

COOPERATIVE AGREEMENT
between the
NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY
and the
City of Lincoln, Nebraska
Regarding the Implementation of the Section 319 Project Entitled
“Urban Retrofit Pollution Reduction”

THIS COOPERATIVE AGREEMENT is made and entered into by and between the Nebraska Department of Environmental Quality (NDEQ) and City of Lincoln, Nebraska, (Sponsor) in accordance with the Interlocal Cooperation Act, Nebraska Stat. Sec. 13-801 to 13-807 (Reissue 1987) or Nebr. Rev. Stat. Sec. 81-1504 (Supp. 1997) of the Nebraska Environmental Protection Act, whichever is applicable.

WHEREAS, the Sponsor made a request to the NDEQ for Section 319 grant funds, pursuant to the federal Clean Water Act and the Nebraska Nonpoint Source (NPS) Management Program, which have been made available to NDEQ through the Region VII Office of the U.S. Environmental Protection Agency (EPA); and

WHEREAS, these grant funds in an amount up to \$60,000.00 are to be used to implement this Section 319 NPS Project; and

WHEREAS, the Sponsor agrees to utilize at least \$40,000.00 in nonfederal funds and/or services in-kind for implementation of project activities; and

WHEREAS, the Sponsor intends to comply with all provisions of the federal Clean Water Act as amended by the Water Quality Act of 1987, 33 U.S.C. §1251 *et seq.* and intends to use the funds as set out in this Agreement; 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 this Section 319 Project, unless terminated under §Q of this Cooperative Agreement, but will not remain in effect past June 30, 2008.

II. CONDITIONS OF AGREEMENT

A. General Conditions

1. The Sponsor agrees to complete a detailed Project Implementation Plan (PIP) outlining the project schedule and specific work items to be undertaken during the course of the project. This PIP must be approved by USEPA and NDEQ prior to any reimbursement request from Section 319 grant funds. A Quality Assurance Project Plan (QAPP) must be approved by NDEQ prior to any collection of environmental data and subsequent reimbursement request from Section 319 grant funds for monitoring activities.

2. The Sponsor agrees to submit quarterly progress reports to the NDEQ by the fifteenth day after the end of each federal fiscal quarter. These reports shall contain the following components:
 - a. Progress to date
 - b. Significant findings or events
 - c. Corrective actions taken to resolve any problems that are encountered
 - d. Activities planned for the next quarter
3. The Sponsor agrees that if indirect costs are authorized, as specified in the approved PIP, they will be charged at the approved indirect rate.
4. The Sponsor agrees that any contract, interagency agreement, sub-agreement and/or procurement of equipment under this grant must receive NDEQ approval prior to expenditure of funds associated with those transactions. Copies of all sub-agreements and interagency agreements will be provided to the NDEQ.
5. All equipment purchased with Section 319 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 water quality data collected under this grant shall be provided to the NDEQ.
7. The Sponsor agrees to recognize the contributions and/or involvement of the federal Nonpoint Source Management Program (authorized by Section 319 of the Clean Water Act and administered by EPA and NDEQ) 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 prior to publication. A minimum of 6 copies of printed outreach material and 6 copies of videos produced under this grant shall be provided to the NDEQ.
8. The Sponsor agrees to ensure that persons receiving cost-share assistance from Section 319(h) funds shall, where relevant, practice nutrient and pest management on those portions of their operations that fall in the critical area of the project.
9. The Sponsor agrees to maintain all practices or structural Best Management Practices developed or constructed under Section 319, consistent with the operation and maintenance requirements for structures or practices as described in standard engineering design or as identified in the Natural Resources Conservation Service's Field Office Technical Guides or other appropriate federal/state/local standards.
10. A final project report must be submitted to NDEQ within 90 days after completion of project tasks, but no later than the termination date of this agreement.

B. Grant Conditions

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, or Section 319 of Public Law 101-121.
 - d. Federal Register, Vol. 53, No. 102, Debarment and Suspension Under EPA, Assistance Loan and Benefit Programs.

- 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 properly documented statement of costs for which reimbursement is sought and nonfederal match is claimed pursuant to the terms of this Agreement and the PIP. This statement of costs 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 PIP. Documentation of costs shall consist of paid receipts, signed time records, and/or similar verification of expenditures.

