

COOPERATIVE AGREEMENT
Between the
Nebraska Department of Environmental Quality
and the
(PROJECT SPONSOR)
Regarding the Implementation of
Storm Water Management Plan Program

THIS COOPERATIVE AGREEMENT is made and entered into by and between the Nebraska Department of Environmental Quality (NDEQ) and the (PROJECT SPONSOR), (Sponsor)

WHEREAS, the Sponsor agrees to utilize funds which have been made available to NDEQ through the passage of Nebraska Statute 46-2,139; and

WHEREAS, grant monies are being awarded to cities and/or counties with an NDEQ-approved storm water management plan to fund the duties required under the federal Clean Water Act, 33 U.S.C. 1251 et seq., as such act existed on January 1, 2006, regarding storm water runoff under the National Pollutant Discharge Elimination System requirements;

WHEREAS, grant funds in an amount up to \$(AWARD AMOUNT) are to be used to implement the entitled "Storm Water Management Plan Program"; and

NOW, THEREFORE, the parties do hereby agree to the terms and conditions of this Agreement as follows:

I. TERM OF AGREEMENT

This Agreement will remain in effect until all identified tasks are completed for the project "Storm Water Management Plan Program"; unless terminated under §P of this Cooperative Agreement, but will not remain in effect past (PROJECT END DATE), unless extended by amendment.

II. CONDITIONS OF AGREEMENT

A. General Conditions

1. The Sponsor agrees to complete a detailed work plan outlining the project schedule and specific work items to be undertaken during the course of the project. This plan must be approved by NDEQ prior to any reimbursement request.
2. The Sponsor agrees to submit annual progress reports to the NDEQ by July 31st. These reports shall contain the following components:
 - a. Progress to date;
 - b. Financial report of money spent for each approved activity element;
 - c. Significant findings or events; and
 - c. Corrective actions taken to resolve any problems that are encountered.
3. The Sponsor agrees that if indirect costs are authorized, as specified in the approved plan, they will be charged at the approved indirect rate.
4. The Sponsor agrees that any contract, interagency agreement, subagreement and/or procurement of equipment under this grant must receive NDEQ approval prior to expenditure of funds associated with those transactions. Copies of all subagreements and interagency agreements will be provided to the NDEQ.

5. All equipment purchased with grant funds must be approved by the NDEQ. Any such purchased equipment shall be retained by the NDEQ upon completion of the project unless otherwise authorized in writing by the NDEQ.
6. The Sponsor agrees that all data collected under this grant shall be provided to the NDEQ.
7. The Sponsor agrees to recognize the contributions and/or involvement of the Nebraska Department of Environmental Quality in project publicity, reports, newsletters, and other materials. The Sponsor shall work with the NDEQ to ensure that all necessary peer review requirements are met. A minimum of 30 copies of printed outreach material and 10 copies of videos produced under this grant shall be provided to the NDEQ unless otherwise specified.
8. A final project report must be submitted to NDEQ within 90 days after completion of the project or termination date.

B. Grant Conditions

Pursuant to EPA Assistance Agreement No. FS997573-98-0, the following grant conditions shall be complied with by all recipients of federal grant funds.

