

**AGREEMENT BETWEEN
THE CITY OF LINCOLN, NEBRASKA,**

**on behalf of the Lincoln-Lancaster County Health Department, ("City"),
and the VILLAGE OF DAVEY, NEBRASKA, having an address of Davey, NE 68336, for
the purpose of providing health regulation inspection and enforcement within the
corporate limits of the Village of Davey.**

WHEREAS, the Village of Davey is desirous of contracting with the City, through the Lincoln-Lancaster County Health Department, in the interest of:

- Protecting the public's health and the environment from pollution;
- Providing minimum standards regulating design, construction, installation, maintenance, and operation of individual sewage disposal systems within Lancaster County; and
- Providing investigation of public health nuisance conditions as defined by the Village of Davey Ordinance:
- Reviewing transfers of properties that are served by individual domestic water wells or onsite wastewater treatment systems to assure they meet minimum standards regulating design, construction, installation, maintenance, and operation established in the Village of Davey ordinances as applicable; and
- Reviewing newly proposed subdivisions that will not be served by public water supply or community wastewater treatment for water, wastewater and environmental hazards.

WHEREAS, the City is agreeable to rendering such services on the terms and conditions hereinafter set forth; and

WHEREAS, such services shall be provided within the Village of Davey's zoning jurisdiction;

WHEREAS, such agreements are authorized and provided for by the provisions of Neb. Rev. Stat. §13-901 et. seq. hereinafter referred to as the Interlocal Cooperation Act; and

WHEREAS, the parties to this agreement enter into this cooperative agreement for the mutual benefit of the parties and to provide services in a manner that will accord best with geographic, economic, population, and other factors influencing the needs and development of local communities. Each party agrees that it shall remain a distinct and separate entity with its own rights and authorities and that no separate board shall be created to fulfill the obligations of this Agreement.

NOW, THEREFORE, it is agreed as follows:

1. SERVICES

- i) The Village of Davey and the City enter into this Agreement for the Village of Davey to:
 - (1) Provide to the City any and all ordinances and regulations duly adopted by the Village of Davey related to individual sewage disposal systems, water supply systems, solid wastes, nuisances, air quality, open burning, and other health and safety hazards; and

- (2) Act as the party primarily responsible for enforcement of the Village of Davey's ordinances, rules, and regulations related to the health and safety of the public.
- ii) The Village of Davey and the City enter into this Agreement for the City to:
 - (1) Investigate complaints presented by the Davey Village Clerk related to public health nuisance conditions, and other health and safety hazards;
 - (2) Generate necessary reports related to the findings of investigations conducted pursuant to this Agreement and provide such reports to the Davey Village Clerk upon completion of each investigation;
 - (3) Cooperate with the Davey Village Attorney in any enforcement actions brought by the Village of Davey involving any investigation conducted by the City according to the terms of this Agreement;
 - (4) Appear as requested as a witness regarding the findings of investigations conducted according to the terms of this Agreement. Notwithstanding the foregoing, the City's employees shall not be asked to testify as experts by the Village of Davey in said proceedings.
 - (5) Review and permit all newly built or repaired on-site wastewater treatment systems within the corporate limits and the extra-territorial jurisdiction of the Village of Davey, assuring they meet minimum standards for design, construction, installation, maintenance, and operation as adopted by Ordinance No. 14-02.
 - (6) Review transfers of properties within the corporate limits and the extra-territorial jurisdiction of the Village of Davey, that are served by individual domestic water wells or onsite wastewater treatment systems to assure they meet minimum standards regulating design, construction, installation, maintenance, and operation as adopted by Ordinance No. 14-02.
 - (7) Review newly proposed subdivisions within the corporate limits and the extra-territorial jurisdiction of the Village of Davey, that will not be served by public water supply or community wastewater treatment for water, wastewater and environmental hazards.
 - (8) Review and permit open burning requests within the corporate limits and the extra-territorial jurisdiction of the Village of Davey, to assure they do not create health risks and meet minimum standards as adopted by Ordinance No. 14-02.
 - (9) The City retains the right to limit the amount of staff time and other resources it expends to provide services identified in this agreement.
- 2. **TERM** – The term of this Agreement shall commence upon execution and shall continue until completion all obligations of this Agreement but in no event longer than ten (10) years after the date of execution by the City.
- 3. **TERMINATION FOR CONVENIENCE** – Either party may terminate this Agreement for any reason for its own convenience. If either party elects to terminate this Agreement prior to its expiration, the terminating party shall provide the other party with sixty (60) days written notice of the termination.
- 4. **DUTIES GENERALLY** – Both parties to this Agreement agree as follows:
 - i) To timely and professionally complete the services as described for both parties above, and to furnish their labor and pay all their own costs, including any taxes, required to complete their services.

