

## Memorandum

**To:** PPO Subcommittee  
**From:** Amanda Grint, Water Resources Engineer  
**Date:** October 4, 2018  
**Re:** Interlocal Agreement on WP6 and WP7 with the City of Papillion and Sarpy County

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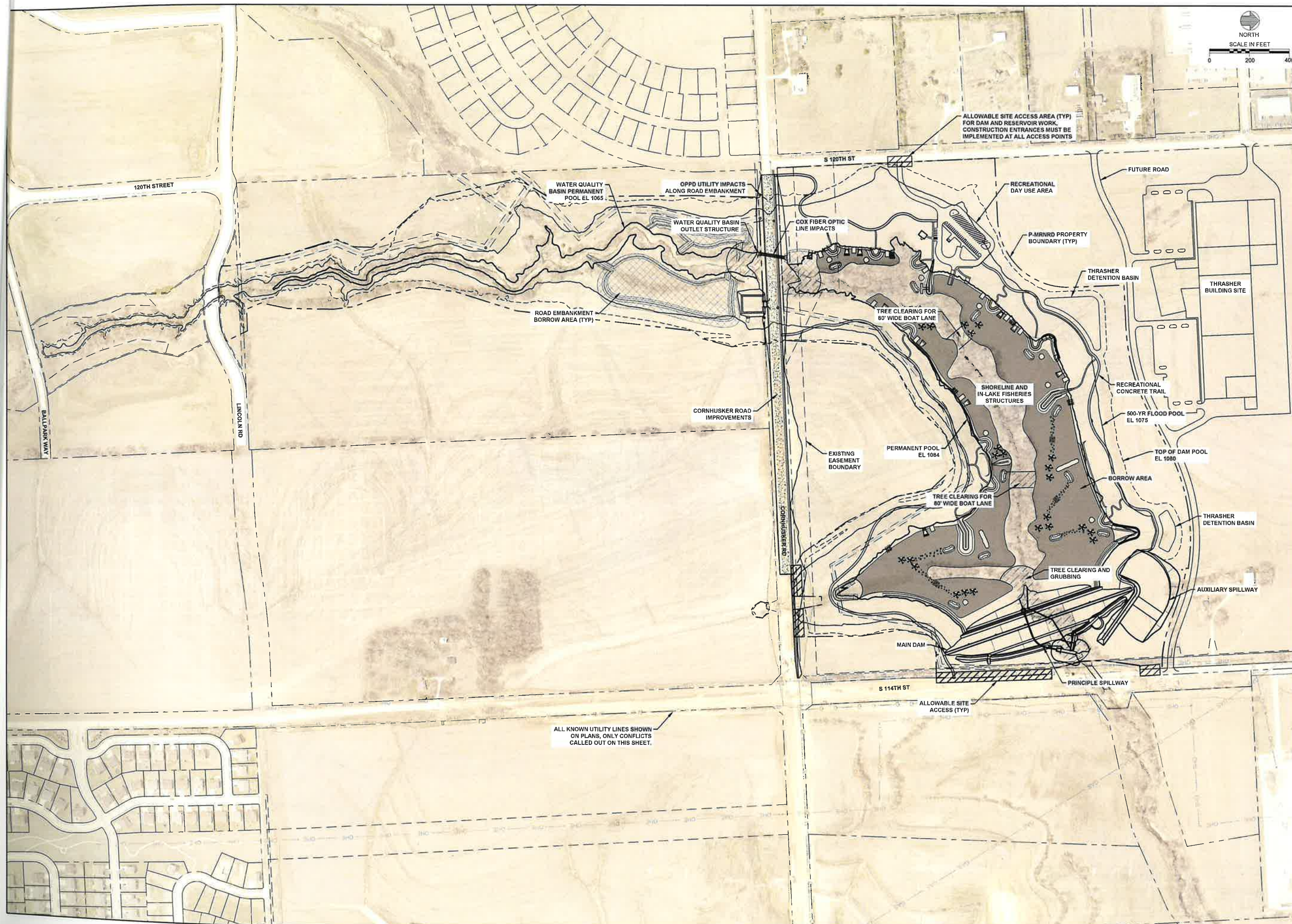
The final design is complete for West Papillion Regional Basins Number 6 and 7 (WP6 and WP7) and the project is out for bid. The attached maps show the location and major features of the two flood control reservoirs. As part of the construction of the reservoirs there were supplemental projects associated with the work that is being shared by the City of Papillion and Sarpy County. The proposed interlocal agreement outlines the shared project costs and future maintenance of the WP6 and WP7 projects.

