



LOWER PLATTE SOUTH natural resources district

3125 Portia Street | P.O. Box 83581 • Lincoln, Nebraska 68501-3581
P: 402.476.2729 • F: 402.476.6454 | www.lpsnrd.org

Memorandum

Date: April 8, 2020
To: Each Director
From: Paul Zillig, General Manager 
Subject: City of Lincoln Request to Utilize Fire Station #10 (owned by the NRD)

Late last week the City of Lincoln inquired about the availability of the City's old Fire Station #10 for use in UV treatment of Personal Protection Equipment (PPE) utilized to protect those helping persons with COVID-19. Donna Garden, Lincoln Transportation and Utilities Assistant Director for Utilities indicated that another former fire station would also be used for that purpose. I reviewed the request with Chair Ruth and F&P Chair Steinkruger and they agreed it was a very important request, the facility was checked out by both City and Health Dept reps, agreements were being drafted, and a meeting of the F&P Subcommittee was then set for the week of the Board Meeting to consider making a recommendation on the request.

Over the weekend more was learned about the required schedule to have the facility ready, or if not approved by the NRD on the 15th, that there would not be enough time to secure a replacement site in time. The City then requested the NRD take action by April 10th (see attached email from Donna Garden). In order to get Board approval earlier than April 15th, the NRD would have to hold an Emergency Board Meeting. The feeling was that this issue did qualify for an Emergency Board Meeting and we would discuss this request at the Executive Subcommittee meeting on the 7th. NRD Legal Counsel continued to work on the agreement for use of the Fire Station with the City.

The feeling was that the NRD should assist the City with their efforts by taking action on this request before the 15th. Staff then worked with Chair Ruth on potential dates for an Emergency Board Meeting and legal counsel continued to finalize the agreement with the City and also a resolution for the Board to acknowledge the issue is an emergency.

The Executive Subcommittee then met on April 7th. Please find attached a copy of the Emergency Resolution. The Subcommittee reviewed and discussed the resolution. It was moved by Eagan, seconded by B. Johnson, and unanimously approved by the Subcommittee to **recommend the Board of Directors approve the emergency declaration resolution.**

The next step would be to consider the City's request to approve the Real Estate License Agreement for an initial 6 month lease of the Fire Station property. Wasserburger reviewed the (attached)

agreement with the Subcommittee. It was moved by Steinkruger, seconded by Schmidt, and unanimously approved by the Subcommittee to **recommend the Board of Directors approve the Real Estate License Agreement with the City of Lincoln for the use of former Fire Station #10 property at 1440 Adams.**

Chair Ruth then made an official call to hold an Emergency Board Meeting on April 9th at 2:00 pm, limited to the consideration of the Emergency Resolution and the proposed Real Estate License Agreement.

Enc. 3

pc: Steve Seglin & Corey Wasserburger

Paul Zillig

From: Donna K. Garden
Sent: Monday, April 6, 2020 5:06 PM
To: Paul Zillig
Subject: Emergency Board Meeting Request

Paul,

The City of Lincoln and Lancaster County is requesting your board's approval of the use of the unoccupied Station 10 on 14th and Adams currently owned by LPSNRD. A license agreement has been prepared and will be sent to you soon. The station will be used to decontaminate Personal Protective Equipment used in our medical facilities using a UNMC methodology that utilizes UV light.

Timing is critical. The UV lights are scheduled to be delivered during the third week in April and we would like to put them to use as soon as we receive them. There is prep work that must be done prior to operation and we would like to start as soon as possible.

There will be no damage to the facility and there is no danger to anyone working next door at your office or in the neighborhood.

If your board rejects our request for the use of station 10, we will need to look for an alternative location so we are asking that we have your board's approval/disapproval no later than Friday, April 10th.

I will be happy to answer yours or your board members' questions. Thank you for your consideration and thank you in advance for helping us fight this virus.

Sincerely,

Donna K. Garden

Transportation and Utilities Assistant Director | Utilities

555 S 10th St, Suite 208
Lincoln, NE 68508

itu.lincoln.ne.gov | APWA Accredited

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EMERGENCY RESOLUTION

BE IT RESOLVED:

