RESOLUTION AUTHORIZING THE CHAIRMAN TO SIGN THE COOPERATIVE AGREEMENT WITH THE NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY (NDEQ) FOR REMOVAL OF ASBESTOS AT THE SARPY COUNTY MUNICIPAL SOLID WASTE LANDFILL

WHEREAS, pursuant to Neb. Rev. Stat. §23-104(6) (Reissue 2012), the County has the power to do all acts in relation to the concerns of the County necessary to the exercise of its corporate powers; and,

WHEREAS, pursuant to Neb. Rev. Stat. §23-103 (Reissue 2012), the powers of the County as a body are exercised by the County Board; and,

WHEREAS, Sarpy County owns a building at 14414 South 156th Street, Springfield, Nebraska located on the Landfill property; and,

WHEREAS, the building was inspected and asbestos was found in the building materials; and,

WHEREAS, a grant was available to Sarpy County through the Nebraska Department of Environmental Quality (NDEQ) for asbestos cleanup; and,

WHEREAS, the Nebraska Department of Environmental Quality (NDEQ) approved funding for the removal of asbestos; and,

WHEREAS, the NDEQ requires that Sarpy County sign the Cooperative Agreement for removal of asbestos; and.

WHEREAS, Sarpy County is committed to and supports funding for the removal of asbestos in the building located at the Sarpy County Solid Waste Landfill; and,

NOW, THEREFORE, BE IT RESOLVED, By the Sarpy County Board of Commissioners that the Chairman of the Board of Commissioners is hereby authorized to sign the Cooperative Agreement related to the funding for the removal of asbestos at the Sarpy County Solid Waste Landfill.

The above Resolution was approved by a vote of the Sarpy County Board of Commissioners at a public meeting duly held in accordance with applicable law on the 19th day of July, 2016.

Sarpy County Board Chairman

ATTEST:

Sarpy County Clerk
MEMO

To: Sarpy County Board

From: Lisa A. Haire

Re: Cooperative Agreement with the Nebraska Department of Environmental Quality (NDEQ) for Asbestos Removal

On July 19, 2016, the County Board will be asked to authorize the Chairman to sign the Cooperative Agreement with the NDEQ for the removal of Asbestos from a building located at the Sarpy County Solid Waste Landfill.

There is a building located on the Landfill property. This building was at one time the primary residence for the owners of the property. The home has in recent years been used as the Sarpy County Noxious Weeds Office. The building will be demolished in the next few months. An inspection was recently conducted and the structure was found to have asbestos present within the building materials. The asbestos will need to be abated prior to demolition.

The NDEQ has awarded Sarpy County with funding up to $10,000 for the removal of asbestos from this property. The NDEQ will reimburse Sarpy County for 50% of the costs for removal and disposal of asbestos up to $10,000. After the asbestos is abated, the County may allow the building to be used in a controlled burn exercise for local Fire Departments.

Please contact Beth Garber or myself with any questions or concerns.

July 15, 2016

Lisa A. Haire

593-1565

cc: Mark Wayne
    Brian Hanson
    Scott Bovick
    Beth Garber
    Deb Houghtaling
COOPERATIVE AGREEMENT

Between the
Nebraska Department of Environmental Quality
and
Sarpy County, NE

Regarding the Removal of Asbestos at Sarpy County Municipal Solid Waste Landfill, Springfield, Nebraska

DEQ Reference Number: 2016-55097053

THIS COOPERATIVE AGREEMENT is made and entered into by and between the Nebraska Department of Environmental Quality (NDEQ) and Sarpy County.

WHEREAS, Sarpy County and NDEQ agree to utilize funds which have been made available to NDEQ from the Region VII Office of the U.S. Environmental Protection Agency (EPA) through Section 128(a) of the Federal Comprehensive Environmental Response, Compensation and Liability Act; and

WHEREAS, funds provided pursuant to this agreement shall not exceed an amount of $10,000 (ten thousand dollars).