The following is a summary of the major provisions in the agreement:

- Design and Construction of WP6, WP7 and Road Sub-Projects to be carried out by the NRD.
- City Road Sub-Project, Cornhusker Road paving from 120<sup>th</sup> to 114<sup>th</sup>, and associated costs to be reimbursed by the City of Papillion.
- County Road Sub-Project, Cornhusker Road embankment from 108<sup>th</sup> to Wittmus Road, and associated costs to be reimbursed by Sarpy County.
- Naming rights for WP6 are assigned to the City of Papillion and the naming rights for WP7 are assigned to the NRD.
- Operation and maintenance of the flood control portions of the project and the mitigation areas to remain with the NRD.
- Ownership and operation and maintenance of the project land and recreation features to be transferred to the City of Papillion for WP6 upon completion and transferred to the City of Papillion for WP7 pending adjacent annexation or a period of 5 years from completion.


**Staff recommends that the Subcommittee recommend to the Board that the General Manager be authorized to execute the proposed Papio Watershed Regional Flood Control Detention Basins WP-6 and WP-7 Interlocal Agreement with the City of Papillion and Sarpy County subject to changes deemed necessary by the General Manager and approval as to form by District Legal Counsel.**





NORTH

SCALE IN FEET

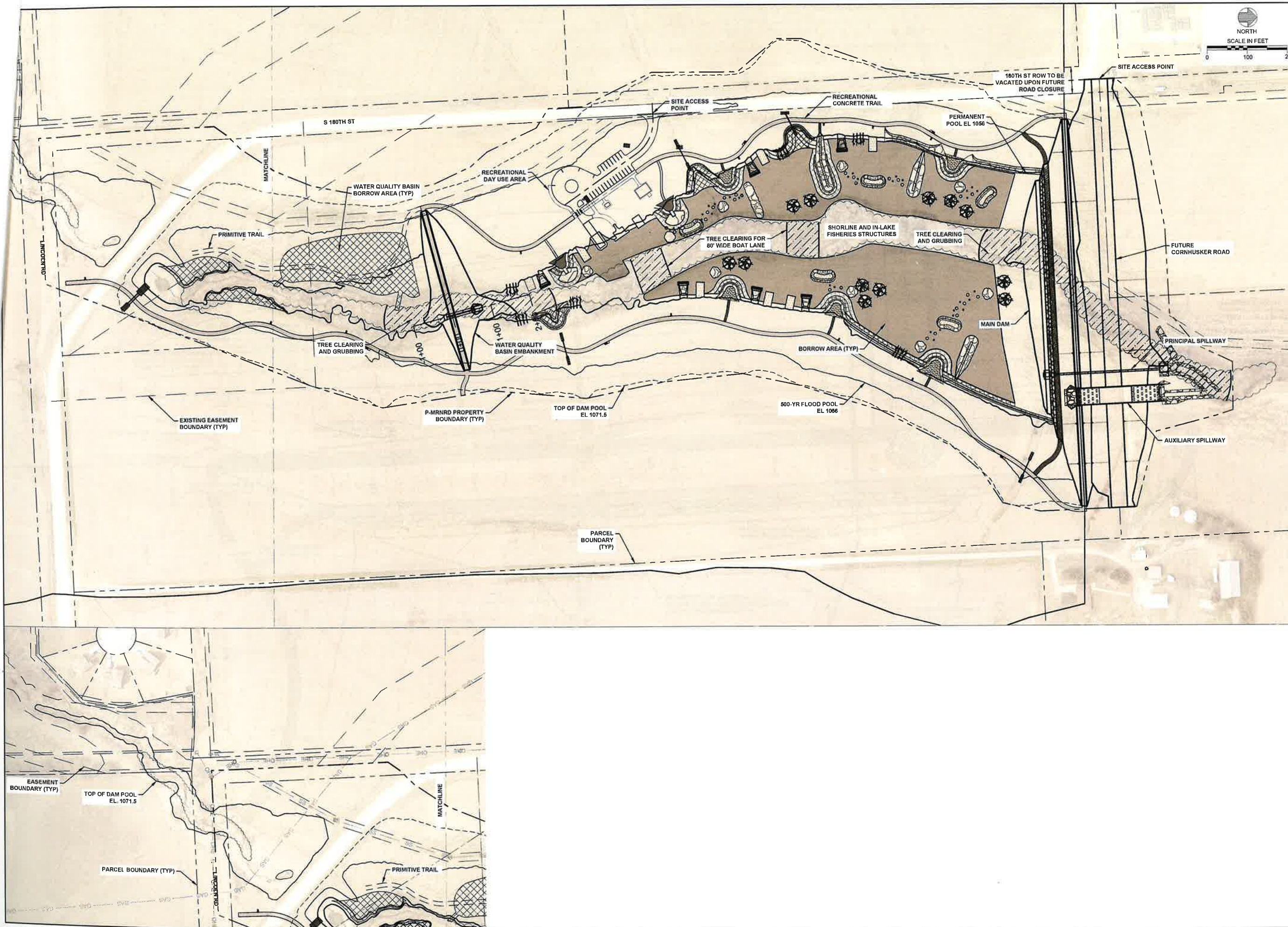
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RESERVOIR PLAN	2018
REGIONAL DETENTION BASIN WP-6	
PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT	

