

Legal Committee Meeting
Tuesday, April 4, 2023 2:00 PM
ESU No. 3
6949 South 110th Street
Omaha, NE 68128

1. Call to Order
Committee Chair
2. Roll Call
Committee Chair
3. Consent Agenda Items
Committee Chair
 - 3.1. Coop Contracts
Committee Chair
 - 3.1.1. Special Buy agreement with _Wheelhouse Solutions LLC, dba My Central Supply
Committee Chair
 - 3.1.2. Special Buy agreement with Impero Solutions Inc.
Committee Chair
4. Agenda Item
Committee Chair
 - 4.1. COOP
Committee Chair
 - 4.1.1. Coop Strategic Plan
Committee Chair
 - 4.1.2. Approve Interlocal Agreement with City of Minden for Cooperative Purchasing
Committee Chair
 - 4.1.3. Approve Interlocal Agreement with Village of Republican City for Cooperative Purchasing
Committee Chair
 - 4.1.4. Staff Written Reports
Committee Chair
 - 4.1.4.1. Peterson Report
Committee Chair
 - 4.1.4.2. Colleen Lentz (Data)
 - 4.2. Legislative Updates
Committee Chair
 - 4.2.1. Bromm's Updates
Curt and Jason Bromm
 - 4.2.1.1. Non-Public Support
Committee Chair

4.2.1.2. Cybersecurity

Committee Chair

4.3. Policies and Procedures

Committee Chair

5. Next Meetings Agenda Items

Committee Chair

6. Adjournment

Committee Chair

NEBRASKA OPEN MEETINGS ACT

84-1407. Act, how cited. Sections 84-1407 to 84-1414 shall be known and may be cited as the Open Meetings Act.

84-1408. Declaration of intent; meetings open to public. It is hereby declared to be the policy of this state that the formation of public policy is public business and may not be conducted in secret. Every meeting of a public body shall be open to the public in order that citizens may exercise their democratic privilege of attending and speaking at meetings of public bodies, except as otherwise provided by the Constitution of Nebraska, federal statutes, and the Open Meetings Act.

84-1409. Terms, defined. For purposes of the Open Meetings Act, unless the context otherwise requires:

(1)(a) Public body means (i) governing bodies of all political subdivisions of the State of Nebraska, (ii) governing bodies of all agencies, created by the Constitution of Nebraska, statute, or otherwise pursuant to law, of the executive department of the State of Nebraska, (iii) all independent boards, commissions, bureaus, committees, councils, subunits, or any other bodies created by the Constitution of Nebraska, statute, or otherwise pursuant to law, (iv) all study or advisory committees of the executive department of the State of Nebraska whether having continuing existence or appointed as special committees with limited existence, (v) advisory committees of the bodies referred to in subdivisions (i), (ii), and (iii) of this subdivision, and (vi) instrumentalities exercising essentially public functions; and

(b) Public body does not include (i) subcommittees of such bodies unless a quorum of the public body attends a subcommittee meeting or unless such subcommittees are holding hearings, making policy, or taking formal action on behalf of their parent body, except that all meetings of any subcommittee established under section 81-15,175 are subject to the Open Meetings Act, (ii) entities conducting judicial proceedings unless a court or other judicial body is exercising rulemaking authority, deliberating, or deciding upon the issuance of administrative orders, and (iii) the Judicial Resources Commission or subcommittees or subgroups of the commission;

(2) Meeting means all regular, special, or called meetings, formal or informal, of any public body for the purposes of briefing, discussion of public business, formation of tentative policy, or the taking of any action of the public body; and

(3) Virtual conferencing means conducting or participating in a meeting electronically or telephonically with interaction among the participants subject to subsection (2) of section 84-1412.

84-1410. Closed session; when; purpose; reasons listed; procedure; right to challenge; prohibited acts; chance meetings, conventions, or workshops.

(1) Any public body may hold a closed session by the affirmative vote of a majority of its voting members if a closed session is clearly necessary for the protection of the public interest or for the prevention of needless injury to the reputation of an individual and if such individual has not requested a public meeting. The subject matter and the reason necessitating the closed session shall be identified in the motion to close. Closed sessions may be held for, but shall not be limited to, such reasons as: (a) Strategy sessions with respect to collective bargaining, real estate purchases, pending litigation, or litigation which is imminent as evidenced by communication of a claim or threat of litigation to or by the public body; (b) Discussion regarding deployment of security personnel or devices; (c) Investigative proceedings regarding allegations of criminal misconduct; (d) Evaluation of the job performance of a person when necessary to prevent needless injury to the reputation of a person and if such person has not requested a public meeting; (e) For the Community Trust created under section 81-1801.02, discussion regarding the amounts to be paid to individuals who have suffered from a tragedy of violence or natural disaster; or (f) For public hospitals, governing board peer review activities, professional review activities, review and discussion of medical staff investigations or disciplinary actions, and any strategy session concerning transactional negotiations with any referral source that is required by federal law to be conducted at arms length. Nothing in this section shall permit a closed meeting for discussion of the appointment or election of a new member to any public body.

(2) The vote to hold a closed session shall be taken in open session. The entire motion, the vote of each member on the question of holding a closed session, and the time when the closed session commenced and concluded shall be recorded in the minutes. If the motion to close passes, then the presiding officer immediately prior to the closed session shall restate on the record the limitation of the subject matter of the closed session. The public body holding such a closed session shall restrict its consideration of matters during the closed portions to only those purposes set forth in the motion to close as the reason for the closed session. The meeting shall be reconvened in open session before any formal action may be taken. For purposes of this section, formal action shall mean a collective decision or a collective commitment or promise to make a decision on any question, motion, proposal, resolution, order, or ordinance or formation of a position or policy but shall not include negotiating guidance given by members of the public body to legal counsel or other negotiators in closed sessions authorized under subdivision (1)(a) of this section.

(3) Any member of any public body shall have the right to challenge the continuation of a closed session if the member determines that the session has exceeded the reason stated in the original motion to hold a closed session or if the member contends that the closed session is neither clearly necessary for (a) the protection of the public interest or (b) the prevention of needless injury to the reputation of an individual. Such challenge shall be overruled only by a majority vote of the members of the public body. Such challenge and its disposition shall be recorded in the minutes.

(4) Nothing in this section shall be construed to require that any meeting be closed to the public. No person or public body shall fail to invite a portion of its members to a meeting, and no public body shall designate itself a subcommittee of the whole body for the purpose of circumventing the Open Meetings Act. No closed session, informal meeting, chance meeting, social gathering, email, fax, or other electronic communication shall be used for the purpose of circumventing the requirements of the act.

(5) The act does not apply to chance meetings or to attendance at or travel to conventions or workshops of members of a public body at which there is no meeting of the body then intentionally convened, if there is no vote or other action taken regarding any matter over which the public body has supervision, control, jurisdiction, or advisory power.

84-1411. Meetings of public body; notice; method; contents; when available; right to modify; duties concerning notice; virtual conferencing authorized; requirements; emergency meeting without notice; appearance before public body.

(1)(a) Each public body shall give reasonable advance publicized notice of the time and place of each meeting as provided in this subsection. Such notice shall be transmitted to all members of the public body and to the public. (b) (i) Except as provided in subdivision (1)(b)(ii) of this section, in the case of a public body described in subdivision (1)(a)(i) of section 84-1409 or such body's advisory committee, such notice shall be published in a newspaper of general circulation within the public body's jurisdiction and, if available, on such newspaper's website. (ii) In the case of the governing body of a city of the second class or village or such body's advisory committee, such notice shall be published by: (A) Publication in a newspaper of general circulation within the public body's jurisdiction and, if available, on such newspaper's website; or (B) Posting written notice in three conspicuous public places in such city or village. Such notice shall be posted in the same three places for each meeting. (iii) In the case of a public body not described in subdivision (1)(b)(i) or (ii) of this section, such notice shall be given by a method designated by the public

body.(c) In addition to a method of notice required by subdivision (1)(b)(i) or (ii) of this section, such notice may also be provided by any other appropriate method designated by such public body or such advisory committee. (d) Each public body shall record the methods and dates of such notice in its minutes. (e) Such notice shall contain an agenda of subjects known at the time of the publicized notice or a statement that the agenda, which shall be kept continually current, shall be readily available for public inspection at the principal office of the public body during normal business hours. Agenda items shall be sufficiently descriptive to give the public reasonable notice of the matters to be considered at the meeting. Except for items of an emergency nature, the agenda shall not be altered later than (i) twenty-four hours before the scheduled commencement of the meeting or (ii) forty-eight hours before the scheduled commencement of a meeting of a city council or village board scheduled outside the corporate limits of the municipality. The public body shall have the right to modify the agenda to include items of an emergency nature only at such public meeting.

