

**AGREEMENT TO RECEIVE AND LAND APPLY
BIOSOLIDS WITH CITY OF LINCOLN, NEBRASKA**

THIS AGREEMENT, made this _____ day of _____, _____, by and between _____ of _____ County, Nebraska, hereinafter called "Operator", and the City of Lincoln, a municipal corporation of the State of Nebraska, hereinafter called "City".

WITNESSETH THAT:

WHEREAS, City processes wastewater treatment facilities and produces anaerobically digested sludge hereafter described as biosolids; and

WHEREAS, the Operator desires to have biosolids delivered by City for agricultural use; and

WHEREAS, the Operator owns or has contractual authority over the agricultural use of land described in the attached Site Provisions; and

WHEREAS, it is to the mutual advantage of the parties hereto and in the general public interest to land apply City's biosolids; and

WHEREAS, the accomplishment of such an arrangement is authorized by law.

NOW, THEREFORE, in consideration of these facts, the parties hereto do mutually agree as follows:

1. The Operator will comply with the General Provisions for Land Application of Biosolids, unless amended in writing by City, copies of which are attached hereto and made part hereof.
2. The annual quantity of biosolids available to the Operator shall be determined by the following factors:
 - Bid by operator
 - Cost of hauling biosolids to storage site.
 - Past performance of cooperating farmer
 - Size of field, crop to be planted, soil test results.
 - Storage site accessibility
 - Storage site location.
3. The Operator agrees:
 - a. To receive biosolids at the designated storage site and to apply the biosolids to the designated field(s) identified in supplemental administrative field documents, at a rate not to exceed agronomic rates recommended for the selected crop. This rate will be specified by the Biosolids Program Manager or her/his designated representative in the supplemental field documents.
 - b. To properly store and/or land apply any and all biosolids (within the limits listed herein) delivered.
 - c. To adjust the pH of the soil if deficient on the field(s) that will be amended with biosolids. The Biosolids Program Manager or her/his designated representative will notify operator if it is necessary to adjust the pH of soil and application recommendations based on soil analysis.

- d. To pay the City \$0.25 per cubic yard for rental of biosolids spreaders used for the application of biosolids and to cover any repair costs to the spreaders due to the negligence by the Operator.
4. The City of Lincoln agrees:
- a. To deliver biosolids to the Operator's storage site and field(s) identified in supplemental administrative field documents.
 - b. The biosolids will be delivered during the time periods and in the amounts agreed to by the Operator and the City of Lincoln.
 - c. The frequency, time and quantity of individual deliveries are not guaranteed to meet any set schedule.
 - d. Should the physical or chemical condition of the soil, the crop to be grown, or the site or the biosolids change during the application period, the application rates may be adjusted in accordance with the recommendations of the Biosolids Program Manager or her/his designated representative.
 - e. To reimburse the farmer as per the attached Biosolids Application Cost Reimbursement Agreement, after the biosolids application has been verified by the Biosolids Program Manager or her/his designated representative and a Biosolids Application Affidavit has been submitted to the City.
 - f. To reimburse the Operator for damage to crops for summer storage in the amount of \$0.0061 per square foot. This is equivalent to 265.72 per acre.
5. This Agreement shall have a term of one year beginning from the date the agreement is executed and may be renewed for up two (2) additional one (1) year periods upon mutual consent of both parties.
6. Either party may terminate this Agreement by providing a 30-day notification.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed by the proper officials thereunto duly authorized as of the dates below indicated.

EXECUTED by _____ this _____ day of _____, _____.

Operator

EXECUTED by City this _____ day of _____, _____.

Director, Public Works & Utilities

GENERAL PROVISIONS FOR LAND APPLICATION OF THE CITY OF LINCOLN'S WASTEWATER BIOSOLIDS

1. GENERAL

- 1.1 **Utilization of Biosolids.** All material must be utilized in accordance with all applicable Federal, State, County and Local rules, regulations, and permit requirements, existing or future (see No. 6.12).
- 1.2 **Application Sites.** Each land application site shall be considered separately and will be covered by a separate exhibit that may be attached at any time after this agreement becomes effective. Each exhibit will define the site in terms of:
- a. Quantity of land available for application and/or storage.
 - b. Legal description of all sites.
 - c. Soil Analysis.
 - d. Application rates.
 - e. Total quantity of biosolids to be applied (minimum and maximum) per site.
 - f. Specific periods of application and/or storage.
- 1.3 **Agreement.** These General Provisions and the documents attached, represents the main elements of the agreement of the parties. Field(s) and storage site(s) information prepared by the City shall serve as supplemental administrative field documents to the agreement. No representations were made or relied upon by either party other than those that are expressly set forth herein and in supplemental administrative field documents. No agent, employee or other representative of either party is empowered to alter any of the terms hereof unless done in writing and signed by an authorized officer of the respective parties.