1. The Sponsor agrees to comply with all the following provisions, rules and regulations (can be obtained from NDEQ):
 - a. Office of Management and Budget Circulars A-102, A-133, A-87 and 40 CFR Parts 31, 32, and 35.
 - b. Procurement standards of 40 CFR 31.32(g).
 - c. Prohibitive lobbying 18 U.S.C. Section 1913, Section 607(a) of Public Law 96.74.
 - d. Recipient agrees to comply with Federal Register, Volume 53, No. 102, dated May 26, 1988, Debarment and Suspension Under EPA, Assistance, Loan and Benefit Programs, which requires all solicitations for subagreements to include the following statement:
 The prospective participants must certify by submittal of EPA Form 5700-49, Certification Regarding Debarment, Suspension and Other Responsibility Matters, that to the best of its knowledge and belief that it and its principals are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any Federal department or agency.
 The Recipient acknowledges that doing business with any party appearing on the non-procurement portion of the "List of Parties Excluded from Federal Procurement Programs" may result in disallowance of costs under this agreement and may also result in suspension or debarment.
 - e. Rules governing "Fair Share" of federal funds to Minority Business Enterprises (MBEs), Women-owned Business Enterprises (WBEs), Small Business Enterprises (SBEs), Small Disadvantaged Businesses (SDBs), and Small Business in Rural Areas (SBRAs). Affirmative steps outlined in 40 CFR 30.44, or 40 CFR 33.240, or 40 CFR 35.6580, or Section 129 of Public Law 100-590, whichever is applicable. ("Fair Share" Percentages: Supplies, 5% MBE, 12% WBE; Equipment, 6% MBE, 11% WBE; Services, 5% MBE, 11% WBE; and Construction, 6% MBE, 8% WBE.) The Sponsor agrees to include in its bid specifications, and require all of its prime contractors to include in their bid specifications for subcontracts, a "Fair Share". The Sponsor agrees to document the official grant files with all efforts taken to achieve the "Fair Share" and to report quarterly to NDEQ all "Fair Share" procurement efforts regardless of the size of the sub-agreement.
 - f. Section 204 of the Demonstration Cities and Metropolitan Development Act of 1996 as amended (42 USC Section 3334).
 - g. Provisions of the American with Disabilities Act.

- h. Hotel and Motel Fire Safety Act of 1990.
- i. EPA Order 1000.25 regulating the use of recycled paper.

C. Statement of Costs

The Sponsor will submit no more often than once per calendar month a standard documented invoice and cost documentation for which reimbursement is sought and nonfederal match is claimed pursuant to the terms of this Agreement and the work plan. This invoice shall be signed by the Sponsor's authorized representative. For purposes of this agreement, reimbursable costs and nonfederal match claims shall be related to budget items as described in the approved work plan, included as Attachment A. The Sponsor will request prior approval for budget deviations of more than 10% of the total award amount.

D. Disbursements

1. All requests for reimbursement of costs incurred by the Sponsor shall be reviewed within ten (10) working days of their receipt by the NDEQ. If costs are deemed ineligible, the Sponsor shall be notified by the NDEQ within ten (10) working days of the receipt of the request. Within thirty (30) working days after the receipt of a properly documented reimbursement request, the NDEQ shall transmit payment to the Sponsor, the amount of the eligible cost. The NDEQ shall not be held responsible for delays in payment, due to causes beyond its control. If required reporting is not up-to-date, payment will be withheld until all required reports are submitted. The final report must accompany the final reimbursement request.
2. Under no circumstances shall the total amount of payments under this Agreement exceed \$(AWARD AMOUNT).

NDEQ shall process expenses incurred by the Sponsor upon receipt of the appropriate required documentation.

E. Work Description and Schedule

This agreement encompasses the project commonly known as "Storm Water Management Plan Program". The project shall complete objectives and work items as described in the work plan (Attachment A).

F. Amendments

This agreement may be amended in writing at any time by mutual agreement of the parties, except insofar as any proposed amendments are in any way contrary to applicable law or requirements of the EPA or NDEQ.

G. Forfeiture, Repayment and Delays in Disbursement of Funds

NDEQ may recover from the Sponsor any costs, which result from violation of any of the conditions of this Agreement by the Sponsor or failure of the Sponsor to complete and maintain the project in the manner described in the work plan (Attachment A), including any amendments thereto which have been properly approved.

H. Remedies Not Exclusive

The use by either the Sponsor or the NDEQ of any remedy specified herein for the enforcement of this Agreement is not exclusive and shall not deprive the party from using such remedy, or limit the application of any other remedy provided by law.