(2)(a) The following entities may hold a meeting by means of virtual conferencing if the requirements of subdivision (2)(b) of this section are met: (i) A state agency, state board, state commission, state council, or state committee, or an advisory committee of any such state entity; (ii) An organization, including the governing body, created under the Interlocal Cooperation Act, the Joint Public Agency Act, or the Municipal Cooperative Financing Act; (iii) The governing body of a public power district having a chartered territory of more than one county in this state; (iv) The governing body of a public power and irrigation district having a chartered territory of more than one county in this state; (v) An educational service unit; (vi) The Educational Service Unit Coordinating Council; (vii) An organization, including the governing body, of a risk management pool or its advisory committees organized in accordance with the Intergovernmental Risk Management Act; (viii) A community college board of governors; (ix) The Nebraska Brand Committee; (x) A local public health department; (xi) A metropolitan utilities district; (xii) A regional metropolitan transit authority; and (xiii) A natural resources district. (b) The requirements for holding a meeting by means of virtual conferencing are as follows: (i) Reasonable advance publicized notice is given as provided in subsection (1) of this section, including providing access to a dial-in number or link to the virtual conference; (ii) In addition to the public's right to participate by virtual conferencing, reasonable arrangements are made to accommodate the public's right to attend at a physical site and participate as provided in section 84-1412, including reasonable seating, in at least one designated site in a building open to the public and identified in the notice, with: At least one member of the entity holding such meeting, or his or her designee, present at each site; a recording of the hearing by audio or visual recording devices; and a reasonable opportunity for input, such as public comment or questions, is provided to at least the same extent as would be provided if virtual conferencing was not used; (iii) At least one copy of all documents being considered at the meeting is available at any physical site open to the public where individuals may attend the virtual conference. The public body shall also provide links to an electronic copy of the agenda, all documents being considered at the meeting, and the current version of the Open Meetings Act; and (iv) Except as otherwise provided in this subdivision or subsection (4) of section 79-2204, no more than one-half of the meetings of the state entities, advisory committees, boards, councils, organizations, or governing bodies are held by virtual conferencing in a calendar year. In the case of an organization created under the Interlocal Cooperation Act that sells electricity or natural gas at wholesale on a multistate basis or an organization created under the Municipal Cooperative Financing Act, the organization may hold more than one-half of its meetings by virtual conferencing if such organization holds at least one meeting each calendar year that is not by virtual conferencing. The governing body of a risk management pool that meets at least quarterly and the advisory committees of the governing body may each hold more than one-half of its meetings by virtual conferencing if the governing body's quarterly meetings are not held by virtual conferencing.

(3) Virtual conferencing, emails, faxes, or other electronic communication shall not be used to circumvent any of the public government purposes established in the Open Meetings Act.

(4) The secretary or other designee of each public body shall maintain a list of the news media requesting notification of meetings and shall make reasonable efforts to provide advance notification to them of the time and place of each meeting and the subjects to be discussed at that meeting.

(5) When it is necessary to hold an emergency meeting without reasonable advance public notice, the nature of the emergency shall be stated in the minutes and any formal action taken in such meeting shall pertain only to the emergency. Such emergency meetings may be held by virtual conferencing. The provisions of subsection (4) of this section shall be complied with in conducting emergency meetings. Complete minutes of such emergency meetings specifying the nature of the emergency and any formal action taken at the meeting shall be made available to the public by no later than the end of the next regular business day.

(6) A public body may allow a member of the public or any other witness to appear before the public body by means of virtual conferencing.

(7)(a) Notwithstanding subsections (2) and (5) of this section, if an emergency is declared by the Governor pursuant to the Emergency Management Act as defined in section 81-829.39, a public body the territorial jurisdiction of which is included in the emergency declaration, in whole or in part, may hold a meeting by virtual conferencing during such emergency if the public body gives reasonable advance publicized notice as described in subsection (1) of this section. The notice shall include information regarding access for the public and news media. In addition to any formal action taken pertaining to the emergency, the public body may hold such meeting for the purpose of briefing, discussion of public business, formation of tentative policy, or the taking of any action by the public body. (b) The public body shall provide access by providing a dial-in number or a link to the virtual conference. The public body shall also provide links to an electronic copy of the agenda, all documents being considered at the meeting, and the current version of the Open Meetings Act. Reasonable arrangements shall be made to accommodate the public's right to hear and speak at the meeting and record the meeting. Subsection (4) of this section shall be complied with in conducting such meetings. (c) The nature of the emergency shall be stated in the minutes. Complete minutes of such meeting specifying the nature of the emergency and any formal action taken at the meeting shall be made available for inspection as provided in subsection (5) of section 84-1413. (8) In addition to any other statutory authorization for virtual conferencing, any public body not listed in subdivision (2)(a) of this section may hold a meeting by virtual conferencing if: (a) The purpose of the virtual meeting is to discuss items that are scheduled to be discussed or acted upon at a subsequent non-virtual open meeting of the public body; (b) No action is taken by the public body at the virtual meeting; and (c) The public body complies with subdivisions (2)(b)(i) and (2)(b)(ii) of this section.

84-1412. Meetings of public body; rights of public; public body; powers and duties.

(1) Subject to the Open Meetings Act, the public has the right to attend and the right to speak at meetings of public bodies, and all or any part of a meeting of a public body, except for closed sessions called pursuant to section 84-1410, may be videotaped, televised, photographed, broadcast, or recorded by any person in attendance by means of a tape recorder, a camera, video equipment, or any other means of pictorial or sonic reproduction or in writing.

(2) It shall not be a violation of subsection (1) of this section for any public body to make and enforce reasonable rules and regulations regarding the conduct of persons attending, speaking at, videotaping, televising, photographing, broadcasting, or recording its meetings, including meetings held by virtual conferencing. A body may not be required to allow citizens to speak at each

meeting, but it may not forbid public participation at all meetings.

(3) No public body shall require members of the public to identify themselves as a condition for admission to the meeting nor shall such body require that the name of any member of the public be placed on the agenda prior to such meeting in order to speak about items on the agenda. The body shall require any member of the public desiring to address the body to identify himself or herself, including an address and the name of any organization represented by such person unless the address requirement is waived to protect the security of the individual.

(4) No public body shall, for the purpose of circumventing the Open Meetings Act, hold a meeting in a place known by the body to be too small to accommodate the anticipated audience.

(5) No public body shall be deemed in violation of this section if it holds its meeting in its traditional meeting place which is located in this state.

(6) No public body shall be deemed in violation of this section if it holds a meeting outside of this state if, but only if: (a) A member entity of the public body is located outside of this state and the meeting is in that member's jurisdiction; (b) All out-of-state locations identified in the notice are located within public buildings used by members of the entity or at a place which will accommodate the anticipated audience; (c) Reasonable arrangements are made to accommodate the public's right to attend, hear, and speak at the meeting, including making virtual conferencing available at an in-state location to members, the public, or the press, if requested twenty-four hours in advance; (d) No more than twenty-five percent of the public body's meetings in a calendar year are held out-of-state; (e) Out-of-state meetings are not used to circumvent any of the public government purposes established in the Open Meetings Act; and (f) The public body publishes notice of the out-of-state meeting at least twenty-one days before the date of the meeting in a legal newspaper of statewide circulation.

(7) Each public body shall, upon request, make a reasonable effort to accommodate the public's right to hear the discussion and testimony presented at a meeting.

(8) Public bodies shall make available at the meeting or the in-state location for virtual conferencing as required by subdivision (6)(c) of this section, for examination and copying by members of the public, at least one copy of all reproducible written material to be discussed at an open meeting, either in paper or electronic form. Public bodies shall make available at least one current copy of the Open Meetings Act posted in the meeting room at a location accessible to members of the public. At the beginning of the meeting, the public shall be informed about the location of the posted information.