1. That the City of Lincoln, Nebraska, on behalf of the Lincoln Transportation and Utilities Department ("City"), has undertaken a project to sanitize and decontaminate Personal Protective Equipment ("PPE"), including face masks, face shields, and protective gear used in the testing and treatment of COVID-19 in hospitals and other medical facilities located in Lincoln and Lancaster County.
2. That the City plans to use a process called Ultraviolet Germicidal Irradiation ("UVGI") to sanitize and decontaminate PPE.
3. That the City has requested that the Lower Platte South Natural Resources District ("LPSNRD") enter into a License Agreement to allow the City to use the former Fire Station No. 10 ("Premises"), which is owned by the LPSNRD and located at 1440 Adams St, Lincoln, Nebraska, to sanitize and decontaminate PPE through the UVGI process.
4. That the City has ordered the necessary equipment for the UVGI process, which will be delivered during the third week of April. However, there is preparation work to be done to the building before its arrival and accordingly the City wants possession of the Premises as soon as possible.
5. That containing COVID-19 is in the public interest and that the sanitation and decontamination of PPE will assist in containing COVID-19.
6. That the License Agreement has been prepared and reviewed by counsel for the City and the LPSNRD.
7. That the next regularly scheduled Board Meeting of the LPSNRD is scheduled for April 15, 2020, which according to the City is too late to make necessary preparations to the building.
8. That the consideration of the License Agreement by the Board of Directors of the LPSNRD calls for immediate action and constitutes an emergency under Neb. Rev. Stat. Section 84-1411(5).
9. That it is appropriate for the Board of Directors of the LPSNRD to conduct a videoconference meeting to consider the License Agreement under Neb. Rev. Stat. Section 84-1411(5) and the Governor's Executive Order No. 20-03.

REAL ESTATE LICENSE AGREEMENT

THIS REAL ESTATE LICENSE AGREEMENT (“Agreement”) is made effective this ____ day of April, 2020, by and between **LOWER PLATTE SOUTH NATURAL RESOURCES DISTRICT**, a political subdivision of the State of Nebraska, having its office at 3125 Portia Street, Lincoln, Nebraska 68521, herein referred to as the “Licensor,” and **THE CITY OF LINCOLN, NEBRASKA**, a Nebraska Municipality, on behalf of the Lincoln Transportation and Utilities Department, located at 555 10th Street, Lincoln, Nebraska 68508, herein referred to as “Licensee.” Licensor and Licensee shall individually be referred to as the “Party” and collectively as the “Parties.”

WITNESSETH:

RECITALS

A. Licensor owns real property known as 1440 Adams Street Lincoln Nebraska, which was a former Fire Station (“the Building”) and included two driveways and a parking area (together described herein as “the Premises”) and legally described as:

East 150 feet lot 4, except the South 7 feet, block 36, Washington Heights, Lincoln, Lancaster County, Nebraska.

B. Licensor is willing to grant a license to Licensee for the purpose of using the Building to sanitize, decontaminate, and temporarily store Personal Protective Equipment (“PPE”) including face masks, face shields, and protective gear. PPE is defined as any device or appliance designed to be worn or held by an individual for protection against one or more health and safety hazards. The procedure used for the sanitation and decontamination is called Ultraviolet Germicidal Irradiation.

C. PPE is being used by hospitals, medical facilities, and medical professionals in the City of Lincoln and Lancaster County, Nebraska, for among other things, the testing and treating of COVID-19 VIRUS. No persons will be tested, treated or hospitalized on the Premises.

D. The Parties agree that containing the COVID-19 Virus is in the public interest and the sanitation and decontamination of PPE by the Parties assist in that effort.

NOW, THEREFORE, in consideration of the above Recitals and the mutual promises and covenants contained herein, the Parties agree as follows:

1. **Grant of License.** Licensor hereby grants to the Licensee an exclusive, nontransferable, and non-assignable license to use the Premises for the purposes stated in Paragraph B, C, and D above.

2. **Persons Entitled to Use of the Premises.** Licensee's officials, employees and agents, including drivers and persons assisting in unloading and loading vehicles used to transport and carry the PPE, shall be entitled to use the Premises. An official of the City of Lincoln is required to provide adequate supervision of the sanitation and decontamination of the PPE by trained personnel, including the unloading and loading of the PPE. Such official shall also assure the Licensor that the operation of the Premises will be conducted in a safe manner and will not be harmful to neighbors and the neighborhood. Nothing herein contained shall be construed as a grant of the use the Premises to any other party or to the public.

3. **Term.** The term of the license shall be for six (6) months and shall commence upon the execution date of this Agreement. Licensee shall be given possession of the Premises upon the signing of the Agreement by both parties. The Parties may extend the Agreement for one additional period of up to 90 days under the same terms and conditions without seeking the approval of the Lincoln City Council.

4. **Compensation.** There is no compensation for the Licensee's use of the Premises. The Parties recognize there is a mutual benefit in the use of the Premises for the health, safety, and welfare of the public. The Licensee agrees to return the Premises to the Licensor in the same condition as reasonably possible as when the Licensee took possession of the Premises.

