a benefitted, for-profit business, in order to create and maintain jobs for low-to-moderate income person(s); and,

WHEREAS, said Memorandum of Understanding is in the best interests of the citizens of Sarpy County.

NOW, THEREFORE, BE IT RESOLVED by the Sarpy County Board of Commissioners that this Board hereby approves and adopts the attached Memorandum of Understanding with Sergeant's Pet Care Products, Inc.

BE IT FURTHER RESOLVED that the Chair of this Board, together with the County Clerk, is hereby authorized to sign on behalf of this Board the Memorandum of Understanding attached hereto and any other related documents.

The above Resolution was approved by a vote of the Sarpy County Board of Commissioners at a public meeting duly held in accordance with applicable law on the 8<sup>th</sup> day of November, 2011.

Tom Nichol  
Sarpy County Board Chairman

Attest:

SEAL



Debra J. Noughtaling  
County Clerk



**Dave Heineman**  
Governor

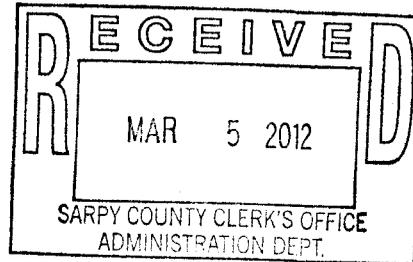
# STATE OF NEBRASKA

## DEPARTMENT OF ECONOMIC DEVELOPMENT

301 Centennial Mall South  
P.O. Box 94666  
Lincoln, Nebraska 68509-4666 USA

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Statewide Relay (800) 833-0920 (voice)  
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March 1, 2012



Tom Richards, Chairperson  
County of Sarpy County  
1210 Golden Gate Drive  
Papillion, NE 68046

RE: Community Development Block Grant #11-ED-004, Sergeant's Pet Care Products, Inc.

Dear Mr. Richards:

Enclosed please find the signed Memorandums of Understanding (MOU) between the county, business, bank, and DED.

One of the MOUs should be kept in the County's CDBG files and the remaining copies should be distributed to the other parties. We have retained one for our file.

If you have questions, feel free to contact me at (402) 471-3763 or by email at [dave.honz@nebraska.gov](mailto:dave.honz@nebraska.gov)

Sincerely,

Dave Honz  
Program Representative  
Community and Rural Development Division

cc:  
w/o enclosures

Mark Wayne  
Joseph Connealy  
Jake Hansen, MAPA  
CDBG file #11-ED-004

**MEMORANDUM OF UNDERSTANDING**

**(with respect to a special economic development activity involving  
the County of Sarpy County, Nebraska;  
with Sergeant's Pet Care Products, Inc., as the benefited business)**

This Memorandum of Understanding ("MOU") is entered into among the State of Nebraska, Department of Economic Development ("Department" or "DED"); Sarpy County, Nebraska ("County"); Sergeant's Pet Care Products, Inc. ("Business"); Bank of the West ("Bank"); upon the date of signature by all parties.

**RECITALS**

**PART I: IDENTIFICATION OF PARTIES.**

**Business:** The benefited business—  
Sergeant's Pet Care Products, Inc.  
2625 South 158<sup>th</sup> Plaza  
Omaha, Nebraska 68130

**County:** County of Sarpy County, Nebraska  
1210 Golden Gate Drive  
Papillion, Nebraska 68046

**Department or DED:** Nebraska Department of Economic Development  
P.O. Box 94666  
Lincoln, Nebraska 68509-4666

**Bank:** Bank of the West  
13220 California Street  
Omaha, Nebraska

**PART II: PROJECT SUMMARY DESCRIPTION.**

The project involves a CDBG award of \$505,000 from the Department to the County, \$5,000 of which is for the County's costs of administration of the grant, and \$500,000 of which is to be loaned to the Business for direct financial assistance to a for-profit business; associated with the Business' facility in Sarpy County, Nebraska. CDBG funding will require the Business to satisfy various job requirements as set forth in §5.01 below.

**AGREEMENT:**

Premised on the *Recitals* above, and in consideration of the mutual promises and understandings of the parties set forth below, the parties agree as follows:

**PART III: DEFINITIONS; FEDERAL FUNDING SOURCES and GOVERNING FEDERAL LAW CITED; AND INCORPORATION OF RECITALS.**

**§3.01** *Full-Time Equivalent Position (FTE)*: An FTE position represents a culmination of 2,000 work hours per annum per position by a person in a permanent position of employment with Business at its facility in Sarpy County, Nebraska.