84-1413. Meetings; minutes; roll call vote; secret ballot; when; agenda and minutes; required on website; when.

(1) Each public body shall keep minutes of all meetings showing the time, place, members present and absent, and the substance of all matters discussed.

(2) Any action taken on any question or motion duly moved and seconded shall be by roll call vote of the public body in open session, and the record shall state how each member voted or if the member was absent or not voting. The requirements of a roll call or viva voce vote shall be satisfied by a public body which utilizes an electronic voting device which allows the yeas and nays of each member of such public body to be readily seen by the public.

(3) The vote to elect leadership within a public body may be taken by secret ballot, but the total number of votes for each candidate shall be recorded in the minutes.

(4) The minutes of all meetings and evidence and documentation received or disclosed in open session shall be public records and open to public inspection during normal business hours.

(5) Minutes shall be written or kept as an electronic record and shall be available for inspection within ten working days or prior to the next convened meeting, whichever occurs earlier, except that cities of the second class and villages may have an additional ten working days if the employee responsible for writing or keeping the minutes is absent due to a serious illness or emergency.

(6) Beginning July 31, 2022, the governing body of a natural resources district, the city council of a city of the metropolitan class, the city council of a city of the primary class, the city council of a city of the first class, the county board of a county with a population greater than twenty-five thousand inhabitants, and the school board of a school district shall make available on such entity's public website the agenda and minutes of any meeting of the governing body. The agenda shall be placed on the website at least twenty-four hours before the meeting of the governing body. Minutes shall be placed on the website at such time as the minutes are available for inspection as provided in subsection (5) of this section. This information shall be available on the public website for at least six months.

84-1414. Unlawful action by public body; declared void or voidable by district court; when; duty to enforce open meeting laws; citizen's suit; procedure; violations; penalties.

(1) Any motion, resolution, rule, regulation, ordinance, or formal action of a public body made or taken in violation of the Open Meetings Act shall be declared void by the district court if the suit is commenced within one hundred twenty days of the meeting of the public body at which the alleged violation occurred. Any motion, resolution, rule, regulation, ordinance, or formal action of a public body made or taken in substantial violation of the Open Meetings Act shall be voidable by the district court if the suit is commenced more than one hundred twenty days after but within one year of the meeting of the public body in which the alleged violation occurred. A suit to void any final action shall be commenced within one year of the action.

(2) The Attorney General and the county attorney of the county in which the public body ordinarily meets shall enforce the Open Meetings Act.

(3) Any citizen of this state may commence a suit in the district court of the county in which the public body ordinarily meets or in which the plaintiff resides for the purpose of requiring compliance with or preventing violations of the Open Meetings Act, for the purpose of declaring an action of a public body void, or for the purpose of determining the applicability of the act to discussions or decisions of the public body. It shall not be a defense that the citizen attended the meeting and failed to object at such time. The court may order payment of reasonable attorney's fees and court costs to a successful plaintiff in a suit brought under this section.

(4) Any member of a public body who knowingly violates or conspires to violate or who attends or remains at a meeting knowing that the public body is in violation of any provision of the Open Meetings Act shall be guilty of a Class IV misdemeanor for a first offense and a Class III misdemeanor for a second or subsequent offense.

84-1415. Open Meetings Act; requirements; waiver; validity of action. No motion, resolution, rule, regulation, ordinance, or formal action made, adopted, passed, or taken at a meeting as defined in section 84-1409 of a public body as defined in such section shall be invalidated because such motion, resolution, rule, regulation, ordinance, or formal action was made, adopted, passed, or taken at a meeting or meetings on or after March 17, 2020, and on or before April 30, 2021, pursuant to a Governor's Executive Order which waived certain requirements of the Open Meetings Act.

Revised
4-2022



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2023-2026 SPECIAL BUY AGREEMENT

THIS AGREEMENT is entered into by and between the Nebraska ESUCC Cooperative Purchasing ("Cooperative"), and Wheelhouse Solutions LLC, dba My Central Supply ("Contractor"). The Cooperative is an organization founded in 1968 with the purpose of providing the Educational Service Unit (ESU) member school districts ("Members") of Nebraska an opportunity to secure the maximum procurement value through cooperative synergies. The Educational Service Unit Coordinating Council (ESUCC) Advisory group serves as the steering committee for new and future cooperative buys statewide under its direction. A chief executive officer coordinates the statewide purchasing agreement between service units and their school districts and other serviceable entities. The Director manages the program with the guidance of the ESUCC, Advisory Board, and the Fiscal Agent. Nebraska ESUCC Cooperative Purchasing serves 17 ESUs that provide a statewide network of educational opportunities to approximately 244 school districts and more than 325,000 students.

In consideration of mutual covenants, the parties agree as follows:

- 1. Scope of the Contract.** The Contractor shall provide Members the opportunity to purchase the goods and/or services as defined in **Exhibit A**, which is attached hereto and incorporated herein by this reference, at the prices set forth in this Agreement and its Exhibits.
- 2. Payment Terms/Payment Schedule.** Members shall pay for services rendered and/or for accepted goods on the terms and payment schedule as set forth in **Exhibit B** which is attached hereto and incorporated herein by this reference. Prices listed in Exhibit B shall remain in effect during the term of this Agreement unless agreed otherwise by the parties in writing.
- 3. Administrative Fee.** Contractor shall submit to the Cooperative as an administrative fee a sum equal to two percent (2%) of the total gross dollar volume, less freight of all goods and services and excluding annual support and maintenance purchased by the Cooperative, ESUs, and Members. This fee will be submitted to the Cooperative on a quarterly basis beginning three months from the Effective Date of this Agreement for all transactions completed and paid during said quarter.
- 4. Term.** This Agreement is effective on _____, April 5, 2023 ("Effective Date") and shall continue until 12:00 midnight (CST) on _____, April 5, 2026, unless terminated earlier as provided by this Agreement or by law.
- 5. Governing Law; Designation of Forum.** This Agreement is governed by and construed in accordance with the laws of the State of Nebraska. Any action to enforce this Agreement must be brought in the state or federal courts of the State

of Nebraska. Mandatory and exclusive venue for any disputes shall be in Sarpy County, Nebraska.

6. Termination.

- A. The Cooperative may terminate this Agreement in whole or part if funding from federal, state, or other sources for the Cooperative or its Members is not obtained and continued at levels sufficient to allow for purchase of the good and/or services in the indicated quantities or term. The Cooperative shall notify the Contractor as soon as practicable if funds to meet the Cooperative's or Members' obligations become unavailable. The determination of the Cooperative as to the insufficiency of funds is conclusive.
- B. Each party may terminate this Agreement if the other party breaches or is in default of any material obligation hereunder which default is incapable of cure, or which, being capable of cure, has not been cured within 30 days after receipt of written notice of such default or such additional cure period as the non-defaulting party may authorize in writing.
- C. Each party may terminate this Agreement by written notice if federal or state laws or rules are modified or interpreted in a way that the services are no longer allowable or appropriate for purchase under this contract or are no longer eligible for the funding proposed for payments authorized by this contract.
- D. The Cooperative may terminate this Agreement, in whole or in part, by written notice to the Contractor and may regard the Contractor in default of this Agreement if the Contractor becomes:
 - (1) Insolvent;
 - (2) Makes a general assignment for the benefit of creditors;
 - (3) Files a voluntary petition of bankruptcy;
 - (4) Suffers or permits the appointment of a receiver for its business or assets;
 - (5) Becomes subject to any proceeding under any bankruptcy or insolvency law, whether domestic or foreign; or
 - (6) Has wound up or liquidated, voluntarily or otherwise.
- E. The Cooperative may terminate this Agreement, in whole or in part, immediately, without notice, if the Contractor is debarred or suspended from performing services on any public contracts.
- F. The parties may terminate this Agreement without cause by mutual written consent or by either party with a minimum of 90 days written notice.
- G. Upon the termination for any reason or expiration of this Agreement, the Contractor promptly must return to the Cooperative all papers, materials and other property of the Cooperative then in its possession, including but

not limited to all work in progress as is appropriate in its then existing form to the Cooperative.

