RESOLUTION AUTHORIZING THE CHAIRMAN TO SIGN THE INTERGOVERNMENTAL GRANT AGREEMENT FOR THE 2016 STORM WATER MANAGEMENT PLAN PROGRAM

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, a grant for the Storm Water Management Plan Program was awarded to Sarpy County; and,

WHEREAS, the grant agreement must be signed and submitted to the Nebraska Department of Environmental Quality.

WHEREAS, Sarpy County is committed to and supports the grant for the Storm Water Management Plan Program; and;

NOW, THEREFORE, BE IT RESOLVED, By the Sarpy County Board of Commissioners that the Chairman is authorized to sign the grant agreement for the Storm Water Management Plan Program.

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 ___ day of December, 2016.

Sarpy County Board Chairman

ATTEST:

Sarpy County Clerk

SEAL
MEMO

To: Sarpy County Board

From: Lisa A. Haire

Re: 2016 Storm Water Management Plan Program Grant Intergovernmental Agreement

On December 6, 2016 the County Board will be asked to authorize the Chairman to sign the attached Storm Water Management Plan (SWMP) Program grant agreement.

The Nebraska Legislature passed LB1226 in 2006, which established the Storm Water Management Plan Program to provide funding to cities and counties with Storm Water permits to implement their local Storm Water Management Plans. Sarpy County has been awarded $47,210.64 for the 2016 grant year.

There is a 20% match of $9,442.12 required which is met with payments to the Papio Watershed Partnership.

Please do not hesitate to contact Mark Wayne or myself if you have comments or questions.

December 2, 2016

Lisa A. Haire

cc: Mark Wayne
    Brian Hanson
    Scott Bovick
    Dennis Wilson
    Bruce Fountain
    Deb Houghtaling

593-1565
November 17, 2016

Re: 2016 Stormwater Management Program (SWMP) Grant Agreement

Dear SWMP Grant Sponsor,

Enclosed you will find two copies of your 2016 SWMP Grant Intergovernmental Agreement, containing the terms and conditions of your grant. We request that you please sign and return this document as soon as possible, but no later than December 16, 2016.

We expect that award funds will be disbursed by the end of the year.

The Nebraska Department of Environmental Quality greatly appreciates your participation in this program and for your interest in protecting Nebraska's environment while providing excellent service to the citizens of your communities. If you have any further questions, or if I can be of any assistance in your future efforts, please do not hesitate to contact me by phone at (402) 471-2875 or via email at robert.parker@nebraska.gov.

Sincerely,

[Signature]

Robert Parker
SWMP Grant Coordinator

Enclosures (2)
INTERGOVERNMENTAL AGREEMENT

Between the
Nebraska Department of Environmental Quality
and the
Sarpy County

Regarding the Implementation of the
Storm Water Management Plan Program
NDEQ Reference Number: 2016-65404401

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

WHEREAS, the Sponsor agrees to utilize funds which have been made available to NDEQ pursuant to Nebraska State 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 (NPDES) requirements; and

WHEREAS, grant funds of $47,210.64 and a nonfederal match of at least $9,442.12 are to be used to implement the activities identified in the Sponsor's NPDES Municipal Separate Storm Sewer System permit.

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

I. TERM OF AGREEMENT

This Agreement will go into effect December 1, 2016 and will remain in effect until June 30, 2018 unless either terminated under Section Q or extended by amendment under Section E of this Intergovernmental Agreement.

II. CONDITIONS OF AGREEMENT

A. General Conditions

1. The Sponsor agrees to submit to the NDEQ progress reports by July 31st of each year addressing project activity for the first 7 months and a final report addressing activities for the remainder of the agreement. The progress report and the final report must contain the following components:
   a. Progress to date;
   b. Financial report of the money spent on each NPDES Municipal Separate Storm Sewer System permit category the activity is listed under, and the amount (in dollars) of funds spent in each category including in-kind/match contributions.
   c. Certification that equipment purchased from grant funds was used only for grant purposes;
   d. Significant findings or events; and
   e. Corrective actions taken to resolve any problems that are encountered.