- ii) To furnish everything reasonably necessary to complete the services unless specifically provided otherwise in this Agreement.
- iii) To apply for and obtain any and all necessary permits, certifications, licenses, variances, and approvals required by any applicable law or regulations that relate to the services.
- iv) To conduct all activities related to the services in a lawful manner.
- v) To provide and perform all necessary labor in a professional and workmanlike manner and in accordance with the provisions of this Agreement.

5. **INDEPENDENT ENTITIES** – City has sole and exclusive charge and control of the manner and means of performance of the tasks required of it by this Agreement. The City shall perform as an independent contractor, and it is expressly understood that neither the City nor any of its staff are employees of the Village of Davey and, thus they are not entitled to any Village of Davey benefits including, but not limited to, overtime, retirement benefits, workers’ compensation insurance, sick leave, or injury leave. The City shall be responsible for maintaining workers’ compensation insurance, unemployment insurance for its employees, and for all federal, state, local, and any other payroll taxes with respect to the City or its employees’ compensation.

6. **INSURANCE**

- i) The Village of Davey shall maintain General Liability Insurance at its own expense during the life of this Agreement, naming and protecting the Village of Davey and the City of Lincoln, its officials, employees, and volunteers as insured, against claims for damages resulting from (1) all acts or omissions, (2) bodily injury, including wrongful death, (3) personal injury liability, and (d) property damage which may arise from operations under this Agreement whether such operations are by the Village of Davey and its employees, or those directly or indirectly employed by the Village of Davey. The minimum acceptable limits of liability to be provided by such insurance shall be as follows:
 - (1) All Acts or Omissions - \$1,000,000 each Occurrence; \$2,000,000 Aggregate; and
 - (2) Bodily Injury/Property Damage - \$1,000,000 each Occurrence; \$2,000,000 Aggregate; and
 - (3) Personal Injury Damage - \$1,000,000 each Occurrence; and
 - (4) Contractual Liability - \$1,000,000 each Occurrence; and
 - (5) Products Liability and Complete Operations - \$1,000,000 each Occurrence; and
 - (6) Medical Expenses (any one person) - \$10,000.
- ii) The following shall be provided and attached to this Agreement by the Village of Davey:
 - (1) A Certificate of Insurance for its General Liability Insurance. The City of Lincoln shall be specifically named as an additional insurance on the General Liability Insurance Policy. The Village of Davey may present evidence of equivalent self-insurance in place of a certificate of insurance for General Liability Insurance. The City of Lincoln shall be treated as an additional insured as if the Village of Davey possessed General Liability Insurance.
 - (2) Proof of Workers’ Compensation Insurance, where appropriate.
- iii) The Village of Davey is required to provide the City of Lincoln with thirty (30) days notice of cancellation, non-renewal, or any material reduction in insurance as required

by this Agreement. Further any General Liability Insurance Policy maintained in order to comply with this Agreement shall specifically provide that the company from whom the policy is purchased will also provide the City of Lincoln thirty (30) days notice of cancellation, non-renewal, or any material reduction in insurance on the part of the Village of Davey.

- iv) If the Village of Davey obtains General Liability Insurance during the term of this Agreement, it shall add the City of Lincoln as an additional insured and provide a copy of the Certificate of Insurance and specific endorsement on the policy naming the City of Lincoln as an additional insured.
- 7. **INDEMNIFICATION** – To the fullest extent permitted by law, the Village of Davey shall indemnify, defend, and hold harmless the City of Lincoln, its officers, agents, and employees from and against claims, damages, losses, and expenses, including but not limited to attorney’s fees, arising out of or resulting from performance of this Agreement, that results in any claim for damage whatsoever, including without limitation, any bodily injury, sickness, disease, death, or any injury to or destruction of tangible or intangible property, including any loss of use resulting therefrom that is caused in whole or in part by the intentional or negligent act or omission of the Village of Davey, or anyone for whose acts any of them may be liable. This section will not require the Village of Davey to indemnify or hold harmless the City of Lincoln for any losses, damages, claims, and expenses arising out of or resulting from the sole negligence of the City of Lincoln. The City of Lincoln does not waive its governmental immunity by entering into this Agreement and fully retains all immunities and defenses provided by law. This section survives termination of this Agreement.
- 8. **AUDIT PROVISION** – The Village of Davey shall be subject to audit pursuant to Chapter 4.66 of the Lincoln Municipal Code and shall make available to a contract auditor, as defined therein, copies of all financial and performance records and materials germane to this Agreement, as allowed by law.
- 9. **FAIR EMPLOYMENT** – The Village of Davey shall not discriminate against any employee (or applicant for employment) with respect to compensation, terms, advancement potential, conditions, or privileges of employment, because of such person’s race, color, religion, sex, disability, national origin ancestry, age, or marital status pursuant to the requirements of Lincoln Municipal Code Chapter 11.08 and Neb. Rev. Stat. §48-1122, as amended.
- 10. **FAIR LABOR STANDARDS** – The Village of Davey shall maintain Fair Labor Standards in the performance of this Agreement, as required by Chapter 73, Nebraska Revised Statutes, as amended.
- 11. **NEBRASKA LAW** – This Agreement shall be governed and interpreted by the Laws of the State of Nebraska without reference to the principles of conflicts of law.
- 12. **INTEGRATION, AMENDMENTS, ASSIGNMENT** – This Agreement represents the entire agreement between the parties and all prior negotiations and representations are hereby expressly excluded from this Agreement. This Agreement may be amended only by written agreement of both parties. This Agreement may not be assigned without the prior written consent of the other party.
- 13. **NEW EMPLOYEE VERIFICATION** - In accordance with Neb. Rev. Stat. 4-108 through 4-114, the Village of Davey agrees to register with and use a federal immigration