7. Indemnification.

- A. The Contractor hereby waives and agrees to indemnify and save harmless the Cooperative and the ESUs and their officials, agents, employees, and volunteers (hereinafter collectively referred to as "Indemnities"), against any and all claims of injuries, death, damage to property, liabilities, judgments, costs and expenses which may otherwise accrue against Indemnities in consequence of the granting of this Agreement or which may otherwise result therefrom.
- B. The Contractor shall, at his or her own expense, appear, defend and pay all charges of attorneys and all costs and other expenses arising therefrom or incurred in connection therewith.
- C. If any judgment shall be rendered against the Cooperative or the ESUs in any such action, the Contractor shall, at his or her own expense, satisfy and discharge the same.
- D. Any performance bond or insurance protection required by this contract, or otherwise provided by the Contractor, shall in no way limit the responsibility to indemnify and save harmless and defend the Indemnities as herein provided.
- E. The Contractor's obligation to indemnify and save harmless any Indemnities will survive the expiration or termination of this Agreement by either party for any reason.

8. Insurance. Contractor shall secure and keep in force during the term of this Agreement the following insurance coverages from insurance companies or government self-insurance pools authorized to do business in Nebraska:

- A. Commercial general liability, including premises or operations, contractual, and products or completed operations coverages (if applicable), with minimum liability limits of \$1,000,000 per person and \$5,000,000 per occurrence; and
- B. If applicable, workers compensation coverage meeting all statutory requirements.

The Contractor shall furnish a certificate of insurance to the undersigned Cooperative representative prior to commencement of this Agreement. Failure to provide insurance as required in this agreement is a material breach of contract entitling the Cooperative to terminate this Agreement immediately.

9. Public Records. The Contractor acknowledges that the Cooperative must comply with NEB. REV. STAT. § 84-712 through § 84-713 and release public records as defined law upon request, which may include this Agreement and all records created and maintained in relation to this Agreement.

- 10. Publicity.** The Cooperative does not endorse the goods or services of the Contractor. Except for listing the Cooperative as a client during the term of this Agreement, news releases or other publicity concerning this Agreement must not be made by the Contractor without the prior written approval of the Cooperative.
- 11. Drug/Alcohol/Tobacco/Weapons Free Workplace.** The Contractor and all subcontractors, if any, shall not manufacture, sell, distribute, dispense, possess or use controlled substances or marijuana, as defined by Nebraska law, during the performance of this Agreement while on Cooperative, ESU, or Member premises or at Cooperative, ESU, or Member related functions. The Contractor and all subcontractors, if any, shall not possess any weapon, as defined by Nebraska law and the federal "Drug-Free Schools Act," on Cooperative, ESU, or Member property or at Cooperative, ESU, or Member related functions. The Contractor and all subcontractors, if any, also shall adhere to all Cooperative, ESU, and Member policies and regulations that prohibit the possession, distribution, sale, dispensation, or use of any alcohol or tobacco products while on Cooperative, ESU, or Member premises or at Cooperative, ESU, or Member related functions. Failure to comply with this provision may be considered a material breach. The Cooperative may suspend or terminate the Contractor, subcontractor, or both if it violates these laws, regulations, or policies or this provision.
- 12. Nondiscrimination.** The Contractor and all subcontractors, if any, shall not discriminate against any employee or applicant who is to be employed for performance of this Agreement with respect to his or her hire, tenure, terms, conditions, or privileges of employment, because of his race, color, religion, sex, disability, or national origin.
- 13. Independent Contractor.** Contractor is an independent contractor under this contract and is not a Cooperative, ESU, or Member employee for any purpose. The Contractor retains sole and absolute discretion in the manner and means of carrying out Contractor's activities and responsibilities under this Agreement, except to the extent specified in this Agreement.
- 14. Employment Eligibility Verification.** The Contractor shall use a federal immigration verification system to determine the work eligibility status of employees hired on or after October 1, 2009 and who are physically performing services within the State of Nebraska. If the Contractor employs or contracts with any subcontractor in connection with this Agreement, the Contractor shall include a provision in the contract requiring the subcontractor to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska.
- 15. Taxpayer Identification.** Contractor's federal employer identification number is: **85-2384775**.
- 16. Sales Tax.** The Cooperative, ESUs, and Members are exempt from sales tax and shall not pay any sales tax under this Agreement. The Cooperative, ESUs and/or Members will provide the Contractor with applicable sales tax exemption certificates upon written request.

- 17. Notice.** Each party giving any Notice ("Notice") under this Agreement must give written Notice by personal delivery, registered or certified Mail (in each case, return receipt requested and postage prepaid), or nationally recognized overnight courier (with all fees prepaid.) Notice shall be sent to the following addressees at the following addresses:

Cooperative: ESUCC
Attn: Kraig Lofquist
6949 South 110th Street
LaVista, NE 68128

With copy to:

ESUCC Cooperative Purchasing
Attn: Craig Peterson
PO Box 858
412 W. 14th Ave
Holdrege, NE 68949

Contractor: Wheelhouse Solutions LLC, dba My Central Supply
1577 N Airport Rd Fremont, NE 68025

Notice is effective only if the party giving the Notice has complied with this section.

- 18. Warranties and Specifications.** Contractor shall be responsible for providing to Members all manufacturer warranties on all goods and services. Contractor shall provide Members with all attachments normally supplied by the manufacturer and/or supplier. Complete product specification sheets or brochures must be provided to Members, ESUs, or the Cooperative upon request.
- 19. Entire Agreement.** The Agreement is the complete and exclusive expression of the parties' agreement on the matters contained in this Agreement. All prior and contemporaneous negotiations and agreements between the parties on the matters contained in this Agreement are expressly merged into and superseded by this Agreement.
- 20. Amendments and Modifications.** The parties may amend or modify this Agreement only by a signed, written agreement by both parties that identifies itself as an amendment or modification to this Agreement. No other alternations in the terms of this agreement shall be valid or binding.
- 21. Waivers.** The parties may waive any provision in this Agreement only by a writing executed by the party or parties against whom the waiver is sought to be enforced. No failure or delay: (1) In exercising any right or remedy, **or** (2) In requiring the satisfaction of any condition under this Agreement, **and** (3) No act, omission, or course of dealing between the parties operates as a waiver or estoppel of any right, remedy or condition. A waiver made in writing on one occasion is effective

only in that instance and only for the purpose stated. A waiver once given is not to be construed as a waiver on any future occasion or against any other Person.

- 22. Severability.** If any provision of this Agreement is determined to be unenforceable, the remaining provisions of this Agreement remain in full force, if the essential terms and conditions of this Agreement for each party remain enforceable.
- 23. Counterparts.** The parties may execute this Agreement in multiple counterparts, each of which constitutes an original, and all of which, collectively, constitute only one agreement. The signatures of all of the parties need not appear on the same counterpart, and delivery of an executed counterpart signature page by facsimile or other electronic means is as effective as executing and delivering this Agreement in the presence of the other parties to this Agreement. This Agreement is effective upon delivery of one executed counterpart from each party to the other parties. In proving this Agreement, a party must produce or account only for the executed counterpart of the party to be charged.
- 24. Force Majeure.** Neither party shall be liable for any loss or damage suffered by the other party, directly or indirectly, as a result of the non performing party's failure to perform, or delay in performing, any of its obligations contained in this contract (except any obligations to make payments for services rendered or accepted goods received before the failure to perform or the delay in performance), where, in the opinion of the Cooperative, such failure or delay is cause by circumstances beyond the non performing party's control or which make performance commercially impracticable, including but not limited to fire, flood, storm or other natural disaster, explosion, accident, war, riot, civil disorder, government regulations or restrictions of any kind or any acts of any government, alien enemy, judicial action, power failure, acts of God, or other natural circumstances. This Force Majeure provision excludes economic hardship, changes in market conditions, and insufficiency of funds on the part of Contractor.
- 25. Assignment.** This Agreement binds the parties and their respective successors and assignees. The Contractor shall not assign or otherwise dispose of this Agreement or any duty, right, or responsibility contemplated in this Agreement to any other person without the previous written consent of the Cooperative.
- 26. Subcontractors.** The Contractor shall not subcontract services or any part of this Agreement without the prior written consent of the Cooperative.
- 27. Captions.** The descriptive headings of the Articles, Sections and subsections of this Agreement are for convenience only, do not constitute a part of this Agreement, and do not affect this Agreement's construction or interpretation.
- 28. Rights and Remedies Cumulative.** Any enumeration of the Cooperative's rights and remedies set forth in this Agreement is not exhaustive. The Cooperative's exercise of any right or remedy under this Agreement does not preclude the exercise of any other right or remedy. All of the Cooperative's rights and remedies are cumulative and are in addition to any other right or remedy set forth in this

Date: 3/21/23

Date:

EXHIBIT "A"

SCOPE OF GOODS OR SERVICES TO BE PROVIDED TO MEMBERS

My Central Supply (MCS) is a wholesale distributor who supplies workplace essentials of all categories from the top manufacturers in the market to offer over 60,000 products in our portfolio. MCS offers janitorial and disinfection/sanitation chemicals, supplies, and equipment; office and food service products; office furniture; safety supplies and tools; and print, imaging, & technology supplies. MCS can also provide customized products (dispensers, bags, boxes, and floor mats) with your logo or requested imprint. A complete catalog can be found at www.mycentralsupply.com.