DESIGNED BY: \_\_\_\_\_  
DRAWN BY: \_\_\_\_\_  
CHECKED BY: \_\_\_\_\_  
QA / QC BY: \_\_\_\_\_  
PROJECT NO.: 001-14  
DATE: MARCH 20

SHEET NO.  
B.1





ENGINEER'S SEAL

DATE

BY

REVISIONS

NO.

RESERVOIR PLAN

REGIONAL DETENTION BASIN WP-7

PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT

SARPY COUNTY, NEBRASKA

2018

DESIGNED BY: SEM

DRAWN BY: SEM

CHECKED BY: MKS

QA / QC BY: LR

PROJECT NO: 001-1400

DATE: MAY 2017

SHEET NO

B.1



**INTERLOCAL COOPERATION ACT AGREEMENT**

**Among**

**THE COUNTY OF SARPY, NEBRASKA,**

**THE CITY OF PAPILLION, NEBRASKA,**

**And**

**THE PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT**

**For**

**PAPIO WATERSHED REGIONAL FLOOD CONTROL DETENTION BASINS**

**WP-6 and WP-7**

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**THIS AGREEMENT ("THIS AGREEMENT")** is made pursuant to the Nebraska Interlocal Cooperation Act, Neb. Rev. Stat. §§ 13-801 to 13-827, et seq., by and between the **PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT** ("the **NRD**"), the **CITY OF PAPILLION, NEBRASKA** ("the **CITY**"), and the **COUNTY OF SARPY, NEBRASKA** ("the **COUNTY**"), collectively (the "**PARTIES**").

**RECITALS:**

**WHEREAS**, the NRD commissioned the Papillion Creek Multi-Reservoir Analysis, which was completed in September 2004 and which identified the need for flood control projects within the rapidly developing Papillion Creek watershed; and,

**WHEREAS**, the Implementation Plan of the Papillion Creek Watershed Partnership's Watershed Plan has identified flood control projects to be completed within the five-year period of 2014-2019; and,

**WHEREAS**, such identified projects include a multi-purpose flood control and recreation dam and reservoir project, including an associated water quality basin, that the **PARTIES** desire to

have constructed by the NRD on a site near 114<sup>th</sup> Street and Cornhusker Road in Sarpy County (collectively “the **WP-6 PROJECT**”); and,

**WHEREAS**, such identified projects include a multi-purpose flood control and recreation dam and reservoir project, including an associated water quality basin, that the PARTIES desire to have constructed by the NRD on a site near 108<sup>th</sup> Street and Lincoln Road in Sarpy County (collectively “the **WP-7 PROJECT**”); and,

**WHEREAS**, the PARTIES desire to provide herein for the cooperative design, construction, operation, maintenance, repair, replacement, regulation and ownership of the WP-6 PROJECT and the WP-7 PROJECT (collectively “the **FLOOD CONTROL PROJECTS**”) and to specify the rights, duties and obligations of the PARTIES in connection therewith.

**NOW, THEREFORE**, for and in consideration of the foregoing recitals and the mutual covenants of the parties hereinafter expressed, the PARTIES agree as follows:

**1. PROJECT PARTICIPANTS.** The FLOOD CONTROL PROJECTS shall be undertaken by the PARTIES, as provided herein, without any separate entity being created, and the duties and responsibilities of the PARTIES with respect to the FLOOD CONTROL PROJECTS shall be as defined by THIS AGREEMENT.

**2. PROJECT LAND.** The WP-6 PROJECT shall be constructed on parcels of land in Sections 22 and 27, all in Township 14 North, Range 12 East of the 6<sup>th</sup> P.M. in Sarpy County, Nebraska, conceptually depicted and as identified as “P-MRNRD Property Boundary (TYP)” in the document attached hereto as Exhibit "A" and incorporated herein by reference; and the WP-7 PROJECT shall be constructed on parcels of land in Sections 21 and 28, all in Township 14 North, Range 12 East of the 6<sup>th</sup> P.M. in Sarpy County, Nebraska, conceptually depicted and as identified as “P-MRNRD Property

Boundary (TYP)” in the document attached hereto as Exhibit "B" and incorporated herein by reference (collectively, “the **PROJECT LAND**”).