2. The Sponsor agrees that if indirect costs are authorized, as specified in the approved plan, they will be charged at the approved indirect rate.

3. The Sponsor agrees that a copy of any contract, interagency agreement, subagreement and/or procurement of equipment under this grant for a value of $5,000.00 or more, must receive NDEQ approval prior to expenditure of funds associated with those transactions. Copies of all contracts, procurements, subagreements, and interagency agreements will be provided to the NDEQ with the annual report.
4. Any equipment purchased from grant funds shall be retained by the Sponsor unless otherwise notified in writing by the NDEQ. The Sponsor agrees that at the end of the grant period the Sponsor will continue to use the equipment purchased under this Intergovernmental Agreement only in the project or program for which it was acquired, whether or not the project or program continues to be supported by stormwater funds.

5. A Quality Assurance/Quality Control plan must be approved by NDEQ prior to expending any funds for environmental monitoring. Any environmental data collected must be provided to NDEQ.

6. 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 3 copies of outreach material (printed or other media) produced under this grant shall be provided to the NDEQ, with the final report, unless otherwise specified.

7. A final project report for the previous state fiscal year, which runs from July 1st – June 30th must be submitted to NDEQ within 30 days after the end date of this agreement.

B. Statement of Costs

The Sponsor will submit, with their report, a detailed cost documentation of actual project expenses. For purposes of this agreement, expenditures and match claims shall be related to the activities identified in the Sponsor’s NPDES Municipal Separate Storm Sewer System permit. The Sponsor must contribute and report a 20% cash match by completion of the project.

C. Disbursements

1. The Sponsor shall receive full payment of the award amount within thirty (30) working days after receipt of this Intergovernmental Agreement signed by the Sponsor’s authorized representative except that payment may be withheld if sponsor has failed to meet the requirements of prior agreements made pursuant to the requirements of §46-2,139. The NDEQ shall not be held responsible for delays in payment, due to causes beyond its control.

2. The Sponsor must make expenditures only for activities identified in the Sponsor’s NPDES Municipal Separate Storm Sewer System permit.

3. The total amount of payments under this Agreement shall not exceed $47,210.64.

D. Work Description

This Agreement encompasses the activities identified in the Sponsor’s NPDES Municipal Separate Storm Sewer System permit.

E. 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 NDEQ.

F. Forfeiture, Repayment and Delays in Disbursement of Funds

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 Municipal Separate Storm Sewer System permit, including any amendments thereto which have been properly approved by the NDEQ, may result in the recovery of any or all funds disbursed by the NDEQ. Any funding expended for an unapproved activity shall be forfeited.
G. 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.

H. 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.

I. Hold Harmless

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

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. Applicable Rules and Regulations

Both parties shall abide by all applicable rules and regulations of the NDEQ including any that may be adopted subsequent to the effective date of this Agreement, except those that would invalidate or be inconsistent with the provisions of this Agreement.

L. 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.

M. 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.
N. 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.

O. 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.

P. Publication Rights

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

Q. 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.

R. New Employee Work Eligibility Status

The Sponsor is required and hereby agrees to use, and require sub-contractors 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 Sponsor utilizes a contractor who is an individual or sole proprietorship, the following applies:

The Contractor must complete the United States Citizenship Attestation Form, available on the Department of Administrative Services website at:
http://www.das.state.ne.us/
http://www.das.state.ne.us?lb403/attestation_form.pdf

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. 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.
S. 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**
Robert Parker  
Storm Water Management  
Grant Coordinator  
Water Planning Unit  
(402) 471-2875  
robert.parker@nebraska.gov

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

III. SIGNATORIES TO THE INTERGOVERNMENTAL AGREEMENT

By signature on this document, the Sponsor certifies that all funds spent will be utilized for activities identified in the Sponsor's Municipal Separate Storm Sewer System permit.

NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY

[Signature]  
DATE: 11/17/16

BY: Dennis Burling, Deputy Director

Sarpy County

[Signature]  
DATE: 12/16/16

BY: Brenda Carlisle, County Board Chair
Don Kelly