My Central Supply powers our partner's success by integrating a vast product assortment utilizing a world class fulfillment network. We are an all-in-one solution partner that sets unlimited possibilities in motion for our customers in the quest of smarter operations, facility safety, and business progression. MCS is your professional source for tailored facility maintenance solutions. We offer complimentary *bilingual* training to our customers and their staff on products, equipment, and proper procedures.

My Central Supply's customer base consists of health care and educational facilities, correctional institutions, government accounts (municipal, county, state, federal), property management, contractors, industrial and manufacturing plants, hotels, correctional facilities, daycares, assisted living and retirement facilities, churches, BSCs, and convalescent homes.

My Central Supply guarantees unbeatable, top-notch customer service and the lowest possible pricing to ESUCC members.

<<VENDOR-INSERT SCOPE OF GOODS>>

EXHIBIT "B"

1. Contractor's Pricing

Contractor's Pricing Model under this Agreement is:

<<VENDOR-INSERT PRICING>>Prices will be based on a cost + markup structure with the lowest possible price provided. ESUCC member will see the discounted price after logging in to the ESUCC account at www.mycentralsupply.com.

2. Payment Terms/ Payment Schedule

- A. Members will pay Contractor for all undisputed amounts for the goods and/or services identified in Exhibit A and provided by Contractor under this Agreement within sixty (60) days of receipt of invoice, provided that goods/services have been accepted by the Member as hereinafter provided.
- B. The procedure for billing and payment for services or products and deliverables shall be as specified in this exhibit.

3. Acceptance of Services or Products:

- A. The Contractor shall deliver any goods, perform any services or both in accordance with the schedule set forth in any RFP, the time specified in a purchase order issued by the Cooperative, ESU, or Member, or this Agreement (whichever is later).
- B. Unless otherwise agreed to by the parties, the Contractor shall provide written notification of completion of any deliveries, or performances of services or both, to the Member ("Delivery Notice").
- C. Members shall have sixty (60) days from the date of receipt of the Delivery Notice to provide the Contractor with written notification of acceptance or rejection due to unsatisfactory performance or nonconforming goods.
- D. If the Member issues a rejection notice, the Contractor shall as quickly as is practicable, correct or replace all deficiencies at its expense. The Cooperative shall not unreasonably withhold or delay its acceptance or rejection.

4. Title and Risk of Loss:

- A. Title and risk of loss for goods shall remain with the Contractor until goods are accepted by the Member, ESU, or Cooperative.
- B. Insurance during shipment and until the goods are accepted by the Cooperative, ESU, or Member is the responsibility of the Contractor.

EXHIBIT "C"

SUMMARY OF PROJECT DELIVERABLES

<<TO BE COMPLETED BY VENDOR>>

1. Order Delivery Method Options

1. Members will submit orders direct to Vendor
2. ESUCC Marketplace is the preferred method for order placement

2. Electronic Orders

a. Vendor Capable of receiving orders electronically? Yes: No:

b. If "Yes", Order receipt method: Email: cXML:

i. If "Email" address to deliver orders to:

ii. If "cXML" provide the following IT contact information

Contact (First, Last name): Amy Brown

Contact email address: amy@mycentralsupply.com

Contact Phone: 308-631-4072

c. If "No, Alternate method will be determined

3. Sales Representative Contact

a. First, Last name: Justin Brown

b. Title: VP of Strategic Accounts

c. Phone: 308-672-5373

d. Email: justin@mycentralsupply.com

4. Invoice Method

a. Vendor invoices Members direct

5. Sales Reporting

a. Vendor to submit quarterly sales report to ESUCC at coop@esucc.org

b. Vendor contact information for sales report questions:

Contact (First, Last name): Amy Brown

Contact email address: amy@mycentralsupply.com

c. Sales report must include the following

- Member Name
- Member City
- List Price
- Member Cost
- Member Savings
- Admin Fee Amount Due

d. ESUCC Admin Fee

- Vendor must submit payment of Admin Fee to ESUCC quarterly
- Admin Fee is equal to percentage of total sales (as defined in **Administration Fee** section of agreement)
- Remit Admin Fee payment to:
ESUCC
1292 East 4th Street
Ainsworth, NE 69210

6. Product Information URL: www.mycentralsupply.com



INTERLOCAL AGREEMENT FOR COOPERATIVE PUBLIC/GOVERNMENTAL PURCHASING

This Interlocal Agreement ("Agreement") is made and entered into under the provisions of the Nebraska Interlocal Cooperation Act, NEB. REV. STAT. §§ 13-801 to 13-827 ("Act"), between the Educational Service Unit Coordinating Council, commonly known as ESUCC ("ESUCC"), and City of Minden, commonly known as City of Minden. The parties are referred to collectively as "Agencies."

WHEREAS, the Act, provides that two or more public agencies may enter into an agreement for joint or cooperative action, and this Agreement is made and entered into pursuant to the provisions of that Act; and

WHEREAS, each entity is a "public agency" pursuant to NEB. REV. STAT. § 13-803(2), as amended;

WHEREAS, the ESUCC and City of Minden desire to jointly bid and contract, for supplies, materials, equipment, and services through the ESUCC's Cooperative Purchasing Program;

WHEREAS, each party agrees to extend to the other party the right to purchase pursuant to such bids and contracts to the extent permitted by law, and to the extent agreed upon between each party and the bidder, contractor, vendor, supplier, or service provider;

WHEREAS, the Agencies desire to make the most efficient use of their taxing authority and other powers to enable them to cooperate with each other and other entities as further agreed on the basis of mutual advantage to provide goods, services, and facilities in a manner and pursuant to forms of governmental organization that will accord the best results in terms of geographic, economic, population, and other factors that will influence the needs and development of the Agencies;

WHEREAS, the ESUCC will provide organizational and administrative structure for sourcing/bidding; provide marketing of Nebraska ESUCC Cooperative Purchasing to expand membership, awarded contracts, and commodity categories; and provide members with current awarded vendor contracts, instructions for obtaining quotes

and ordering procedures;

WHEREAS, City of Minden commits to participate in the Nebraska ESUCC Cooperative Purchasing program by purchasing goods and services from awarded contracts when in the best interest of the entity and to pay awarded vendors in a timely manner per the Terms & Conditions of the contract for all goods and services received and

WHEREAS, the Agencies have passed resolutions authorizing each Agency to approve and enter into this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants contained herein, it is agreed by the parties as follows:

1. Recitals. The foregoing Recitals are hereby incorporated into and made a part of this Agreement.

2. No Separate Legal Entity. This Agreement does not establish a separate legal or joint entity.

3. Purpose. The purposes of this Agreement are as provided in the Recitals and paragraph 6.

4. Term. This Agreement shall remain in full force and effect until terminated or modified by mutual agreement of the parties.

5. Administration. The ESUCC Executive Director shall be responsible for administering the cooperative undertaking described in this Agreement. The Administrator may take any action authorized, either explicitly or implicitly, by the Interlocal Cooperation Act, including any action that may be necessary to perform the duties and functions as provided in this Agreement.