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

I. TERM OF AGREEMENT

This Agreement will be in effect from July 1st, 2016 until October 1st, 2016, unless terminated under §IV-A-12 of this Agreement or extended by amendment.

II. CONDITIONS OF AGREEMENT

A. Scope of Work

During the period of this Agreement, Sarpy County agrees to hire through a competitive bid process, obtaining no less than three bids, a Nebraska licensed abatement contractor to remove and dispose of asbestos-containing materials at the Sarpy County Municipal Solid Waste Landfill. Contractors must be licensed at the time of submitting their bids.

Sarpy County’s contractor shall complete all asbestos removal and disposal in accordance with all applicable local, state, and federal requirements. Additionally, at least 10 days before commencing with asbestos removal at the Sarpy County Municipal Solid Waste Landfill, Sarpy County’s contractor shall provide notification to the Nebraska Department of Health.
and Human Services (NDHHS) and NDEQ in a manner consistent with that required by 178 Nebraska Administrative Code 22-005. Notification to NDEQ shall also be made to the NDEQ Brownfields Coordinator.

III. FINANCIAL REQUIREMENTS

A. Statement of Costs

A single payment will be made upon receipt of a statement of costs from Sarpy County and subject to the completion and approval of the tasks described in this Agreement.

B. Disbursements

1. The request for reimbursement of costs incurred by Sarpy County shall be reviewed pursuant to the provisions of the Nebraska Prompt Payment Act.

2. The total amount of payment under this Agreement shall be 50% of the total costs for asbestos removal and disposal as identified in the lowest of at least three bids, not to exceed $10,000 (ten thousand dollars).

3. Payment will be contingent on required reports and invoices being provided to NDEQ no less than 45 days following completion of final clearance(s), including:

   (a) Copies of any and all bid documents and work plans submitted to Sarpy County for the performance of the work outlined in this Agreement.

   (b) A letter on Sarpy County letterhead requesting reimbursement for removal of asbestos-containing materials and disposal costs incurred (note dollar amounts), per this Agreement.

   (c) Copies of any and all itemized invoices from Sarpy County’s asbestos contractor for the work conducted. Lodging and meal costs must be itemized separately. Lodging and meal costs are not reimbursable under this agreement.
(d) Copies of documentation on proof of payment by Sarpy County to the contractor.

(e) A copy of the manifest/asbestos removal report completed by the asbestos contractor or supervisor, noting the weights and volumes of asbestos disposed and location of disposal.

(f) A copy of the final visual clearance report by an independent third party that examined the work area and has determined that all asbestos-containing material has been removed as required by 178 Nebraska Administrative Code 22-018. If the building must be re-occupied, including for purposes of salvage, any area to be occupied must achieve air clearance standards as required by 178 Nebraska Administrative Code 22-023; a copy of this clearance report must also be submitted.

(g) A copy of a final report including before and after photos of the work conducted, dates of asbestos removal, and updates on redevelopment plans for the site.

IV. REQUIREMENTS

A. State Requirements

The following grant conditions shall be complied with by all recipients of federal grant funds.

1. 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.

2. Forfeiture, Repayment and Delays in Disbursement of Funds

NDEQ may recover from Sarpy County any costs which result from violation of any of the conditions of this Agreement by Sarpy
County including any amendments thereto which have been properly approved.

3. Remedies Not Exclusive

The use by either Sarpy County 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.

4. Hold Harmless

Sarpy County agrees to hold NDEQ harmless for loss or damage sustained by any person as a direct result of the negligent or willful acts by Sarpy County, its employees, subcontractors, or agents in the performance of this agreement including all associated costs of any defending action.

5. Assignment

No assignment or transfer of this agreement or any part hereof, rights hereunder, or interest herein by Sarpy County 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.

6. Waiver of Rights

Sarpy County 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.

7. 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 $500,000 or more is provided by the federal funding in any one year period. Verification of completion of the single audit report shall be sent to NDEQ.
8. **Independent Contractor**

Sarpy County 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 City nor any person employed by Sarpy County shall act, propose to act or be deemed the NDEQ's agent, representative or employee. Sarpy County 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.