I. Assignment

No assignment or transfer of this agreement or any part hereof, rights hereunder, or interest herein by the Sponsor shall be valid unless and until it is approved by the NDEQ and made subject to such reasonable terms and conditions as the NDEQ may impose.

J. Waiver of Rights

The Sponsor or NDEQ may from time to time waive any of their rights under this Agreement. However, any waiver of rights with respect to a default of any condition of this Agreement shall not be deemed to be a waiver with respect to any other default.

K. Inspection of Books, Records and Reports

The duly authorized representative of either party shall have the right to inspect and make copies of any books, records or reports of the other party pertaining to this Agreement or related matters during regular office hours. Each party shall maintain and make available for such inspection accurate records of all its costs, disbursements and receipts with respect to its activities under this Agreement. A single audit is required (OMB A133) if \$300,000 or more is provided by the federal funding in any one year period. Copies of the single audit report should be sent to NDEQ.

L. Independent Contractor

The Sponsor is and shall perform this Agreement as an independent contractor and as such shall have and maintain exclusive control over all of its employees, agents and operations. Neither the Sponsor nor any person employed by the Sponsor shall act, propose to act or be deemed the NDEQ's agent, representative or employee. The Sponsor assumes full and exclusive responsibility for the payment of all premiums, contributions, payroll taxes and other taxes now or hereafter required by any law or regulation and agrees to comply with all applicable laws, regulations and orders relating to social security, unemployment compensation, OSHA, affirmative action, equal employment opportunity and other laws, regulations and orders of like nature. For any work hereunder subject to the Veterans Readjustment Assistance Act of 1974, or the Rehabilitation Act of 1973, the parties hereto shall comply with all provisions thereof, together with all applicable rules, regulations and orders of the Department of Labor, and the notices required pursuant to 41 CFR 60-1.4, 60-250.4 and 60-741.4 which are hereby incorporated by reference into this Agreement.

M. Nondiscrimination

The Nebraska Fair Employment Practice Act prohibits contractors to the State of Nebraska and their subcontractors from discriminating against any employee, or applicant for employment in the performance of such contracts, with respect to hire, tenure, terms, conditions or privileges of employment because of race, color, religion, sex, disability or national origin. The Sponsor's signature is a guarantee of compliance with the Nebraska Fair Employment Practice Act, and breach of this provision shall be regarded as a material breach of this Agreement. The Sponsor shall insert a similar provision in all subcontracts for services to be covered by any contract resulting from this Agreement.

N. Drug Free Workplace

The Sponsor by executing this Agreement, certifies and assures that it operates a drug free workplace as addressed in the State of Nebraska Drug Free Workplace Policy of July 7, 1989.

O. Publication Rights

All parties shall have publication and reproduction rights for all reports and materials which are produced as a result of this Agreement.

P. Termination

This agreement may be terminated in whole or in part in writing by either party in the event of substantial failure by the other party to fulfill its obligations under this Agreement through no fault of the terminating party, provided that no termination may be effected unless the other party is given:

1. Not less than ten (10) calendar days' written notice (delivered by certified mail, return receipt requested) of intent to terminate, and
2. An opportunity for consultation with the terminating party prior to termination.

Q. Project Managers

The Project Manager for each party to this agreement shall be as follows. The Project Manager may be changed by any agency upon written notification.

<u>NDEQ</u> Deana Barger Source Water Coordinator Planning Unit 402-471-6988	<u>Sponsor</u> (PROJECT MANAGER) (PROJECT MANAGER TITLE) (PROJECT SPONSOR) (PROJECT MANAGER PHONE)
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III. EFFECTIVE DATE OF COOPERATIVE AGREEMENT

This Cooperative Agreement shall be effective upon the later of the dates signed below.

NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY

BY: Thomas R. Lamberson

TITLE: Deputy Director

DATE: _____

(PROJECT SPONSOR)

BY: (COGNIZANT OFFICIAL)

TITLE: (COGNIZANT OFFICIAL TITLE)

DATE: _____

FEDERAL TAX ID NUMBER: _____

STORM WATER MANAGEMENT PLAN PROGRAM GRANT APPLICATION

From the City of Lincoln (Sponsor)
Regarding Implementation of the
Storm Water Management Plan for Permit NE0133671

Submittal of this application constitutes a request for grant funding from the Storm Water Management Plan Program. Requirements of this grant are as follows:

- The Sponsor must provide at least a 20% cash match for any funds received
- This cash match and the grant award must be kept together in an account separate from any other funds
- These funds must be used only for implementation of the SWMP in permit #NE0133671
- These funds may not be used for normal operations and maintenance or flood control
- Additional activities may be funded upon amending the permit with NDEQ approval
- The project duration must not go beyond June 30, 2008
- The Sponsor must provide an annual report at the end of each state fiscal year

To request these forms electronically, call or e-mail Deana Barger at 402-471-6988 or deana.barger@ndeq.state.ne.us

PART 1 – CONTACT INFORMATION

PROJECT MANAGER INFORMATION – PLEASE PRINT OR TYPE

PROJECT MANAGER NAME Ben Higgins	TITLE Senior Engineer
STREET ADDRESS 901 N. 6th Street	E-MAIL ADDRESS bhiggins@lincoln.ne.gov
CITY / STATE / ZIP CODE Lincoln, NE 68046	PHONE NUMBER 402-441-7589
MAXIMUM AWARD AMOUNT REQUESTED \$1,968,000	PROJECT END DATE June 30, 2008
CITY OF LINCOLN COGNIZANT OFFICIAL SIGNATURE	DATE

RETURN COMPLETED APPLICATION NO LATER THAN 3PM WEDNESDAY, NOVEMBER 1ST TO:
Deana Barger, Nebraska Department of Environmental Quality, PO Box 98922, Lincoln, Nebraska, 68509

	Minimum Control Measure	Section/Subsection and Activity Element Description from Approved SWMP	Cost (percentage of grant)	Expected Completion Date
1 & 2	Education and Outreach/ Public Participation	<p>5.1.2.1 Develop and implement measures to reduce pollutants to the maximum extent practical.</p> <p>5.1.3.1 Addressing runoff containing oil and grease and metals from public streets through educational programs.</p> <p>5.1.6.1 Fertilizer and pesticide control and education. Educational programs with literature available and personnel available to talk to the general public.</p> <p>5.1.7.1 Developing education video and brochures.</p>	9%	June 30, 2008
3	Illicit Discharge Detection & Elimination	<p>5.1.2.1 Develop and implement measures to reduce pollutants to the maximum extent practical.</p> <p>5.2.1.2., Table 5-4 System evaluation and periodic filed sampling of storm sewer system, mapping and compiling database of storm sewer system, compiling Geographical Information System of entire storm sewer system.</p> <p>5.2.3.2 Storm Sewer investigations based upon field screening results or other information.</p>	15%	June 30, 2008
4	Construction Site Runoff	<p>5.1.2.1 Develop and implement measures to reduce pollutants to the maximum extent practical.</p> <p>5.4.1.1., Table 5-6 Development of guidelines and procedures, development of ordinances, and inspection, monitoring and enforcement of BMP's on construction sites.</p>	9%	June 30, 2008
5	Post-Construction Runoff	<p>5.1.2.1 Develop and implement measures to reduce pollutants to the maximum extent practical. Preserving open space, stream corridor, and implementing BMP's. Basin wide master planning to address water quantity and quality issues.</p> <p>5.1.4.1 Stormwater management and open space preservation to enhance the natural and beneficial functions of floodplains.</p>	67%	June 30, 2008

RETURN COMPLETED APPLICATION NO LATER THAN 3PM WEDNESDAY, NOVEMBER 1ST TO:
Deana Barger, Nebraska Department of Environmental Quality, PO Box 98922, Lincoln, Nebraska, 68509