6. Bids and Contracts. Each party from time to time may solicit public bids and enter into contracts on its own behalf to purchase supplies, material, equipment, and services. Each of the parties agrees to extend to the other party the right to purchase pursuant to such bids and contracts to the extent permitted by law, and to the extent agreed upon between each party and the bidder, contractor, vendor, supplier, or service provider. Each of the parties shall contract directly with the bidder, contractor, vendor, supplier, or service provider, and pay directly in accordance with its own payment procedures for its own

purchases. Any purchase made pursuant to this Agreement is not a purchase from either of the parties. This Agreement shall create no obligation for either of the parties to purchase any particular good or service, nor create to either of the parties any assurance, warranty, or other obligation from the other party with respect to purchasing or supplying any good or service.

7. Manner of Acquiring, Holding, and Disposing of Real and Personal Property. The Agencies do not anticipate a need to acquire, hold, or dispose of real property to accomplish the purposes of this Agreement. The Agencies' respective governing boards shall determine the manner of acquiring, holding, or disposing of real property in the event that such a need arises. In no event shall the Administrator have the authority to acquire real property on behalf of the Agencies.

8. Financing and Budgeting. Each party will finance its respective responsibilities under this agreement through its existing internal financing and budgeting processes. The parties shall provide a copy of their respective budgets to the Administrator upon request.

9. Expenses. Unless provided otherwise herein, all expenses of this Agreement shall be shared and paid equally by the Agencies.

10. Taxes. This Agreement does not grant the Agencies any authority to levy, collect, or account for any tax authorized under sections 13-318 through 13-326 or 13-2813 through 2816.

11. Nondiscrimination. The Agencies shall not discriminate against any employee or applicant who is to be employed for performance of this Agreement with respect to his or her hire, tenure, terms, conditions, or privileges of employment, because of his race, color, religion, sex, disability, or national origin.

12. Employment Eligibility Verification. The Agencies shall use a federal immigration verification system to determine the work eligibility status of employees hired on or after October 1, 2009 and who are physically performing services within the State of Nebraska. If a party employs or contracts with any subcontractor in connection with this Agreement, the contracting party shall include a provision in the contract requiring the subcontractor to use a federal immigration

verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska.

13. Termination. Either party may terminate this agreement by providing written notice to the other party not less than 60 days prior to termination. Any funds contributed to or for the benefit of this Agreement in possession of any of the Agencies upon termination of this Agreement shall be divided as nearly as practicable in proportion to the amounts contributed over the life of the Agreement. Any other personal property owned by any of the Agencies as a result of this Agreement shall be the property of the party that purchased it. In the event that the cost of the personal property was shared equally by the Agencies, the property shall be liquidated or distributed in kind upon the termination of this Agreement. If a dispute arises between the Agencies as to the value of such property or as to how it will be distributed, such property shall be sold by taking bids at public auction and selling said property to the highest bidder with the proceeds therefrom being divided equally by the Agencies. Termination shall not impair a party's obligation for its share of any outstanding indebtedness incurred under this Agreement.

14. Withdrawal. An Agency's governing board may withdraw from this Agreement by passing a resolution and submitting a copy of it to the other Agency at least 60 days in advance of the stated date of withdrawal. Withdrawal shall not impair an Agency's obligation for its share of any outstanding indebtedness.

15. Insurance. Each party shall obtain and pay for its own insurance coverage for their participation in this Agreement.

16. Notice. Each Agency giving any Notice ("Notice") under this Agreement must give written Notice by personal delivery, registered or certified Mail (in each case, return receipt requested and postage prepaid), or electronic mail (to the Agency's then executive officer or the governing board's president, with receipt confirmed). Notice shall be sent to the following addressees at the following addresses:

ESUCC: ESUCC
Attn: Executive Director
6949 South 110th Street
LaVista, NE 68128

City of Minden:

Attn: Mayor
325 N Colorado
Minden, NE 68959

Notice is effective only if the party giving the Notice has complied with this section.

17. Amendments and Modifications. The Agencies may amend or modify this Agreement only by a written agreement signed by both parties that identifies itself as an amendment or modification to this Agreement. No other alterations in the terms of this agreement shall be valid or binding.

18. Severability. If any provision of this Agreement is determined to be unenforceable, the remaining provisions of this Agreement shall remain in full force, if the essential terms and conditions of this Agreement for each party remain enforceable.

19. Counterparts. The Agencies may execute this Agreement in multiple counterparts, each of which constitutes an original, and all of which, collectively, constitute only one agreement. The signatures of all of the Agencies need not appear on the same counterpart, and delivery of an executed counterpart signature page by facsimile or other electronic means is as effective as executing and delivering this Agreement in the presence of the other Agencies to this Agreement. This Agreement is effective upon delivery of one executed counterpart from each Agency to the other Agencies. In proving this Agreement, an Agency must produce or account only for the executed counterpart of the Agency to be charged.

20. Assignment. The Agencies shall not assign or otherwise dispose of this Agreement or any duty, right, or responsibility contemplated in this Agreement to any other person or entity without the previous written consent of each of the other Agencies.

21. Entire Agreement. The Agreement is the complete and exclusive expression of the Agencies' agreement on the matters contained in this Agreement. All prior and contemporaneous

negotiations and agreements between the Agencies on the matters contained in this Agreement are expressly merged into and superseded by this Agreement.

**EDUCATIONAL SERVICE UNIT
COORDINATING COUNCIL**

Signature: _____ Date: _____
Kraig Lofquist
Executive Director

Signature: _____ Date: _____
Printed Name: Larry Evans
Title: Mayor

RESOLUTION

WHEREAS, on April 5, 2023, at a duly convened and scheduled meeting of the Educational Service Unit Coordinating Council, also known as the ESUCC, it was recommended and deemed advisable that the Council enter into the Interlocal Agreement with City of Minden to jointly bid and contract, for supplies, materials, equipment, and services through the ESUCC’s Cooperative Purchasing Program;

AND WHEREAS, consideration of the matter was a duly advertised agenda item for the said meeting of the ESUCC;

AND WHEREAS, an opportunity was afforded any interested party to comment on the matter; and the ESUCC being apprised of the various aspects of the issue;

AND WHEREAS, the Board has determined that entering into the Interlocal Agreement is in the best interests of the ESUCC and its members and is appropriate to provide for the efficient and effective operation of the ESUCC;

NOW BE IT THEREFORE RESOLVED that the ESUCC’s Executive Director be authorized on behalf of the ESUCC, pursuant to this Resolution, to affix his signature to the aforementioned Interlocal Agreement and to do all things necessary to comply with said Agreement.

It was so moved by _____ and seconded by _____ this 5th day of April, 2023.

Roll call vote as follows:

	Name	<u>Yes</u>	<u>No</u>
ESU 1:	_____	___	___
ESU 2:	_____	___	___
ESU 3:	_____	___	___
ESU 4:	_____	___	___
ESU 5:	_____	___	___
ESU 6:	_____	___	___

ESU 7: _____

ESU 8: _____

ESU 9: _____

ESU 10: _____

ESU 11: _____

ESU 13: _____

ESU 15: _____

ESU 16: _____

ESU 17: _____

ESU 18: _____

ESU 19: _____

INTERLOCAL AGREEMENT FOR COOPERATIVE PUBLIC/GOVERNMENTAL PURCHASING

This Interlocal Agreement ("Agreement") is made and entered into under the provisions of the Nebraska Interlocal Cooperation Act, NEB. REV. STAT. §§ 13-801 to 13-827 ("Act"), between the Educational Service Unit Coordinating Council, commonly known as ESUCC ("ESUCC"), and Village of Republican City, commonly known as Village of Republican City. The parties are referred to collectively as "Agencies."