**3. PRINCIPAL PROJECT COMPONENTS.** The FLOOD CONTROL PROJECTS shall consist of the design, construction, engineering observation and administration of construction, at the NRD's sole cost and expense, of the following principal project components, to-wit:

a) The WP-6 PROJECT dam, reservoir and water quality basin on the PROJECT LAND; and,

b) The WP-7 PROJECT dam, reservoir and water quality basin on the PROJECT LAND; and,

c) Wetland, channel, and riparian mitigation improvements ("the **MITIGATION IMPROVEMENTS**") on the PROJECT LAND required by the U.S. Army Corps of Engineers ("the **CORPS**") as a condition precedent to the issuance of Section 404 permits for the FLOOD CONTROL PROJECTS; and,

d) Basic recreational improvements that the NRD desires to have constructed at its own cost and expense for its own public purposes on the PROJECT LAND (the "**NRD'S RECREATIONAL IMPROVEMENTS**"), which include a bicycle-pedestrian trail around each of the reservoirs located on the PROJECT LAND, in-park access roads to recreational improvements, two concrete boat ramps, two kayak launches, two picnic areas, two shelters, two rest rooms, two parking lots and fishery enhancements.

**4. SUB-PROJECTS.** The following projects (“the **SUB-PROJECTS**”) will be carried out by the respective PARTIES, to-wit:

a) Contemporaneously with construction of the WP-6 PROJECT, a sub-project to modify and improve a portion of the CITY'S Cornhusker Road from 120<sup>th</sup> Street to 114<sup>th</sup> Street will be designed and constructed, through contracts awarded by the NRD (the "**CITY ROAD SUB-PROJECT**"). The CITY ROAD SUB-PROJECT includes the following: additional embankment for three-lane road section, road culvert extension, one lane of 9" concrete pavement from approximate Station 0+63 to 10+00 as depicted on the FINAL PLANS (as defined in paragraph 9 below), two lanes of 9" concrete pavement from approximate Station 10+00 to 20+57 as depicted on the FINAL PLANS (as defined in paragraph 9 below), 1,730 feet of 6" concrete trail, associated storm sewer and associated roadway features. The NRD shall grant to the CITY, its successors and assigns each easements and rights-of-way over PROJECT LAND as may be needed for the road improvement portion of the CITY ROAD SUB-PROJECT at no expense to the CITY.

b) Contemporaneously with construction of the WP-7 PROJECT, a sub-project to extend Cornhusker Road from 108<sup>th</sup> Street to Wittmus Road will be designed and constructed, through contracts awarded by the NRD ("the **COUNTY ROAD SUB-PROJECT**"). The COUNTY ROAD SUB-PROJECT includes the following: additional embankment to accommodate the profile and ultimate section of future Cornhusker Road, the extension of dam drains and principal spillway pipes and auxiliary spillway through the additional embankment width, two lane bridge over auxiliary spillway, sanitary sewer and storm sewer improvements. The NRD shall grant to the COUNTY, its successors and assigns each easements and rights-of-way over PROJECT LAND as may be needed for the road and bridge improvement portion of the COUNTY ROAD SUB-PROJECT at no expense to the COUNTY.

**5. GENERAL BENEFIT.** The PARTIES do hereby find and agree that the FLOOD CONTROL PROJECTS and the SUB-PROJECTS will be of general benefit to the PARTIES, with only an incidental special benefit.

**6. THE ENGINEERS.** The NRD shall retain engineering consultants (“the ENGINEERS”), approved by the CITY and the COUNTY, to design the FLOOD CONTROL PROJECTS and SUB-PROJECTS and to prepare plans and specifications and contract documents for, and administer construction of, the FLOOD CONTROL PROJECTS and SUB-PROJECTS.

**7. PRELIMINARY PLANS.** The ENGINEERS shall prepare preliminary plans and specifications for the FLOOD CONTROL PROJECTS and SUB-PROJECTS (collectively, “the PRELIMINARY PLANS”), in accordance with the provisions of THIS AGREEMENT, subject to the following:

a) The PRELIMINARY PLANS shall be drawn in accordance with design criteria provided by the General Manager of the NRD.

b) The PRELIMINARY PLANS shall be in compliance with applicable Nebraska state and federal statutes, rules and regulations.

c) The PRELIMINARY PLANS shall be in accordance with the CITY and the COUNTY design standards, rules and regulations.

d) The PRELIMINARY PLANS shall include plans, provisions or allowances for the principal components of the FLOOD CONTROL PROJECTS and for the SUB-PROJECTS.