9. **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. Sarpy County'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. Sarpy County shall insert a similar provision in all subcontracts for services to be covered by any contract resulting from this Agreement.

10. **Drug Free Workplace**

Sarpy County, 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.

11. **Publication Rights**

All parties shall have publication and reproduction rights for all reports and materials that are produced as a result of this Agreement.
12. 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.

13. New Employee Work Eligibility Status

The Contractor is required and hereby agrees to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324a, known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee. If the Contractor is an individual or sole proprietorship, the following applies:

1. The Contractor must complete the United States Citizenship Attestation Form, available on the Department of Administrative Services website at www.das.state.ne.us.

2. If the Contractor indicates on such attestation form that he or she is a qualified alien, the Contractor agrees to provide the US Citizenship and Immigration Services documentation required to verify the Contractor's lawful presence in the United States using the Systematic Alien Verification for Entitlements (SAVE) Program.

3. The Contractor understands and agrees that lawful presence in the United States is required and the Contractor may be disqualified or the contract terminated
if such lawful presence cannot be verified as required by Neb. Rev. Stat. §4-108.

B. Federal Requirements

1. All recipients of federal grant funds shall comply with the following grant conditions. Sarpy County agrees to comply with all the following provisions, rules, and regulations copies of which may be obtained from NDEQ:


2. Procurement standards of 40 CFR 31.32(g).

3. Prohibitive lobbying 18 U.S.C. Section 1913, Section 607(a) of Public Law 96.74, or Section 319 of Public Law 101-121.

4. Federal Register, Vol. 53, No. 102, Debarment and Suspension Under EPA, Assistance Loan and Benefit Programs.

5. 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. Sarpy County 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". Sarpy County agrees to document the official grant files with all efforts taken to achieve the "Fair Share" and to report annually to NDEQ all "Fair Share" procurement efforts regardless of the size of the sub-agreement.


9. USEPA Order 1000.25 regulating the use of recycled paper.

10. Additional cross-cutting Federal requirements including but not limited to: OSHA Worker Health & Safety Standard 29 CFR 1910.120; the Uniform Relocation Act; National Historic Preservation Act; Endangered Species Act; and Permits required by Section 404 of the Clean Water Act; Executive Order 11246, Equal Employment Opportunity, and implementing regulations at 41 CFR 60-4; Contract Work Hours and Safety Standards Act, as amended (40 USC 327-333); the Anti Kickback Act (40 USC 276c); and Section 504 of the Rehabilitation Act of 1973 as implemented by Executive Orders 11914 and 11250.

2. Trafficking Victim Protection

Prohibition Statement-- You as the recipient, your employees, subrecipients under this award, and subrecipients’ employees may not engage in severe forms of trafficking in persons during the period of time that the award is in effect; procure a commercial sex act during the period of time that the award is in effect; or use forced labor in the performance of the award or subawards under the award.

3. Civil Rights

This term and condition incorporates by reference the signed assurance provided by the recipient’s authorized representative on: 1) EPA Form 4700-4, “Pre-award Compliance Review Report for All Applicants and Recipients Requesting EPA Financial Assistance”, and 2) Standard Form 424B or Standard Form 424D, as applicable. These assurances and this term and condition obligate the recipient to comply fully with applicable civil rights statutes and implementing EPA regulations.
V. 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.

NDEQ
Taryn Serwatowski
Brownfields Program Coordinator
Remediation Section
(402) 471-6411
taryn.serwatowski@nebraska.gov

Sarpy County
Lisa Haire
Sarpy County Grants Coordinator
Sarpy County
(402) 593-1565
lhaire@sarpy.com

VI. SIGNATURE PAGE

NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY

BY: Dennis Burling
TITLE: Deputy Director
DATE: 6-27-16

SARPY COUNTY

BY: Don Kelly
TITLE: Chairman, Board of Commissioners
DATE: 7-19-16