2. OPERATOR RESPONSIBILITIES AND REQUIREMENTS.

- 2.1 **Certification by Operator.** The Operator hereby certifies that any proposed site(s) and methods of operation will be in compliance with all applicable Local, County, Federal and State laws, rules, guidelines, and regulations in effect at time of receipt of biosolids including, but not limited to those listed in these general provisions.
- 2.2 **Responsibilities of Operator.**
- 2.2.1 **Assistance in Obtaining Permits and Approvals.** The Operator agrees to assist City in obtaining state approvals or permits and notifying all surrounding landowners and/or tenants within a one-fourth mile radius of the central storage site and all application sites.
- 2.2.2 **Notification of Landowners.** If the Operator does not own the property at a land application site, an affidavit signed by the landowner acknowledging his or her permission to utilize biosolids on the land shall be required prior to any delivery of biosolids to the application site(s). In the event ownership of the property changes during the term of this Agreement, it shall be the responsibility of the Operator to notify the City of such change and to acquire the affidavit permission of the new owner.

- 2.2.3 **Storage Site.** The Operator will provide a minimum of one accessible storage site which is approved by the Biosolids Program Manager or her/his designated representative and meets all regulatory requirements. One storage site may be used for more than one land application site. The storage site(s) will be used primarily during dry weather. Access to the farm storage site shall be provided by the Operator. Access shall mean providing residual hauling vehicles with a route into and out of the storage site(s), i.e., opening a fence, allowing passage through a private roadway, etc.
- 2.2.4 **Storage, Handling and Application.** The removal of biosolids from the storage site(s), the use of proper application techniques, and the furnishing of sufficient equipment to perform same is solely the responsibility of the Operator. Where weather conditions have delayed land applications or storage site clearing, material which has not been spread and/or incorporated shall be at the earliest possible time. Where weather conditions have delayed land applications or storage site clearing, material which has not been applied to the designated site shall be accomplished as soon as practical for the field conditions. The Biosolids Program Manager or her/his designated representative shall assist in making this determination.
- 2.2.5 **Application of Other Organic Residues or Wastes Prohibited.** The Operator must not deposit any other organic biosolids or industrial wastes on the land application sites covered by this Agreement and described in the attached Exhibits during the time period beginning when biosolids are received and for a period of two years following discontinuance of biosolids application unless permitted by City in writing.
- 2.2.6 **Operation not a Joint Venture.** This operation shall not create a joint venture. The Operator shall not be considered an agent of the City except as required by State law (Title 126, Waste Management Regulations). Title to the biosolids shall pass to the Operator upon delivery to the Operator's storage site(s). Any damages incurred by the Operator's storage site(s), or damages incurred by the Operator during the handling of the biosolids shall be the sole responsibility of the Operator.
- 2.2.7 **Non-Discrimination Requirements.** The Operator shall not, in the performance of this work, discriminate or permit discrimination in violation of federal or state laws or local ordinances because of race, color, sex, age, disability, ancestry, marital status, political or religious opinions, affiliations or national origin.
- 2.2.8 **Conflict of Interest.** Pursuant to Article 7:5 of the City Charter, no elected official or any officer or employee of City shall have a financial interest, direct or indirect, in any City contract, without declaring such interest. Any violation of this section with the knowledge of the Operator shall render the contract voidable by the Mayor or City Council.

3. **CITY RESPONSIBILITIES AND RIGHTS**

3.1 **Access and Right-To-Enter Sites.**

- 3.1.1 The City's Biosolids Program Manager or her/his designated representatives shall be permitted access to all land application and/or storage sites with the right to perform soil, crop or other tests, GPS mapping, or inspections necessary (including analysis of any additional soil treatments) to determine if the material is being utilized in a satisfactory

manner for the term hereof and up to two years after biosolids application has ceased. Visits will be coordinated with the Operator as a matter of courtesy to insure hazardous situations are not encountered in the site area.

3.1.2 The City's Biosolids Program Manager or her/his designated representatives will have the right to enter any land application and/or storage site and correct any violation of the applicable laws, rules, or guidelines if the Operator does not remedy such violations within a reasonable amount of time. The costs for any such corrections shall be paid for by the Operator and shall first be deducted from any amounts owed to Operator by City if the Operator does not remedy such violations within a time frame appropriate to the seriousness of the violation.

3.2 **Assistance in Obtaining Local Permits and Approvals.** The Biosolids Program Manager or her/his designated representative agrees to assist the Operator in obtaining local and county permits, if required.