WHEREAS, the Act, provides that two or more public agencies may enter into an agreement for joint or cooperative action, and this Agreement is made and entered into pursuant to the provisions of that Act; and

WHEREAS, each entity is a "public agency" pursuant to NEB. REV. STAT. § 13-803(2), as amended;

WHEREAS, the ESUCC and Village of Republican City desire to jointly bid and contract, for supplies, materials, equipment, and services through the ESUCC's Cooperative Purchasing Program;

WHEREAS, each party agrees to extend to the other party the right to purchase pursuant to such bids and contracts to the extent permitted by law, and to the extent agreed upon between each party and the bidder, contractor, vendor, supplier, or service provider;

WHEREAS, the Agencies desire to make the most efficient use of their taxing authority and other powers to enable them to cooperate with each other and other entities as further agreed on the basis of mutual advantage to provide goods, services, and facilities in a manner and pursuant to forms of governmental organization that will accord the best results in terms of geographic, economic, population, and other factors that will influence the needs and development of the Agencies;

WHEREAS, the ESUCC will provide organizational and administrative structure for sourcing/bidding; provide marketing of Nebraska ESUCC Cooperative Purchasing to expand membership, awarded contracts, and commodity categories; and provide members with current awarded vendor contracts, instructions for obtaining quotes

and ordering procedures;

WHEREAS, Village of Republican City commits to participate in the Nebraska ESUCC Cooperative Purchasing program by purchasing goods and services from awarded contracts when in the best interest of the entity and to pay awarded vendors in a timely manner per the Terms & Conditions of the contract for all goods and services received and

WHEREAS, the Agencies have passed resolutions authorizing each Agency to approve and enter into this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants contained herein, it is agreed by the parties as follows:

1. Recitals. The foregoing Recitals are hereby incorporated into and made a part of this Agreement.

2. No Separate Legal Entity. This Agreement does not establish a separate legal or joint entity.

3. Purpose. The purposes of this Agreement are as provided in the Recitals and paragraph 6.

4. Term. This Agreement shall remain in full force and effect until terminated or modified by mutual agreement of the parties.

5. Administration. The ESUCC Executive Director shall be responsible for administering the cooperative undertaking described in this Agreement. The Administrator may take any action authorized, either explicitly or implicitly, by the Interlocal Cooperation Act, including any action that may be necessary to perform the duties and functions as provided in this Agreement.

6. Bids and Contracts. Each party from time to time may solicit public bids and enter into contracts on its own behalf to purchase supplies, material, equipment, and services. Each of the parties agrees to extend to the other party the right to purchase pursuant to such bids and contracts to the extent permitted by law, and to the extent agreed upon between each party and the bidder, contractor, vendor, supplier, or service provider. Each of the parties shall contract directly with the bidder, contractor, vendor, supplier, or service provider, and pay directly in accordance with its own payment procedures for its own

purchases. Any purchase made pursuant to this Agreement is not a purchase from either of the parties. This Agreement shall create no obligation for either of the parties to purchase any particular good or service, nor create to either of the parties any assurance, warranty, or other obligation from the other party with respect to purchasing or supplying any good or service.

7. Manner of Acquiring, Holding, and Disposing of Real and Personal Property. The Agencies do not anticipate a need to acquire, hold, or dispose of real property to accomplish the purposes of this Agreement. The Agencies' respective governing boards shall determine the manner of acquiring, holding, or disposing of real property in the event that such a need arises. In no event shall the Administrator have the authority to acquire real property on behalf of the Agencies.

8. Financing and Budgeting. Each party will finance its respective responsibilities under this agreement through its existing internal financing and budgeting processes. The parties shall provide a copy of their respective budgets to the Administrator upon request.

9. Expenses. Unless provided otherwise herein, all expenses of this Agreement shall be shared and paid equally by the Agencies.

10. Taxes. This Agreement does not grant the Agencies any authority to levy, collect, or account for any tax authorized under sections 13-318 through 13-326 or 13-2813 through 2816.

11. Nondiscrimination. The Agencies shall not discriminate against any employee or applicant who is to be employed for performance of this Agreement with respect to his or her hire, tenure, terms, conditions, or privileges of employment, because of his race, color, religion, sex, disability, or national origin.

12. Employment Eligibility Verification. The Agencies shall use a federal immigration verification system to determine the work eligibility status of employees hired on or after October 1, 2009 and who are physically performing services within the State of Nebraska. If a party employs or contracts with any subcontractor in connection with this Agreement, the contracting party shall include a provision in the contract requiring the subcontractor to use a federal immigration

verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska.

13. Termination. Either party may terminate this agreement by providing written notice to the other party not less than 60 days prior to termination. Any funds contributed to or for the benefit of this Agreement in possession of any of the Agencies upon termination of this Agreement shall be divided as nearly as practicable in proportion to the amounts contributed over the life of the Agreement. Any other personal property owned by any of the Agencies as a result of this Agreement shall be the property of the party that purchased it. In the event that the cost of the personal property was shared equally by the Agencies, the property shall be liquidated or distributed in kind upon the termination of this Agreement. If a dispute arises between the Agencies as to the value of such property or as to how it will be distributed, such property shall be sold by taking bids at public auction and selling said property to the highest bidder with the proceeds therefrom being divided equally by the Agencies. Termination shall not impair a party's obligation for its share of any outstanding indebtedness incurred under this Agreement.

14. Withdrawal. An Agency's governing board may withdraw from this Agreement by passing a resolution and submitting a copy of it to the other Agency at least 60 days in advance of the stated date of withdrawal. Withdrawal shall not impair an Agency's obligation for its share of any outstanding indebtedness.

15. Insurance. Each party shall obtain and pay for its own insurance coverage for their participation in this Agreement.

16. Notice. Each Agency giving any Notice ("Notice") under this Agreement must give written Notice by personal delivery, registered or certified Mail (in each case, return receipt requested and postage prepaid), or electronic mail (to the Agency's then executive officer or the governing board's president, with receipt confirmed). Notice shall be sent to the following addressees at the following addresses:

ESUCC: ESUCC
Attn: Executive Director
6949 South 110th Street
LaVista, NE 68128

Village of Republican City:

Attn: _____

Notice is effective only if the party giving the Notice has complied with this section.

17. Amendments and Modifications. The Agencies may amend or modify this Agreement only by a written agreement signed by both parties that identifies itself as an amendment or modification to this Agreement. No other alterations in the terms of this agreement shall be valid or binding.

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19. Counterparts. The Agencies may execute this Agreement in multiple counterparts, each of which constitutes an original, and all of which, collectively, constitute only one agreement. The signatures of all of the Agencies need not appear on the same counterpart, and delivery of an executed counterpart signature page by facsimile or other electronic means is as effective as executing and delivering this Agreement in the presence of the other Agencies to this Agreement. This Agreement is effective upon delivery of one executed counterpart from each Agency to the other Agencies. In proving this Agreement, an Agency must produce or account only for the executed counterpart of the Agency to be charged.

20. Assignment. The Agencies shall not assign or otherwise dispose of this Agreement or any duty, right, or responsibility contemplated in this Agreement to any other person or entity without the previous written consent of each of the other Agencies.

21. Entire Agreement. The Agreement is the complete and exclusive expression of the Agencies' agreement on the matters contained in this Agreement. All prior and contemporaneous

negotiations and agreements between the Agencies on the matters contained in this Agreement are expressly merged into and superseded by this Agreement.

**EDUCATIONAL SERVICE UNIT
COORDINATING COUNCIL**

Signature: _____ Date: _____
Kraig Lofquist
Executive Director

Signature: _____ Date: _____
Printed Name: _____
Title: _____

RESOLUTION

WHEREAS, on April 5, 2023, at a duly convened and scheduled meeting of the Educational Service Unit Coordinating Council, also known as the ESUCC, it was recommended and deemed advisable that the Council enter into the Interlocal Agreement with Village of Republican City to jointly bid and contract, for supplies, materials, equipment, and services through the ESUCC’s Cooperative Purchasing Program;

AND WHEREAS, consideration of the matter was a duly advertised agenda item for the said meeting of the ESUCC;

AND WHEREAS, an opportunity was afforded any interested party to comment on the matter; and the ESUCC being apprised of the various aspects of the issue;

AND WHEREAS, the Board has determined that entering into the Interlocal Agreement is in the best interests of the ESUCC and its members and is appropriate to provide for the efficient and effective operation of the ESUCC;

NOW BE IT THEREFORE RESOLVED that the ESUCC’s Executive Director be authorized on behalf of the ESUCC, pursuant to this Resolution, to affix his signature to the aforementioned Interlocal Agreement and to do all things necessary to comply with said Agreement.

It was so moved by _____ and seconded by _____ this 5th day of April, 2023.