**§3.02** *Low-to-Moderate Income Person (LMI)*: LMI persons are defined as members of a family (single-person or multi-person) where the family has an income equal to or less than the most recent HUD-established income limits for the family residence location. These income limits may be found generally via the HUD national website. The specific webpage address (subject to change by HUD) at the time of this writing is:

~~<http://www.huduser.org/datasets/ll.html>~~

**§3.03** Specifics about how an employment position is considered to be "*held by*" or "*made available to*" an LMI person, and other related definitional matters, may be found in the HUD CDBG regulations in 24 C.F.R. Part 570.

**§3.05** Based on the provisions of this MOU, the County has submitted, or will submit, and the Department will consider, the County's application for funding for the project which will undertake community development activities authorized under the Housing and Community Development Act of 1974, as amended, and as authorized under the federal regulations governing CDBG at 24 C.F.R. Part 570.

**§3.06** All provisions of the *RECITALS* above are incorporated as agreed provisions of the MOU.

**PART IV: ADDITIONAL TERMS AND CONDITIONS OF THE CDBG FUNDING.**

**§4.01 CDBG Amount.**

The amount of CDBG funds to be granted from the Department to the County will not exceed \$505,000. \$5,000 of the \$505,000 is for the County's costs of administration of the grant, and \$500,000 of the \$505,000 is to be loaned to the Business.

Unless otherwise excepted from such requirement (or otherwise specified as to a limited amount requirement) elsewhere in this MOU, the County acknowledges and agrees that any CDBG program income (defined in the HUD CDBG regulations) available to the County at the time of any "drawdown" request by the County to the Department must be first utilized in the project, thus lessening the amount of new CDBG funding paid from the Department to the County for this project.

**§4.02 Sources and Uses of Funds.**

<b>SOURCES→</b>	<b>CDBG total from DED</b>	<b>BANK OF THE WEST</b>	<b>BUSINESS</b>	<b>TOTAL</b>
<b>USES (Activities)↓</b>				
<b>0700 Direct financial assistance to for-profit business</b>		<b>\$3,920,000</b>	<b>\$480,000</b>	<b>\$4,400,000</b>
<b>0750 Fixed Assets/Machinery/Equip</b>	<b>\$500,000</b>	<b>\$2,600,000</b>		<b>\$3,100,000</b>
<b>0181 General Administration</b>	<b>\$5,000</b>			<b>\$5,000</b>
<b>TOTAL</b>	<b>\$505,000</b>	<b>\$6,520,000</b>	<b>\$480,000</b>	<b>\$7,505,000</b>

The Sources and Uses of Funds table above reflects:

- The anticipated total costs of the CDBG-assisted project.
- The CDBG-assisted activities being funded.
- The sources and amounts of other matching funds required for each activity.
- The maximum authorized CDBG funds for each CDBG-assisted activity.
- The ratio of CDBG funds to other matching funds for each CDBG-assisted activity—is currently, based upon the Sources and Uses Table above, 7.2% of the matching funds (i.e. the CDBG funds equal 7.2% of the non-CDBG funds). The maximum authorized amount of the CDBG funds may not exceed 17% of matching (non-CDBG) funds. The ratio is invoked as a limitation if the actual total costs of the activity are less than anticipated.
- The proportionality (derived by computation, not expressly shown) of funding from all funding sources, for each activity and for the project in total. Disbursement of CDBG funds will be made only on a pro rata basis with all other funding sources, for each activity and for the project in total. CDBG funds will not be the first funds invested in the project—but rather—CDBG funds will flow into the project in proportion to all other funding sources.
- The timing (of CDBG funds flowing into the project on a pro rata basis) is that CDBG funding is reimbursement funding. Reimbursement after-the-fact of the expense having been incurred is what will be done. This timing may well result in the benefited business having to temporarily carry the costs which are then later reimbursed through CDBG funding.

[An example illustrates this point: If the actual cost of an activity such as the acquisition of equipment was \$100,000, with \$40,000 to be from CDBG funds as the source, and \$60,000 to be from the benefited business as the source—then the benefited business would have to first pay the entire \$100,000 cost of acquisition, and then seek reimbursement of \$40,000 from CDBG funding.]