3.3 **Testing and Analysis.**

3.3.1 City agrees to provide a periodic testing and analysis of the biosolids and to make results of such analysis available to the Operator. While City feels that the material has potential value as a soil conditioner or supplement, such representations are based only upon City's best estimate of the current content of the material and upon available literature as to its value as a soil supplement.

3.3.2 City makes no warranties that any particular benefit will result to the Operator's land, or that any particular future increase in crop yields will result. City does, however, on the basis of its periodic analysis and current literature, represent that the biosolids, if lawfully stored and applied, as explained herein, will not normally result in any environmental damage to the Operator's or adjacent property.

4. **TERMINATION OF AGREEMENT.**

4.1 **Termination by Operator.** The Operator may terminate this Agreement at any time by giving thirty (30) days prior written notice to City. Termination shall not affect the Operator's obligations to properly store and apply all biosolids delivered to the site(s) prior to the effective date of termination.

4.2 **Termination by City.** City may terminate this Agreement at any time for just cause by giving thirty (30) days prior written notice to the Operator; just cause will include but not be limited to a violation of any of the provisions herein.

5. **INDEMNIFICATION.** Each party hereto shall indemnify the other and hold such party harmless from all loss of damages, or the claims, suits or demands of third parties arising out of, or alleged to arise out of, any breach of the terms by the party against whom indemnity is sought. The Operator's responsibility shall begin upon delivery of the biosolids on the storage site(s). Damages resulting from the delivery of biosolids shall not be the responsibility of city, but that of the hauling contractor.

6. GUIDELINES FOR LAND APPLICATION AND STORAGE

- 6.1 **Application Timing.** Biosolids shall be applied to the selected application site as soon as possible. Incorporation will depend on the classification of the land and the susceptibility to erosion, but may be requested to remedy or prevent an odor problem. This decision may be made by the Biosolids Program Manager or her/his designated representatives in conjunction with the Natural Resources and Conservation Service (NRCS) taking into consideration the conservation plan for the field.
- 6.2 **Storage Location and Runoff.** Biosolids shall not be applied or stored in waterways and runoff must be controlled.
- 6.3 **Imminent Precipitation.** Biosolids shall not be applied when precipitation is imminent or when precipitation has occurred in the past 24 hours. Application shall not be allowed in areas where ponding is occurring or has occurred in the past.
- 6.4 **Application Near Surface Waters and Wells.** Biosolids shall not be applied within 33 feet of an intermittent flowing creek or roadside ditch, 200 feet of any well, stream or pond, nor within 1,000 feet of a public water supply.
- 6.5 **Agronomic Application Rates.** Application rates shall not exceed the available nitrogen requirements of the crop being grown.
- 6.6 **Approved Crops.** Biosolids may be applied to most cereal grain or forage crops grown in this area as long as that crop is not for direct human consumption. Priority for selection of application sites will be given to soils most in need of soil conditioning and/or crops which are high utilizers of nitrogen during plant growth.
- 6.7 **Odor Concerns.** Application and storage sites shall be situated so that they do not create nuisances and so area residents are not antagonized. Prevailing winds, distance to nearest dwellings, time of year, humidity, etc., shall be considered. The storage site shall not be closer than 1,000 feet from an inhabited residence without the written permission of such inhabitants.
- 6.8 **Storage Site Distances From Surface Waters and Wells.** The storage site shall not be within 1,000 feet of a public water supply or within 500 feet of any other well, stream or pond.
- 6.9 **Spillage on Public Roadways.** Biosolids shall not be allowed to spill on any road, street or highway.
- 6.10 **Livestock Grazing.** The grazing of livestock on an application site is prohibited for 30 days after the application.
- 6.11 **Zoning Restrictions.** The storage of digested sludge and its application will not be allowed within one-half mile from any residential district zoned R-1, R-2, R-3, R-4, R-5, R-6, R-7 or R-8.
- 6.12 **Applicable Federal, State and County Rules and Regulations.** The Biosolids Coordinator will make available to the Operator with copies of the documents needed to regulate all land application procedures. The City is responsible for furnishing the following documents for distribution to Operators:

- 6.12.1 **Title 40** Code of Federal Regulations (CFR) Part 257.
- 6.12.2 **Federal Clean Water Act of 1987**, as currently amended.
- 6.12.3 **Nebraska Environmental Protection Act** 81-1501-811533.
- 6.12.4 **Title 40** Code of Federal Regulations (CFR) Part 503 when promulgated.
- 6.12.5 **Nebraska Commercial Fertilizer and Soil Conditioner Act**, Nebraska Department of Agriculture.
- 6.12.6 **Rules and Regulations**; Lancaster County Permits & Inspection, Lincoln-Lancaster County Health Department.
- 6.12.7 **Rules and Regulations**; Lancaster County, Board of Commissioners.
- 6.12.8 **Information** on how to obtain these documents is available from the following:

Construction Grants Branch
Water Division
EPA - Region VII
324 E. 11th Street
Kansas City, MO 64106

Lancaster County Board of Commissioners 555
S. 10th Street
Lincoln, NE 68508

Lincoln-Lancaster County Health Department 3140
N Street
Lincoln, NE 68510

Nebraska Department of Environmental Control Box
94877, State House Station
301 Centennial Mall South
Lincoln, NE 68509
(471-2186)

Nebraska Department of Agriculture 301
Centennial Mall South Lincoln, Lincoln,
Lincoln, NE 68509

BIOSOLIDS APPLICATION PAYMENT AND STORAGE REIMBURSEMENT AGREEMENT CITY OF LINCOLN, PUBLIC WORKS AND UTILITIES DEPARTMENT

Due to high fertilizer costs and increased demand for biosolids, farm operators submit bids on what they will pay the City for the delivery of biosolids to the application site(s). Bids begin at "0." The higher the amount paid to the City may increase their likelihood of receiving biosolids, other factors being equal.

Payment Bid for Delivery of Biosolids to Application Site(s) in Section(s) _____

Payment Bid _____ per cubic yard Owner/Operator Signature _____

CONDITIONS OF PAYMENT AND STORAGE REIMBURSEMENT AGREEMENT

1. All reimbursements shall be subject to full compliance with all requirements and conditions of the Agreement to receive and apply biosolids. In all cases, storage reimbursements shall be made only after the Farm Operator has completed the application, verified by the Biosolids Program Manager or her/his designated representative.
2. An invoice requesting payment for the delivery of Biosolids shall be presented to the Farm Operator when application has been completed and verified by the Biosolids Program Manager or his/her designated representative.
3. Reimbursement for temporary storage shall be made only instances where crop production has been prevented. Reimbursement for storage will be determined by Extension after assessing crop damage caused by hauling vehicles. Reimbursement for storage costs: \$0.0061 per square foot of crop damage. This is equivalent to \$265.72/acre.
4. Because of increased demand, the city does not guarantee to provide all material requested by the Farm Operator that are identified in supplemental administrative field documents. The application site selection shall be based upon, but not limited to the bid given above, the past performance of the farm operator, access restrictions, seasonal cropping methods, hauling distance and proximity to sensitive areas.
5. This agreement shall be effective for a one (1) year period following date of signature, with an option to renew by written agreement of both parties for two additional one (1) year periods at the same terms and conditions as the original agreement.

Renewal Option (completed by farm operator): () Yes () No

 Farm Owner/Operator Name (printed) Address City State/Zip Phone

 Farm Owner/Operator Signature Miki Esposito, Interim Director Date
 Public Works and Utilities

**PERMISSION TO EVALUATE AGRICULTURAL CROPLAND FOR
APPLICATION OF BIOSOLIDS FROM CITY OF LINCOLN
WASTEWATER TREATMENT FACILITIES**

Date: _____

I, _____ agree to allow the Biosolids Application Program Manager or his/her designated representative, to enter any agricultural cropland and certain pasturelands which I own or lease for the purpose of evaluating the cropland. This will include: the taking and analysis of soil samples; inspection of surface and ground water sources; and, general operations and agronomic practices, to determine eligibility of the cropland for such program and subsequently, to monitor application sites. I also agree to allow the residuals coordinator or his assistants to inspect copy, and review any conservation plans applicable to the property I own or lease, which are filed with the Natural Resources and Conservation Service (NRCS). I understand that information obtained from the NRCS will be used solely for the Biosolids Land Application Program and not for any other purpose.

Signature (Owner or Operator)

Date

Address: _____

Telephone: _____

Email address: _____

Biosolids Land Application Program Manager Representative: _____

Print Name

Acknowledgment of Receipt from Program Manager Representative:

Signature

Date

UNITED STATES CITIZENSHIP ATTESTATION FORM

For the purposes of complying with Neb. Rev. Stat. §§ 4-108 through 4-114, I attest as follows:

___ I am a citizen of the United States.

OR

___ I am a qualified alien under the Federal Immigration and Nationality Act. My immigration status and alien number are as follows: _____, and I agree to provide a copy of the USCIS (United States Citizenship and Immigration Services) documentation upon request required to verify the Contractor's lawful presence in the United States using the Systematic Alien Verification for Entitlements (SAVE) Program. I hereby attest that my response and the information provided on this form and any related application for public benefits are true, complete and accurate and I understand that this information may be used to verify my lawful presence in the United States. I understand and agree 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.

PRINT NAME: _____

(First, Middle, Last)

SIGNATURE: _____

DATE: _____