Roll call vote as follows:

	Name	<u>Yes</u>	<u>No</u>
ESU 1:	_____	___	___
ESU 2:	_____	___	___
ESU 3:	_____	___	___
ESU 4:	_____	___	___
ESU 5:	_____	___	___
ESU 6:	_____	___	___

ESU 7: _____

ESU 8: _____

ESU 9: _____

ESU 10: _____

ESU 11: _____

ESU 13: _____

ESU 15: _____

ESU 16: _____

ESU 17: _____

ESU 18: _____

ESU 19: _____

Coop Directors report to ESUCC Board
submitted by: Craig Peterson
April 4, 2023

1. Consent Agenda Items for Coop

- a. **Approve Special Buy agreement with Wheelhouse Solutions LLC, dba My Central Supply.**
 - i. My Central Supply offers janitorial and disinfection/sanitation chemicals, supplies, and equipment; office and food service products; office furniture; safety supplies and tools; and print, imaging, & technology supplies. MCS can also provide customized products (dispensers, bags, boxes, and floor mats) with your logo or requested imprint. A complete catalog can be found at www.mycentralsupply.com.
- b. **Approve Special Buy agreement with Impero Solutions Inc.**
 - i. We currently have a Special Buy agreement with Impero but they have since purchased the Content Keeper line of products. The product lines Impero and Content Keeper bring to the table are Internet Filtering, Classroom Management, Well Being, and Remote Access.

2. Annual/Paper Buy

- a. **Definition of the Annual Buy:** This is a line item bid were vendors are awarded by line item. If there is a tie for the bid price then a Nebraska vendor wins over an out of state vendor, otherwise it goes to a coin flip. Bids are sent to registered vendors nation-wide in October. Bid Awards announced in December and January, catalogs with over 4,200 items are published and distributed schools/members in February. The orders are then aggregated by address (all teacher/staff orders for items are aggregated into one line item per address) and sent to vendors in March and April and merchandise is delivered to the Cooperative members during May through July. The product categories offered are as follows: Electronics and Related Supplies, General Supplies, Furniture, Copier Paper, Maintenance-Shop Supplies, Health & Safety Supplies, Athletic Equipment & Supplies, Hot Lunch Equipment & Supplies, Science Equipment & Supplies, and Art Equipment & Supplies.
- b. **2023 ESUCC-Annual Buy**
 - i. **2023 Annual Buy Key dates for Schools,**
 1. **Annual Buy Teacher/Staff deadline – April 6, 2023**
 2. **First Day for 400 Paper delivery – April 11, 2023**
 3. **First Day for Annual Buy delivery - May 23, 2023**
 4. **Delivery Deadline for 400 Paper - June 14, 2023**
 5. **Delivery Deadline Annual Buy Items - July 24, 2023**
- c. 2023 Paper Buy closed on March 9th. Orders sent to Paper101 in the amount of \$827,466.83 This is down \$147,294.31 from 2022 totals.
 - i. Yearly Paper Buy Sales
 1. 2023 \$827,466.83
 2. 2022 \$974,761.14
 3. 2021 \$672,037.21

4. 2020 - \$856,459.15
 5. 2019 - \$957,712.43
 6. 2018 - \$866,109.76
 7. 2017 - \$790,259.16
 8. 2016 - \$925,156.08
- ii. 2023 Paper Buy Quantities
 1. 16,065 total cases of paper sold (Compared to 29,833 in 2022). This equates to approximately 18-19 Truckloads of paper statewide.
 2. 12,790 of that was 8.5 x 11 20 lb. white
 3. 2 Schools/ESUs purchased full truckloads
 - a. Hastings Public
 - b. ESU 7
 - a. Annual Buy catalog is open for ordering
 4. Current requisition totals compared to last year at this time (Includes requisitions Approved, Pending Approval and Created). Requisitions in Pending Approval or Created status may not be converted to an order but we will follow up on these closer to the deadlines.
 - a. 03/31/2023 Annual Buy \$1,186,939.67, last year's totals for the same time period was \$1,391,572.28 (4 days prior to deadline), we are down \$204,632.61 at this point.
 5. We are Currently running nightly reports heading up to the deadline for the Annual Buy.
 - a. In the reports we are fixing Account issues such as:
 - i. "user is not an agency admin" for the shipping addresses. This is required for each school districts address in order to deliver the Receiving and Sorting reports.
 - ii. "user does not exist" Old accounts that have changed their email address field are fixed by also changing their username.

3. AEPA

- a. **Definition of AEPA:** The Association of Educational Purchasing Agencies (AEPA) is a group of Educational Service Agencies/political subdivisions organized through a Memorandum of Understanding between all participating states for the purpose of securing combined volume purchasing contracts based on potential sales by qualifying customers in participating states. Of the many advantages to this unique purchasing group, are the combined human resources representing purchasing/bidding expertise, current and past vendor relationships, past experience and overall vision with regard to the needs of the qualified customers within each represented state. Nebraska is a founding member of AEPA, which started with ten states in 2000 and now has grown to 29 states. AEPA is a voluntary run organization and asks for volunteers from the membership to complete work in Bid Oversight, Administrative Committees, Marketing, Website management, Reporting and other areas as required.
 - i. **Spring Meeting in Omaha this year April 24-26**

1. Omaha and Lincoln Public Schools have been registered to attend with ESUCC.
2. Vendor Round tables – Each state will have 15 minutes with each vendor to discuss sales and marketing for each contract.

4. Marketing

- a. [ESUCC Cooperative Purchasing Interlocal Agreements](#) – Andrew Easton put together the article with edits from myself and this was shared on the ESUCC website and social media channels.
 - i. We had 2 Municipalities contact us after attending the Mid-Winter Municipalities conference.
 1. City of Minden
 2. Village of Republican City
 - ii. We will continue to market to this group for additional members.
- b. 17 Campaigns sent since March 3rd –Please share list with your Superintendents
 - i. [Best Plumbing - March 2023 New Items](#) – 41.8% open rate
 - ii. [Blick- 2023 Lorax Learning](#) – 38.4% open rate
 - iii. [Paper Buy 2023 Final Last Call #5](#) – 40.8% open rate
 - iv. [2023 Annual Renewal Window](#) – 45.3% open rate
 - v. [Busch Systems - Our Most Popular Outdoor Waste & Recycling Containers](#) – 42.5% open rate
 - vi. [WTI Tremco - Using ESSER II And III Emergency Relief Funds For Facility Improvements](#) – 42.6% open rate
 - vii. [Capstone - Ebooks As Low As \\$8 With Capstone Connect](#) – 36% open rate
 - viii. [Kajeet - Private Wireless](#) – 40.3% open rate
 - ix. [2023 Municipalities Midwinter Conference Follow Up](#) – 27.8% open rate
 - x. [Annual Buy 2023 - Sanitation And Health](#) – 45.5% open rate
 - xi. [School Specialty - March New Products](#) – 42.8% open rate
 - xii. [2023 Annual Buy – Athletics](#) – 46.1% open rate
 1. [\[Re-Sent\] 2023 Annual Buy – Athletics](#) – to those that didn't open the first one. 20.8% open rate
 - xiii. [Annual Buy 2023 - General School Supplies Promotion](#) – 46.6% open rate
 - xiv. [2023 Annual Buy Deadline Approaching](#) – 48.5% open rate
 - xv. [Bluum - School Violence Prevention Program Grant Opportunity](#) – 40.8% open rate
 - xvi. [Kami - What's New In Kami - March 2023](#) – 35.9% open rate
- c. If users have previously unsubscribed from receiving these emails then you can re-subscribe or have other staff subscribe by visiting the following link <http://eepurl.com/gTsUCv>, choose the District-Building Contacts to receive Cooperative Purchasing emails about order deadlines and vendor announcements. After submitting your subscription request, check your email, you may receive email from MailChimp requiring you to confirm this submission.

5. Additional Information & Meetings

- i. **Communications with the following vendors/organizations since last board meeting:** School Specialty, Infobase, Staples, AEPA - Procurement Software

Committee, AEPA Marketing Committee Meeting, Omaha Public Schools Purchasing Department, JourneyEd, Insigh Public Sector, Imagine Learning, Bluum Technologies, CDWG, Educational Design Solutions/ SchoolsPLP

ii. **Conferences/Webinars:**

1. NETA – Nebraska Educational Technology Association
2. NRSCA