#### **§4.03 CDBG Loan Terms.**

The \$500,000 to be loaned to the Business is for the purpose(s) set forth in **PART II** above, and will be loaned by the County to the Business using CDBG funds under the following terms:

- (a) The promissory note evidencing the loan to the Business will be drawn in favor of the County, and the payments are to be made by the Business to the County.
- (b) Repayment of full loan amount will be required by the County of Sarpy County as stated in (e) below, to be paid to the Department within 60 days of receipt by the County.
- (c) Collateral requirements, if any, or loan guarantee requirements, if any, are specified in §4.04 below.
- (d) One component of the total loan is a \$250,000 portion which bears no interest (0% interest) and is forgivable upon the meeting of certain conditions by the Business with respect to job creation, job maintenance, and LMI benefit. If the requisite conditions for forgiveness are not met, the principal is repayable in full by the Business (bearing no interest) upon appropriate notice from the County, and under factual circumstances supporting such conclusion by the County.
- (e) The other component of the total loan is a \$250,000 portion which bears no interest, the principal of which is to be repaid in 59 equal monthly payments of \$4,170.00 and one final payment of \$3,970.00. Monthly payments are due on the 1<sup>st</sup> day of each month beginning two months after the calendar month of DED issuance of the Notice of Release of Funds.

These favorable CDBG loan terms are conditioned upon the Business' agreements concerning job creation, job maintenance, and jobs benefiting LMI persons, all as specified in other portions of this MOU.

#### **§4.04 Collateral/Guarantees.**

The CDBG loan is to be secured by a senior security interest granted to the County by the Business in machinery and equipment. A detailed description of said equipment will be provided by the Business to the Department upon loan closing.

#### **§4.05 Reporting Requirements.**

- (a) Employment Reporting. The Business will have each employee for which LMI status is relevant (normally this includes employees for created jobs, and employees for retained jobs, but not employees forming the measuring baseline of present employment by the Business), complete the Department's Employee Certification Form (such form to be provided to the Business by the County). Such form requests information from the employee concerning the employee's income status, race, gender, and handicap status. The information from such forms, and other pertinent employment data reasonably required by the County, will be provided by the Business, at least semi-annually. Such information is for use by the County and the

Department in assembling and reporting LMI and other employment data to meet HUD requirements for the CDBG program.

(b) Financial Reporting. The Business will provide to the County or to the Department, in a timely manner, the Business' financial statements, including balance sheets and income statements, in such form as may be reasonably required by the County or by the Department, following the close of the Business' fiscal year.

#### **§4.06 Due on Sale.**

Unless the obligations hereunder are assumed by any entity purchasing, merging with, or otherwise taking control of the Business, repayment of the entire amount of any outstanding balance of the CDBG funded obligation of the Business may be declared (by the County) immediately due and payable upon any material change in the ownership control of the principal assets of the Business, or of the Business itself, including mergers and/or consolidations with other persons or entities. This provision exists to protect the interests of the County and the Department in seeing to it that the obligations of the Business as set forth in this MOU are completely fulfilled, as they must be to comply with HUD CDBG statutes and regulations permitting CDBG funds to be used for financial assistance to the Business in the first place.

#### **§4.07 Maintain Location of Project.**

Until all the requirements of this MOU are satisfied, the Business agrees to keep its facility in Sarpy County, Nebraska, located in Sarpy County. Repayment of the entire amount of any outstanding balance of the CDBG funded obligation of the Business may be declared (by the County) immediately due and payable upon a failure to adhere to this requirement.

#### **§4.08 Prohibition on Use of CDBG Assistance for "Job-Pirating" Activities.**

The parties to this MOU recognize and acknowledge that a portion of the federal statutes dealing with CDBG funding, particularly as codified at 42 U.S.C. §5305(h), and implementing regulations issued by HUD at 24 C.F.R. §570.482(h), prohibit the Department from using CDBG funds for activities likely to result in significant job loss in a Labor Market Area (LMA) from which the Business is relocating. The HUD regulations prohibit CDBG funding if the funding will assist in the relocation of a plant, facility, or operation (terms defined in the regulations)—~~and~~—if the relocation is likely to result in a significant loss of jobs in the LMA from which the relocation occurs. A "significant job loss" is defined in HUD regulations using the following measurements:

- **500** jobs lost in a LMA is definitionally a significant loss; and thus CDBG funds cannot be used in such cases.
- **25** or fewer jobs lost in a LMA is definitionally not a significant loss; and thus not a job-pirating problem, so CDBG funds can be used in such cases.

- **26-499** jobs lost may be a significant job loss if the lost jobs are equal to or greater than one-tenth of one percent (0.1%) of the total number of persons in the labor force of the LMA from which the proposed business relocation would occur.