**8. APPROVAL OF PRELIMINARY PLANS.** After the ENGINEERS’ completion of the PRELIMINARY PLANS, and approval of the same by the NRD, the



PRELIMINARY PLANS shall be submitted to the CITY and the COUNTY for their written approval, such approval to not be unreasonably withheld or delayed.

**9. PREPARATION OF FINAL PLANS.** After receipt by the NRD of the CITY and the COUNTY written approval of the PRELIMINARY PLANS, the NRD shall direct the ENGINEERS to prepare final plans and specifications for the FLOOD CONTROL PROJECTS and the SUB-PROJECTS (collectively, “the **FINAL PLANS**”), in accordance with the provisions of THIS AGREEMENT, subject to the following:

a) The FINAL PLANS shall be drawn in accordance with design criteria provided by the General Manager of the NRD.

b) The FINAL PLANS shall be in compliance with applicable Nebraska state and federal statutes, rules and regulations.

c) The FINAL PLANS shall be in accordance with the applicable CITY design standards, rules and regulations for the CITY ROAD SUB-PROJECT and the applicable COUNTY design standards, rules and regulations for the COUNTY ROAD SUB-PROJECT.

d) The FINAL PLANS shall include plans, provisions or allowances for the principal components of the FLOOD CONTROL PROJECTS and for the SUB-PROJECTS.

e) The FINAL PLANS shall include legal descriptions of the PROJECT LAND to be acquired by the NRD at the NRD’s sole cost and expense, as needed for the principal components of the FLOOD CONTROL PROJECTS, and for the SUB-PROJECTS.

f) The FINAL PLANS shall include a cost estimate for the FLOOD CONTROL PROJECTS and the SUB-PROJECTS.

**10. APPROVAL OF FINAL PLANS FOR PROJECT.** After the ENGINEERS' completion of the FINAL PLANS and approval of the same by the NRD, the FINAL PLANS shall be submitted to the CITY and the COUNTY for their written approval. The CITY and the COUNTY shall have a period of 30 days to review and approve or disapprove of the same in writing or suggest amendments thereto. Such approval shall not be withheld or delayed unreasonably.

**11. CONSTRUCTION CONTRACT.** After receipt by the NRD of the CITY and COUNTY written approval of the FINAL PLANS, the NRD shall deliver to the CITY and the COUNTY for their approval (such approval to not be withheld or delayed unreasonably) the NRD's proposed contract documents ("the **CONTRACT DOCUMENTS**") for competitive bidding for construction of the FLOOD CONTROL PROJECTS and the SUB-PROJECTS. The CITY and the COUNTY shall have a period of 14 days to review the **CONTRACT DOCUMENTS** and to approve or disapprove of the same in writing or suggest amendments thereto. Such approvals shall not be withheld or delayed unreasonably.

**12. CONSTRUCTION OF THE FLOOD CONTROL PROJECTS.** After the CITY and the COUNTY approve of the **CONTRACT DOCUMENTS**, and in accordance with the NRD's purchasing regulations, the NRD will seek competitive bids for construction of the FLOOD CONTROL PROJECTS and the SUB-PROJECTS. Upon receipt of the competitive bids, the NRD shall make the bids available to the CITY and COUNTY for review. The CITY shall review the CITY ROAD SUB-PROJECT portion of the competitive bids within ten (10) days from when the NRD makes the bids available to the CITY. The COUNTY shall review the COUNTY ROAD SUB-PROJECT portion of the competitive bids within ten (10) days from when the NRD

makes the bids available to the COUNTY. The NRD shall award the contract for such construction to the bidder that the NRD determines provides the lowest responsible bid.

**13. CONTRACTOR'S WARRANTIES.** The NRD shall enforce all bonds and warranties given by the ENGINEERS, construction contractors and their subcontractors, including without limitation bonds and warranties given in connection with or pertaining to the SUB-PROJECTS.

**14. ALLOCATION OF COSTS.** Except as otherwise provided in THIS AGREEMENT,

a) the NRD shall pay, without CITY or COUNTY reimbursement, all the costs of acquisition of PROJECT LAND and of design and construction of the FLOOD CONTROL PROJECTS; and,

b) the NRD shall pay, and the CITY shall reimburse the NRD for, the actual costs of design, construction, engineering observation and administration of construction of the CITY ROAD SUB-PROJECT, estimated by the ENGINEERS in the approximate amount of \$850,000 for the items identified in the list attached hereto as Exhibit "C" and incorporated herein by reference. The CITY shall review, within ten (10) days of receipt, any required change orders for the CITY ROAD SUB-PROJECT which may exceed ten (10) percentage of the actual bid costs of the CITY ROAD SUB-PROJECT portion of the awarded bid; and,

c) the NRD shall pay, and the COUNTY shall reimburse the NRD for the costs of design, construction, engineering observation and administration of construction of the COUNTY ROAD SUB-PROJECT, previously estimated by the ENGINEERS in the approximate amount of \$1.36 million for the items identified in the list attached hereto as