verification system, to determine the work eligibility status of new employees performing services within the state of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324 a, otherwise 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 pursuant to the Immigration Reform and Control Act of 1986. Village of Davey shall not discriminate against any employee or applicant for employment to be employed in the performance of this section pursuant to the requirements of state law and 8 U.S.C.A. 1324b. The Village of Davey shall require any subcontractor to comply with the provisions of this section. For information on the E-Verify Program, go to www.uscis.gov/everify.

14. **SEVERABILITY & SAVINGS CLAUSE** – Each section and each subdivision of a section of this Agreement is hereby declared to be independent of every other section or subdivision of a section so far as inducement for the acceptance of this Agreement and invalidity of any section or subdivision of a section of this Agreement shall not invalidate any other section or subdivision of a section thereof.
15. **CAPACITY** – The undersigned persons representing the Village of Davey and the City of Lincoln do hereby agree and represent that he or she is legally capable and authorized to sign this Agreement and to lawfully bind the Village of Davey or the City of Lincoln to this Agreement.

IN WITNESS WHEREOF, the Village of Davey and the City of Lincoln do hereby execute this Agreement.



James Kaiser
Chairman of the Davey Board of Trustees
17810 N 2nd St
Davey, NE 68336

Chris Beutler
Mayor of Lincoln
555 South 10th Street
Lincoln, Nebraska 68508

2/09/14

Date of Execution

Date of Execution

VILLAGE OF DAVEY

ORDINANCE NO. 14-02

AN ORDINANCE TO ADOPT THE STANDARDS AND REGULATIONS FOR LANCASTER COUNTY REGARDING ON-SITE WASTEWATER TREATMENT FACILITIES, INSPECTION OF ON-SITE WATER SUPPLY SYSTEMS AND WASTEWATER TREATMENT SYSTEMS PRIOR TO THE SALE, TRANSFER OR CONVEYANCE OF PROPERTY, AND AIR POLLUTION CONTROL, IN ORDER TO MEET THE REQUIREMENTS FOR AN INTERLOCAL AGREEMENT WITH THE LINCOLN-LANCASTER COUNTY HEALTH DEPARTMENT FOR THE PURPOSE OF PROVIDING HEALTH REGULATION INSPECTION AND ENFORCEMENT WITHIN THE CORPORATE LIMITS AND ONE-MILE JURISDICTION OF THE VILLAGE OF DAVEY, WHICH AGREEMENT IS TO BE APPROVED AND ADOPTED.

BE IT ORDAINED BY THE CHAIRPERSON AND THE BOARD OF TRUSTEES OF THE VILLAGE OF DAVEY, NEBRASKA:

1. Except as provided by specific amendment, the standards and regulations set forth in Lancaster County Resolution No. 13-0062 Regulating On-site Wastewater Treatment Systems; Lancaster County Resolution No. 02-31 Design Standards for the Regulation of On-site Wastewater Treatment Systems in Lancaster County; County Resolution No. 13-0064 Procedures for the Inspection of On-site Water Supply Systems and Wastewater Treatment Systems Prior to the Sale, Transfer, or Conveyance of Property in Lancaster County, NE; and County Resolution No. 13-0073 Lancaster County Air Pollution Control Resolution of 1993; copies of which are attached hereto and incorporated herein by this reference, and as amended from time to time, are hereby adopted by reference and incorporated into the Village of Davey ordinances and code.

2. The Agreement Between the City of Lincoln, Nebraska, on behalf of the Lincoln-Lancaster County Health Department ("City"), and the Village of Davey, Nebraska, having an address of 17810 N. 2nd, PO Box 1, Davey, NE 68836, for the purpose of providing health regulation inspection and enforcement within the corporate limits and one-mile jurisdiction of the Village of Davey, drafted March 18, 2013, as amended, is hereby approved and adopted by the Village of Davey, a copy of which is attached hereto and incorporated herein by this reference.

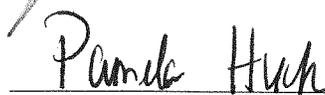
PASSED AND APPROVED this 9th day of February, 2014.

DAVEY VILLAGE BOARD

BY:


James E. Kaiser, Chairmen

ATTEST:


Pamela Huck, Village Clerk