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 forty-five (45) 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.
2. Payment will be contingent on required quarterly progress reports and quarterly MBE/WBE reports being current.
3. NDEQ shall withhold 10%, but not less than \$10,000, of grant funds pending receipt and approval of the final project report.
4. Under no circumstances shall the total amount of payments under this Agreement exceed sixty thousand dollars (\$60,000.00).
5. The Sponsor agrees to utilize at least forty thousand dollars (\$40,000.00) in nonfederal funds and/or services in-kind for implementation of project activities.

E. Work Description and Schedule

This project shall complete objectives and work items as described in the PIP. The PIP is hereby incorporated into this document in its entirety.

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

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 PIP, including any amendments thereto which have been properly approved, shall result in the forfeiture of any funds not disbursed. In addition, if for any reason the project is not completed as described in the project PIP, including any amendments thereto that have been or are hereafter approved by the NDEQ, the NDEQ may recover from the Sponsor any or all funds disbursed.

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. 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. A single audit is required if \$300,000 or more is provided by the federal funding in any one year period. Verification of completion of the single audit report should be sent to NDEQ.

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. 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 Project Manager

Terry Hickman
Program Specialist
Water Quality Planning Unit
402-471-2875
Terry.Hickman@ndeq.state.ne.us

Sponsor Project Manager

Ben Higgins
Watershed Management
402-441-7589
bhiggins@lincoln.ne.gov

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

Sig: Thomas R. Lamberson Title: Deputy Director
Print: Thomas R. Lamberson

Date: August 16, 2006

SPONSOR

Sig: _____ Title: _____
Print: _____

Date: _____ Federal Tax ID Number: _____

Abstract

Project Name: Urban Retrofit Pollutant Reduction Project

Project Sponsor: City of Lincoln

Project Period: June 2006 to November 2007

**Urban Runoff Management Assistance (URMA) Grant Funds Requested:
Non-Federal Match Funds Committed:**

Executive Summary:

The City of Lincoln is seeking Urban Retrofit grant funding to provide two working examples of structural Best Management Practices that reduce pollutants such as heavy metals, oil, grease and temperature in receiving waters from parking lot runoff at 27th & Randolph and 27th & F Street. The source of these pollutants is typically from vehicles parked for a short periods of time and heat generated from a solid surface such as concrete and asphalt.

According to an EPA Nonpoint Source News Notes article, November 1998, Issue No. 4, titled Notes on Urban Watershed Planning and Management, Parking Lot at Florida Aquarium Becomes Laboratory "Impervious surfaces are one of the largest sources of polluted runoff, yielding oil, grease, litter, heavy metals, organic carbons, and other car-related pollution". The City of Lincoln proposes implementing Best Management Practices (BMPs) such as bioretention, vegetated swales and porous paving to reduce pollutants from parking lot areas. The purpose of this project is to provide Best Management Practices (BMPs) examples by retrofitting the two parking lots using BMPs.

The NPDES Municipal Stormwater permit issued to the City of Lincoln, by the State of Nebraska Department of Environmental Quality requires the City, as a whole, to reduce pollutants such as oil and grease in stormwater discharges. Also, the City is required to institute Public Education and Public Involvement programs which make the general public aware of stormwater pollutant issues. Informative signage at these parking lot retrofitting projects will be a key component for raising public awareness regarding parking lot pollutant issues.

This project will include working examples of urban retrofitted BMPs such as slotted curb and gutter, vegetated swales, porous pavement applications, bioretention (rain garden) areas, and informative signage. Objectives for this project are to provide viable solutions to Lincoln commercial property owners for reducing pollutant runoff from their facilities at a minimal cost. It will provide an example for new construction as well as retrofits.

Project Description

Project Name: Urban Retrofit Pollutant Reduction Project

Area description Antelope Creek Watershed, This is a NPS priority watershed.

NPS priority issue or concern:

1. Heavy metals, oil and grease waste byproducts from automobiles in parking lots.
2. Both point and nonpoint sources of oil and grease have been identified as pollutants to be monitored under the City's, National Pollutant Discharge Elimination System permit monitoring requirements. Point sources such as the dumping of motor oil and other petroleum products and solvents into stormdrains, and nonpoint sources such as stormwater runoff from parking lots are known pollutants sources of oil and grease. Although not listed in 2004 as 303 d listed pollutants for streams or lakes in the greater Lincoln area, oil and grease, and heat are considered by the EPA to be significant pollutants to be addressed.
3. Impervious areas such as parking lots that have direct connections to the stormdrain system can decrease ground water recharge, increase the velocity of flows to receiving waters, raise water temperatures in receiving waters causing damage to aquatic habitat and are a direct connection for pollutants on parking lot surfaces. Increased flows are a major factor in unnaturally accelerating stream bank erosion.