Exhibit “D” and incorporated herein by reference. The COUNTY shall review, within ten (10) days of receipt, any required change orders for the COUNTY ROAD SUB-PROJECT which may exceed ten (10) percentage of the actual bid costs of the COUNTY ROAD SUB-PROJECT portion of the awarded bid.

**15. PAYMENT OF COSTS.** Reimbursement by the CITY for the actual costs of design, construction, engineering, observation and administration of construction of the CITY ROAD SUB-PROJECT shall be due and payable to the NRD sixty (60) days after issuance of the engineering certificate of substantial completion of the FLOOD CONTROL PROJECTS and the SUB-PROJECTS. Reimbursement by the COUNTY for the actual costs of design, construction, engineering observation and administration of construction of the COUNTY ROAD SUB-PROJECT shall be due and payable to the NRD as follows: 50% shall be paid March 1, 2021 and 50% shall be paid June 1, 2022.

**16. NAMING RIGHTS.** The NRD, the CITY, and the COUNTY shall have the responsibility of gathering public input on the names for the WP-6 PROJECT and WP-7 PROJECT. After receiving input from the public and written recommendations from the NRD and COUNTY, the CITY shall have sole discretion in the selection of the name of the WP-6 PROJECT. After receiving input from the public and written recommendations from the CITY and COUNTY, the NRD shall have sole discretion in the selection of the name of the WP-7 PROJECT.

**17. CONSTRUCTION OBSERVATION.** The NRD will provide for engineering observation and administration of construction of the FLOOD CONTROL PROJECTS and SUB-PROJECTS and the CITY and COUNTY shall be given the opportunity to fully observe such construction at all reasonable hours and upon its request contemporaneously receive from

the NRD copies of all written communications between or issued by the NRD and/or the ENGINEERS and/or the contractors pertaining to such construction, including but not limited to, statements by the ENGINEERS as to percentage of completion and substantial completion.

**18. PERMITS.** The NRD, at its sole cost and expense, shall obtain all of the parcels of land and all easements comprising the PROJECT LAND and all other permits and rights-of-way, including without limitation, licenses, easements, water rights, and permits or consents from the CORPS or other federal, state or local agencies, as may be required or convenient for construction, and/or for permanent operation and maintenance of the FLOOD CONTROL PROJECTS, and the SUB-PROJECTS.

**19. OPERATION AND MAINTENANCE.** After completion of construction of the FLOOD CONTROL PROJECTS,

a) the NRD, at its sole cost and expense, shall permanently operate, maintain, repair, replace and regulate the dam structures located at the WP-6 PROJECT and WP-7 PROJECT (collectively, “**DAMS**”), which shall be deemed to consist of all that portion of the PROJECT LAND, and all flood control improvements located within the footprint of the DAMS and within the footprint of the WP-7 PROJECT water quality basin embankment, as the same are depicted in the FINAL PLANS; and

b) the NRD, at its sole cost and expense, shall operate, maintain, repair, replace and regulate the MITIGATION IMPROVEMENTS during the CORPS-required monitoring period and until they are finally accepted by the CORPS. Thereafter, the CITY, at its sole cost and expense, shall permanently operate, maintain, repair, replace and regulate the MITIGATION IMPROVEMENTS; and,

c) the NRD, at its sole cost and expense, shall operate, maintain, repair, replace and regulate the remaining principal project components of the WP-7 PROJECT for five (5) years after completion of construction or until the CITY annexes any land adjacent to the WP-7 PROJECT portion of the PROJECT LAND which is conceptually depicted in Exhibit "B," whichever occurs first. Upon the occurrence of either of the above-listed events, whichever occurs first, the CITY shall take possession of and, at its sole cost and expense, shall permanently operate, maintain, repair, replace and regulate the remaining principal project components of the WP-7 PROJECT; including without limitation:

- i) the reservoir located at the WP-7 PROJECT, which shall be operated as a no-wake lake;
- ii) the NRD'S RECREATIONAL IMPROVEMENTS;
- iii) the water quality basin located at the WP-7 PROJECT (excluding the water quality basin's embankment footprint), without any right or duty to dredge the same for the purposes of maintaining open water; and,

d) the CITY shall take possession of and, at its sole cost and expense, shall permanently operate, maintain, repair, replace and regulate the remaining principal project components of the WP-6 PROJECT, including without limitation:

- i) the reservoir located at the WP-6 PROJECT, which shall be operated as a no-wake lake;
- ii) the NRD'S RECREATIONAL IMPROVEMENTS;
- iii) the water quality basin located at the WP-6 PROJECT, without any right or duty to dredge the same for the purposes of maintaining open water; and,



e) the CITY shall take possession of and, at its sole cost and expense, shall permanently operate, maintain, repair, replace and regulate the CITY ROAD SUB-PROJECT, as located on the remainder of the lands to be conveyed by the NRD to the CITY in accordance with THIS AGREEMENT; and

f) the COUNTY shall take possession of and, at its sole cost and expense, shall permanently operate, maintain, repair, replace and regulate the road and bridge improvements of the COUNTY ROAD SUB-PROJECT (not including all flood control improvements, such as dam drains, principal spillway pipes, and auxiliary spillway) within the right of way dedicated for Cornhusker Road, as depicted on the attached Exhibit B.

## **20. INDEMNIFICATION.**

a) The CITY shall defend, indemnify, and hold the NRD and COUNTY harmless from and against all costs and expenses, including attorneys' fees and court costs, resulting from claims, demands or causes of action for personal injury or property damage arising out of or resulting from the CITY'S operation, maintenance, repair, replacement, or regulation of the principal project components of the FLOOD CONTROL PROJECTS (except the DAMS) which the CITY has taken possession of pursuant to paragraph 21 below, and the CITY'S ROAD SUB-PROJECT, and excepting any costs, loss or damage solely caused by the negligence of the NRD or solely caused by the negligence of the COUNTY.

b) The NRD shall defend, indemnify, and hold the CITY and COUNTY harmless from and against all costs and expenses, including attorneys' fees and court costs, resulting from claims, demands or causes of action for personal injury or property

damage arising out of or resulting from the NRD'S operation, maintenance, repair, replacement, or regulation of the DAMS, and the MITIGATION IMPROVEMENTS (prior to their acceptance by the CORPS), and the WP-7 PROJECT (prior to the CITY taking possession of the principal project components pursuant to paragraph 21 below) and excepting any costs, loss or damage solely caused by the negligence of the CITY or solely caused by the negligence of the COUNTY.

c) The COUNTY shall defend, indemnify, and hold the NRD and the CITY harmless from and against all costs and expenses, including attorneys' fees and court costs, resulting from claims, demands or causes of action for personal injury or property damage arising out of or resulting from the COUNTY'S operation, maintenance, repair, replacement, or regulation of the road and bridge improvements of the COUNTY ROAD SUB-PROJECT (not including all flood control improvements, such as dam drains, principal spillway pipes, and auxiliary spillway) within the right of way dedicated for Cornhusker Road as depicted on the attached Exhibit B, excepting any costs, loss or damage solely caused by the negligence of the NRD or solely caused by the negligence of the CITY.

## **21. POST-CONSTRUCTION GRANTS AND CONVEYANCES.**

a) Upon final completion of construction of the FLOOD CONTROL PROJECTS, the NRD shall convey the WP-6 PROJECT portion of the PROJECT LAND to the CITY, and the WP-7 PROJECT portion of the PROJECT LAND to the CITY upon the CITY's annexation of any land adjacent to the WP-7 PROJECT portion of the PROJECT LAND or five (5) years after completion of construction of the FLOOD CONTROL PROJECTS, whichever occurs first, except portions thereof conveyed to COUNTY for road purposes, provided however,

i) in such conveyance the NRD shall reserve for itself and for its successors and assigns the following permanent rights, to-wit:

1) the right to construct, operate, maintain, repair, replace, and regulate the DAMS in the PROJECT LAND (including the WP-7 PROJECT water quality basin embankment); and,

2) the right to have unrestricted use and access over and across the PROJECT LAND by any route or means and for any purpose referred to in THIS AGREEMENT; and

3) the right to flow waters and sediment upon, and inundate, all those portions of the PROJECT LAND which have a ground surface elevation lower than the elevation of the top of the DAMS (“the **MAXIMUM POOL**”); and,

4) The right to enforce the following permanent restrictions, to-wit:

(a) WP-6 PROJECT “REGULATORY POOL STRUCTURE RESTRICTION. The CITY shall not construct, maintain or permit structures, fixtures or other improvements, other than recreational trail improvements, lighting, landscaping, boat docking facilities and signage, in any areas of the PROJECT LAND, within the watershed of the dam located at the WP-6 PROJECT, having a ground surface elevation lower than 1,076.0 feet above mean sea level, NAVD 1988, which elevation parties agree is approximately one foot (1’) above the mean sea level elevation of the 500-year flood pool of the reservoir located at the WP-6 PROJECT.