The HUD regulations require the Department to obtain from the business assisted with CDBG funds:

- A statement from the assisted business as to whether the CDBG-assisted activity will result in the relocation of any industrial or commercial plant, facility, or operation from one LMA to another, and if so, the number of jobs that will be relocated from the LMA. An "operation" is defined in the regulations as including (but not being limited to) any equipment, employment opportunity, production capacity, or product line of the business.
- If the assistance will not result in a relocation, then the business must certify that neither it, nor any of its subsidiaries, has plans to relocate jobs (at the time the agreement is signed) that would result in a significant job loss.
- An agreement requiring the business to reimburse CDBG funds if a relocation prohibited by the regulations should occur within three years from the date the CDBG assistance is provided to the business. Under the regulations, jobs will be considered to have been relocated if positions are eliminated at an existing operation within three (3) years of the time when CDBG funding assistance was provided to the expansion site operation of the business.

Pursuant to the requirements outlined in this section, the Business hereby states for purposes of this MOU that (check mark and initial one or the other alternative, but not both):

\_\_\_\_\_ (initials of official executing MOU for the Business). The CDBG-assisted activity will result in the relocation of a plant, facility, or operation from one LMA to another LMA, with the number of jobs that will be relocated from the LMA being as follows: **58** (insert number of jobs).

**OR**

\_\_\_\_\_ (initials of official executing MOU for the Business). The CDBG-assisted activity will not result in the relocation of a plant, facility, or operation from one LMA to another LMA. The Business hereby certifies that neither it, nor any of its subsidiaries, has plans to relocate jobs at the time this agreement is signed, that would result in a significant job loss as defined in the regulations.

In a circumstance where neither of the alternatives above is marked and initialed, the second alternative (indicating the activity will not result in relocation) will be deemed to have been selected and agreed to by the Business.

Pursuant to the requirements outlined in this section, the Business further agrees if a relocation prohibited by the regulations should occur within three years from the date the CDBG assistance is provided to the Business, the Business agrees to reimburse the County for all amounts of CDBG assistance provided to the Business, or expended on behalf of the Business, pursuant to this MOU.

## **PART V: JOB CREATION AND JOB MAINTENANCE REQUIREMENTS.**

### **§5.01 Job Creation and Job Maintenance Requirements.**

The Business must:

(a) create at least 58, new, permanent jobs (on an FTE basis), in the Business' facility in Sarpy County, Nebraska over and above the agreed baseline of employment at the Sarpy County facility which agreed baseline is 72 FTEs for purposes of this MOU:

(1) within 24 months of the date on the Notice of Approval letter from the Department.

(2) meeting the requirement that 51% or more of all jobs (on an FTE basis) created as a result of the CDBG-assisted project must be held by (or if not actually "held by", then the Business must meet the required regulatory standards so as to be considered to have made the jobs "available to") low-to-moderate income (LMI) persons.

(b) maintain the minimum required created 58 FTE jobs, and maintain all additional jobs created as a result of the CDBG-assisted project, for 24 months measured from the date of hire for each respective job.

(c) maintain the 72 FTE positions which represent the agreed baseline of employment for 24 months measured from the Notice of Approval letter from the Department.

(d) pay all employees of the Business a minimum hourly rate of \$10.00 per hour, and provide all employees with an appropriate package of employee benefits.

Only permanent employees (not temporary employees); and only employee positions at the Business' facility in Sarpy County, Nebraska and Douglas County, Nebraska; will be credited in assessing whether the job creation and job maintenance requirements have been satisfied.

### **§5.02 Proration of Any Repayment Obligation Arising from Failure by the Business to Meet the Job Requirements of §5.01.**

If the Business fails to meet the job requirements set forth in §5.01, the default remedy specified at §6.02 will be mitigated by allowing, in some instances, proration of the principal amount of any repayment obligation which is triggered by such failure to meet such job requirements, as follows:

(a) CDBG statutes and regulations require CDBG-assisted projects to meet the national objective of principally benefiting low-to-moderate income (LMI) persons. These statutes and regulations require that at least 51% of the created jobs benefit LMI persons. If Business fails to meet the national objective by not having at least 51% of the created jobs benefiting LMI persons, then full repayment of the CDBG funding is required, and no proration is allowed.

(b) If the national objective (51% LMI benefit) is met, but the job creation requirement (58 jobs in this instance) is not achieved, then a pro rata portion of the CDBG funds will be required to be repaid, equivalent to the ratio of→jobs not created, divided by the number of jobs required to be created.