General strategy:

The general strategy for this project is a combination of design and construction along with public educational components. The design and construction will include a survey of existing drainage patterns and runoff volumes from the parking lot areas, stormdrain access points, an assessment of which Best Management Practices (vegetated swale, bio retention, porous pavement, etc.. or any combination of these) will be best suited for each location. The educational program will involve the placement of signage which provides a cross section of the BMP implemented and a description of how it functions. A monitoring program would also be implemented to quantitatively track the effectiveness of the measures constructed.

Objectives

- A. Reduce the impacts of parking lot pollutants on receiving waters.
- B. Showcase to the development community, cost effective Best Management Practices that reduce base flows and reduce pollutants from impervious areas.
- C. Provide monitoring information to gauge effectiveness of the measures installed.
- D. Increase the level of awareness and knowledge the public has regarding stormwater pollutant issues from these types of impervious areas.

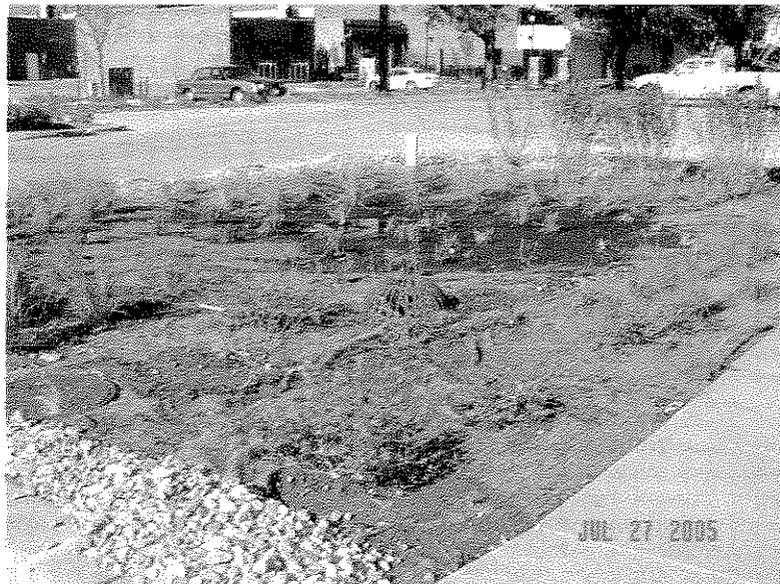
Tasks

Task Description	Objective Addressed	Est. date of Completion
<p>Task 1: Parking Lot Retrofit, Vegetated Swale Description: <i>Retrofit existing parking lot area with a vegetated swale to treat pollutants from surface runoff.</i></p> <p>Design and construct a parking lot drainage system that utilizes a slotted curb and a vegetated swale stormwater runoff absorption area for pollutant removal.</p>	All objectives are indirectly addressed by this task.	November 2006
<p>Task 2: Parking Lot Retrofit, Porous Pavement Description: <i>Retrofit existing parking lot area with porous pavement to treat pollutants from surface runoff.</i></p> <p>Design and construct a parking lot drainage system that utilizes porous pavement and a bioretention area for parking lot pollutant removal.</p>	All objectives are indirectly addressed by this task.	November 2006
<p>Task 3: Monitoring Description: <i>Conduct grab sample monitoring.</i></p> <p>Prior to construction collect one grab sample from a rain event for each parking lot pollutant removal project. After vegetation has become well established for a season, collect two grab samples from two rain events for each of the parking lot pollutant removal projects.</p>	Objective D	November 2007