5. **General Covenants.** Licensee covenants and agrees that during the term of this Agreement or any renewal thereof:

- (a) To keep the Premises in neat, clean, and safe condition;
- (b) To comply with all applicable laws, ordinances, and recorded restrictive covenants pertaining to the Premises;
- (c) To permit Licensor's employees or agents to enter the Premises at reasonable hours and under conditions deemed safe by the General Manager of the Licensor for the purpose of inspecting Premises and pursuant to reasonable notice;

- (d) At the termination of this License, to quit and surrender peaceable possession of the Premises to Licensor, including all improvements, structures, and fixtures forming a part of said structures, in good and clean condition. Licensee agrees that a person trained in public health and safety will certify in writing to Licensor that the Premises are safe for re-occupancy by Licensor;
- (e) Licensee shall not assign or sublet the Premises without the prior written approval of Licensor;
- (f) Licensee may make minor improvements and/or alterations for its use of the Premises after first informing the Licensor and receiving Licensor's approval, which approval shall not be unreasonably withheld, conditioned or delayed. All work performed shall be performed by an appropriately licensed contractor, where required by law, and shall be completed in accordance with all applicable codes and regulations.
- (g) The Licensee shall have the right to install signage on the Building as well as additional exterior signage. All signage shall conform to all zoning and Licensor shall have reasonable review and approval rights of Licensee's signage. The costs associated with the purchase, installation, maintenance and eventual removal of such signage shall be borne by the Licensee.
- (h) Licensee shall obtain Licensor's reasonable approval in advance of installation of anything on the roof. Licensee, at Licensee's sole cost, shall repair any damage caused by any roof penetration made by the Licensee and/or Licensee's agent or damage caused by the Licensee exercising of said roof rights.
- (i) Licensee shall perform regular maintenance to the Building and Premises including but not limited to mowing the lawn, changing light bulbs, and keeping the floor clean.

6. **Termination.** Each Party shall have the right to terminate this Agreement for any reason, including for their own convenience. If either Party elects to terminate this License, that Party shall provide a written notice, which may be accomplished by email, of the same to the other Party at the following:

To Licensor: Paul Zillig
3125 Portia Street
Lincoln, Nebraska 68521
pzillig@lpsnrd.org

To Licensee: Donna Garden
555 10th Street
Lincoln, Nebraska, 68508
dgarden@lincoln.ne.gov

This Agreement shall terminate without penalty or expense to either Party (10) days after receipt of such notice.

7. **Nebraska Law.** This Agreement shall be governed and interpreted by the Laws of the State of Nebraska.

8. **Integration, Amendments, Assignment.** This Agreement represents the entire agreement between the Parties and all prior negotiations and representations are hereby expressly excluded from this Agreement. This Agreement may be amended only by written agreement of both Parties. This Agreement may not be assigned without the prior written consent of the other party.

9. **Severability & Savings Clause.** Each section and each subdivision of a section of this Agreement is hereby declared to be independent of every other section or subdivision of a section so far as inducement for the acceptance of this Agreement and invalidity of any section or subdivision of a section of this Agreement shall not invalidate any other section or subdivision of a section thereof.

10. **Limitation of Liability.**

(a) The Licensee acknowledges and agrees that neither Licensor, its board members, officers, employees or agents, will be liable for any loss or damage arising out of or resulting from Licensee's location and use of the Premises licensed under this Agreement; and Licensee hereby releases and discharges Licensor to the fullest extent available under law from any such liability, loss, damage or claim.

(b) To the full extent permitted by law, Licensor will in no manner be liable to Licensee or any third party for any loss or damage, however caused (including through negligence), which may be directly or indirectly suffered in connection with any use of the Premises.

(c) Licensor shall not be held liable by Licensee in any manner for any loss, damage or injury suffered by the Licensee or by any other person related to any use of the Premises or part thereof.

(d) Notwithstanding anything contained in this Agreement, in no event shall Licensor be liable for any claims, damages or loss which may arise from modification, operation or use of the Premises.

11. **Utilities.** Licensee shall pay or reimburse Licensor for all existing utilities used by Licensee on the Premises. Licensee shall not install or connect any utilities of any kind onto, under, or across the Premises, except for the restoration of fiber cable to the Building.

12. **Indemnity.** Licensee shall indemnify, defend, and hold harmless the Licensor, its board members, officers, employees and agents from and against all suits, claims, liabilities, expenses and damages (including third party claims) that Licensor may suffer or incur for any reason resulting in any way from:

- a. Licensee's use of the Premises;
- b. Any breach of the terms of this License Agreement; and
- c. Any other act of Licensee.

This indemnity will survive the termination of this Agreement.

13. **Insurance.** Licensee is self-insured in the amount of \$250,000.00 and has insurance coverage above this amount to cover all liability under this Agreement, including statutory workmen's compensation insurance. Licensee shall provide Licensor with a certificate of insurance on or before the date of execution of this Agreement. Licensee shall add Licensor as a named insured and waive subrogation.

14. **Independent Contractor.** All officials, agents, or employees of Licensee shall be considered independent contractors with respect to Licensor and under no circumstances be considered employees or agents of Licensor.

IN WITNESS WHEREOF, the Parties have executed this Agreement effective the day and year first above written.

LOWER PLATTE SOUTH NATURAL RESOURCES
DISTRICT, A Political Subdivision of the State of
Nebraska,

By: _____
Paul Zillig, General Manager

CITY OF LINCOLN, a Nebraska Municipality, on behalf
of the Lincoln Transportation and Utilities Department,

By: _____
Leirion Gaylor Baird, Mayor