(c) If the national objective (51% LMI benefit) is met, but the jobs are not maintained for the required job maintenance period (24 months in this instance), then a pro rata portion of the CDBG funds will be required to be repaid, equivalent to the ratio of→the required maintenance period in months, less the number of months the jobs were maintained, divided by the required maintenance period in months.

(d) If the national objective (51% LMI benefit) is met, but there is a failure as to both the job creation/retention requirement and the job maintenance period, then a pro rata portion of the CDBG funds will be required to be repaid, equivalent to→using the number of jobs required to be created, multiplied by the number of months the jobs were to be maintained, resulting in a computational factor of "required job-months"—then using the number of jobs actually created multiplied by the number of months the jobs were actually maintained, resulting in a computational factor of "achieved job-months"—and then subtracting the "achieved job-months" factor from the "required job-months" factor to calculate a "failed job-months" factor—and then establishing the ratio of:

$$\frac{\text{"failed job-months"}}{\text{"required job-months"}}$$

with such ratio (with "failed job-months" as the numerator, and "required job-months" as the denominator), being the required pro rata portion of CDBG funds to be repaid.

An example to illustrate application of this requirement is:

CDBG assistance total	= \$250,000
# of jobs to be created	= 20
# of months the jobs were to be maintained	= 24
# of jobs actually created	= 15
# of months the jobs were actually maintained	= 16
20 x 24	= 480 "required job-months"

15 x 16 = 240 "achieved job-months"  
480 - 240 = 240 "failed job-months"

240 "failed job-months"  
----- = .50  
480 "required job-months"

\$250,000 x .50 = \$125,000 to be repaid.

## **PART VI: OTHER TERMS AND CONDITIONS OF THIS MOU.**

### **§6.01 Events of Default.**

In addition to other events or fact settings where debt acceleration or other remedies may be specified elsewhere in this MOU, the following are (but are not exclusively the only) events of default, each of which triggers the general default remedy set forth in §6.02 (or the remedies specified elsewhere in this MOU associated with such event or fact setting):

- (a) Failure by Business to fully satisfy the Job Creation and Job Maintenance Requirements set forth in §5.01, subject, however, to the provisions of Section 5.02 above.
- (b) A breach of the Maintain Location of Project provisions in §4.07.
- (c) Bankruptcy or insolvency of the Business.
- (d) Failure by Business to provide, in a timely manner, reports and other administrative documentation identified in this MOU.
- (e) Any other failure by the Business to substantially comply with the terms and conditions of this MOU.
- (f) If the Business, or its officers or employees, engage in:
  - 1) material misrepresentation concerning CDBG funds; or,
  - 2) unauthorized use or theft of CDBG funds.

### **§6.02 General Default Remedy (applicable to events of default where remedies for specific events or fact settings are not specified elsewhere in this MOU).**

If an event of default occurs, then CDBG funding will be disallowed, and immediate repayment to DED of the entire amount of any outstanding balance of the CDBG funded obligation of the Business will be required, together with interest computed at 8% per annum (simple interest), from the date(s) CDBG funds were advanced to the Business by the County.

### **§6.03 Loan Documentation Responsibility.**

The Business shall have the duty to prepare any necessary loan documentation instruments (e.g., a promissory note reflecting the CDBG loan obligation of the Business in favor of the County), including (if applicable) any necessary security instruments or

guarantees, associated with the CDBG loan. If others, such as an attorney representing the County, prepare such documentation at the request of the Business, then payment for such attorney's services shall be borne by the Business. None of the costs of loan documentation for the CDBG portion of this project, including any attorney's fees for loan documentation preparation or review, will be the responsibility of DED, nor of the County unless voluntarily undertaken by the County.

**§6.04 Severability, Binding Effect, Counterparts, and Governing Law.**

If any provision of this MOU or its application to any person or circumstance is held invalid by any court of competent jurisdiction, such invalidity will not affect other provisions of this MOU.

This MOU will be binding upon, and will inure to the benefit of, the successors, assigns, and legal representatives of the parties.

This MOU may be signed in any number of counterparts, each of which will be an original, but all of which taken together will constitute one agreement.

This MOU will be governed by; construed according to the laws and regulations of; and subject to the jurisdiction of; the State of Nebraska.

**§6.05 No Legal Actions.**

The Business warrants there are no legal actions, suits, or other proceedings, pending or threatened, before any court or administrative agency, which, if determined adversely to the Business, would have a material adverse effect on the financial condition of the Business nor on the ability of the Business to complete the project which is the subject of this MOU.