Examples of Similar Parking Lot Projects to Date in Lincoln, NE



Construction of sand bed and underdrain system



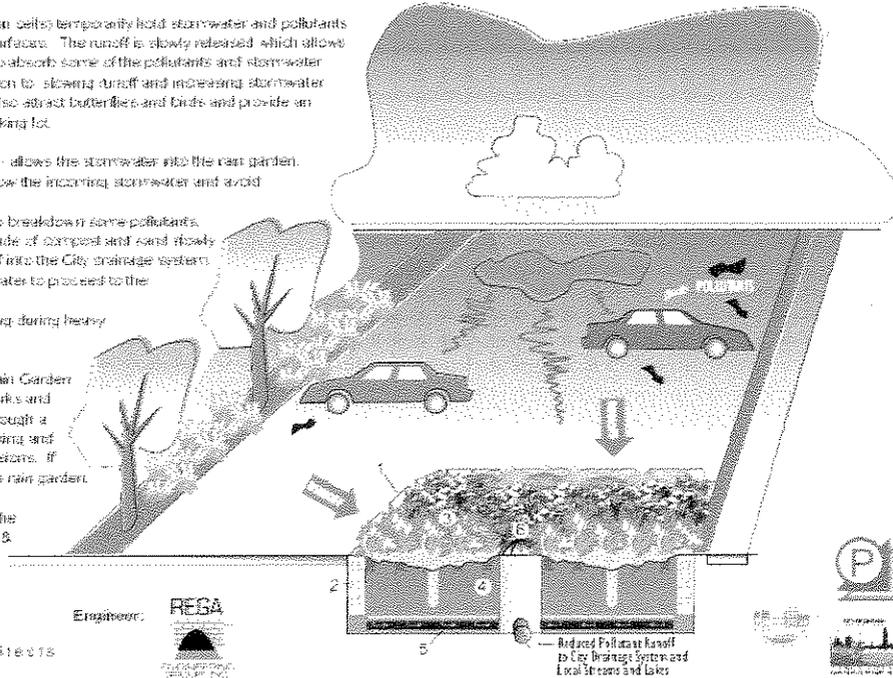
Finished bioretention cell with vegetation

RAIN GARDEN

Rain gardens (i.e. bioretention cells) temporarily hold stormwater and pollutants from concrete and asphalt surfaces. The runoff is slowly released, which allows the vegetation and soil mix to absorb some of the pollutants and stormwater runoff from the site. In addition to slowing runoff and increasing stormwater quality, the rain garden will also attract butterflies and birds and provide an attractive amenity for the parking lot.

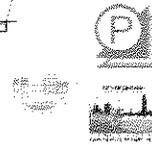
1. Slotted Curb and Gutter - allows the stormwater into the rain garden.
2. Rock Border - helps to slow the incoming stormwater and avoid excessive erosion.
3. Vegetation - plants help to breakdown some pollutants.
4. Soil Mix - a topsoil mix made of compost and sand slowly releases stormwater runoff into the City drainage system.
5. Drain Tiles - allows stormwater to proceed to the City storm drain.
6. Overflow - controls ponding during heavy rain events.

The Havenlock Parking Lot Rain Garden is a City of Lincoln Public Works and Utilities project developed through a partnership between the Parking and Watershed Management divisions. If you have questions about the rain garden, parking or other stormwater applications, please contact the City of Lincoln, Public Works & Utilities Department.



Architect: SINCULAR architects

Engineer: RESA
RESA ENGINEERING & ARCHITECTURE



Interpretative signage for a parking lot rain garden in Lincoln, NE



Contact Information

Project Administrator

Name: Ben Higgins

Address (City, State, Zip Code): 901 N. 6th Street, Lincoln, Nebraska 68508

Phone (include ext.): (402)441-7589

Secondary Phone: (402)430-9703

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E-mail: bhiggins@lincoln.ne.gov

Project Coordinator

Name: Rock Krzycki

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Phone (include ext.): (402)441-4959

Secondary Phone:

Fax: (402) 441-8194

E-mail: rkrzycki@lincoln.ne.gov

Financial Officer

Name: Fran Mejer

Address (City, State, Zip Code): 555 S. 10th Street, Lincoln, Nebraska 68508

Phone (include ext.): (402) 441-7537

Secondary Phone:

Fax: (402) 441-8609

E-mail: fmejer@lincoln.ne.gov

Application Budget Justification

CATEGORIES AND SUB-CATEGORIES	BASIS USED TO DETERMINE COST	ATTACHMENTS (Y OR N)
Personnel:		
Travel:		
Equipment:		
Supplies	5 cubic yards of pervious concrete @\$123 per cu. yd. Value \$615	Y
Contractual:	Estimate from Consultants for Task 1 Estimate Cost \$30,000 Task 2 Estimate Cost \$70,000 Task 3 Estimate Cost \$2,000 Total Estimated Cost \$102,000	N
Other:		
TOTAL COST:	\$102,615	

Application Budget Summary

Source of Funds ↑ Budget Category ↓	Federal Funds		Non-Federal Funds		TOTALS
	Federal Section 319		City Funding		
Personnel:					
Travel:					
Equipment:					
Supplies:			\$615		\$615
Contractual:	\$60,000		\$42,000		\$102,000
Other:					
Direct Costs:	\$60,000		\$42,000		\$102,000
Indirect Costs:					
TOTAL COST:	\$60,000		\$42,615		\$102,615