**§6.06 Authorization of Representative Signing for the Benefited Business.**

The Business, by and through the officer or other representative accepting this MOU by signing below on behalf of the Business, has entered into this MOU with the full knowledge and authorization of the Business, under proper procedures prescribed by the articles of incorporation, bylaws, and other organizing documents applicable to the governance of Business.

**§6.07 This MOU is NOT a Notice of Approval of the Project.**

Project funding approval by DED is neither expressed nor implied by DED's execution of this MOU, and project costs should not be incurred based solely upon this MOU. Additional approval steps beyond the MOU are required before a project receives a Notice of Approval, including satisfying other steps of the application and approval process at DED, and obtaining the approval of the Governor of the State of Nebraska.

#### **§6.08 Conditions Precedent to Drawdown of CDBG Funds.**

Certain conditions must be satisfied before any requests for funds (so-called "drawdowns") by the County would be paid by DED, in the event a Notice of Approval for this project is ultimately issued by DED. The conditions are emphasized here so that all parties to this MOU will be aware of, and can appropriately plan for, the requirements for drawdowns, should the project be approved.

- (a) The requirements set forth in §4.02, *Sources and Uses of Funds*, must be strictly observed. These requirements include CDBG-activity maximum payments; the injection of matching funds; and CDBG funds payments being limited and governed by the ratio, proportionality, and reimbursement timing requirements detailed in §4.02.
- (b) Documentation, in such form as DED may prescribe, showing disbursement by other project funding sources for qualified expenditures, will be required by the DED.
- (c) Compliance with the environmental review process pertaining to the project, established by the National Environmental Policy Act of 1969 (NEPA), and other provisions of federal law as specified in 24 C.F.R. Part 58 which further the purposes of NEPA, is required.
- (d) Proper execution, by the Business, of this MOU and any other required documents (e.g., loan documents), is required.

**ACCEPTANCE PROVISIONS.**

The parties acknowledge they have read and understand this MOU and agree to its provisions, and that it will be effective on the date when all parties have signed.

<p><b>DED—NEBRASKA DEPARTMENT OF ECONOMIC DEVELOPMENT</b></p> <p>By: _____ (Signature of Director or Designee)</p> <p>_____ (Typed or Printed Name/Title)</p> <p>_____ (Date)</p>	<p><b>COUNTY—COUNTY OF SARPY COUNTY</b></p> <p>By: <u>Tom Richard</u> (Signature of Chief Elected Official)</p> <p><u>Tom Richards, Chairman</u> (Typed or Printed Name/Title)</p> <p><u>11-8-11</u> (Date)</p> <p><u>47-6006504</u> (Federal Identification Number)</p>
<p><b>BUSINESS—SERGEANT'S PET PRODUCTS, INC.</b></p> <p>By: _____ (Signature of Authorized Officer)</p> <p>_____ (Typed or Printed Name/Title)</p> <p>_____ (Date)</p>	<p><b>BANK—BANK OF THE WEST</b></p> <p>By: _____ (Signature of Authorized Officer)</p> <p>_____ (Typed or Printed Name/Title)</p> <p>_____ (Date)</p>

**ACCEPTANCE PROVISIONS.**

The parties acknowledge they have read and understand this MOU and agree to its provisions, and that it will be effective on the date when all parties have signed.

<p>DED—NEBRASKA DEPARTMENT OF ECONOMIC DEVELOPMENT</p> <p>By: <u>[Signature]</u> (Signature of Director or Designee)</p> <p><u>Lara Hickey/CEO Director</u> (Typed or Printed Name/Title)</p> <p><u>February 28, 2012</u> (Date)</p>	<p>COUNTY—COUNTY OF SARPY COUNTY</p> <p>By: _____ (Signature of Chief Elected Official)</p> <p>_____ (Typed or Printed Name/Title)</p> <p>_____ (Date)</p> <p>_____ (Federal Identification Number)</p>
<p>BUSINESS—SERGEANT'S PET PRODUCTS, INC.</p> <p>By: <u>[Signature]</u> (Signature of Authorized Officer)</p> <p><u>Joseph P. Conneally</u> (Typed or Printed Name/Title)</p> <p><u>11-4-11</u> (Date)</p>	<p>BANK—BANK OF THE WEST</p> <p>By: <u>[Signature]</u> (Signature of Authorized Officer)</p> <p><u>Rout Grote, VP</u> (Typed or Printed Name/Title)</p> <p><u>11-4-11</u> (Date)</p>