(b) WP-7 PROJECT “REGULATORY POOL STRUCTURE RESTRICTION. The CITY shall not construct, maintain or permit structures, fixtures or other improvements, other than recreational trail improvements, lighting, landscaping, boat docking facilities and signage, in any areas of the PROJECT LAND, within the watershed of the dam located at the WP-7 PROJECT, having a ground surface elevation lower than



1,067.0 feet above mean sea level, NAVD 1988, which elevation parties agree is approximately one foot (1') above the mean sea level elevation of the 500-year flood pool of the reservoir located at the WP-7 PROJECT.

(c) WP-6 PROJECT REGULATORY POOL EXCAVATION AND FILL RESTRICTION. The CITY shall not fill, nor permit filling of, any areas of the PROJECT LAND, within the watershed of the dam located at the WP-6 PROJECT, having a ground surface elevation lower than 1,076.0 feet above mean sea level, NAVD 1988, without balancing such placement with a permanent borrowing and removal of an equivalent amount of earth fill from such areas, and without the prior written approval of the NRD of the plans for such activities, such approval to not be withheld or delayed unreasonably.

(d) WP-7 PROJECT REGULATORY POOL EXCAVATION AND FILL RESTRICTION. The CITY shall not fill, nor permit filling of, any areas of the PROJECT LAND, within the watershed of the dam located at the WP-7 PROJECT, having a ground surface elevation lower than 1,067.0 feet above mean sea level, NAVD 1988, without balancing such placement with a permanent borrowing and removal of an equivalent amount of earth fill from such areas, and without the prior written approval of the NRD of the plans for such activities, such approval to not be withheld or delayed unreasonably.

(e) WP-6 PROJECT MAXIMUM POOL EXCAVATION AND FILL RESTRICTION. The CITY shall not fill, nor permit filling of, any areas of the PROJECT LAND, within the watershed of the dam located at the WP-6 PROJECT, having a ground surface elevation higher than 1,076.0 feet above mean sea level and lower than 1,080.0 feet above mean sea level, NAVD 1988 (MAXIMUM POOL), without balancing such placement with a permanent borrowing and removal of an equivalent amount of earth fill from such areas, and without the prior written approval of the NRD of the

plans for such activities, such approval to not be withheld or delayed unreasonably.

(f) WP-7 PROJECT MAXIMUM POOL EXCAVATION AND FILL RESTRICTION. The CITY shall not fill, nor permit filling of, any areas of the PROJECT LAND, within the watershed of the dam located at the WP-7 PROJECT,, having a ground surface elevation higher than 1,067.0 feet above mean sea level and lower than 1,071.5 feet above mean sea level, NAVD 1988 (MAXIMUM POOL), without balancing such placement with a permanent borrowing and removal of an equivalent amount of earth fill from such areas, and without the prior written approval of the NRD of the plans for such activities, such approval to not be withheld or delayed unreasonably.

ii) Such conveyance(s) shall also include and be subject to the following permanent restrictions on the lands occupied by the MITIGATION IMPROVEMENTS required by the CORPS, that shall run with the PROJECT LAND and be binding upon the parties and their heirs, successors and assigns, to-wit:

a) there shall be no construction or placement of structures or mobile homes, fences, signs, billboards or other advertising material, or other structures, whether temporary or permanent, on the PROJECT LAND occupied by MITIGATION IMPROVEMENTS; and,

b) there shall be no filling, draining, excavating, dredging, mining, drilling or removal of topsoil, loam, peat, sand, gravel, rock, minerals or other materials on the PROJECT LAND occupied by MITIGATION IMPROVEMENTS; and

c) there shall be no building of roads or paths for vehicular or pedestrian travel or any change in the topography of the PROJECT LAND occupied by MITIGATION IMPROVEMENTS; and,

d) there shall be no removal, destruction, or cutting of trees or plants, spraying with biocides, insecticides, or pesticides, grazing of animals, farming, tilling of soil, or other agricultural activity on the PROJECT LAND occupied by MITIGATION IMPROVEMENTS; and,

e) there shall be no operation of all-terrain vehicles or any other type of motorized vehicle on the on the PROJECT LAND occupied by MITIGATION IMPROVEMENTS, other than in roads and parking areas; and,

f) these restrictions may be changed, modified or revoked only upon written approval of the District Engineer of the Omaha District of the CORPS and to be effective, such approval must be witnessed, authenticated, and recorded pursuant to the law of the State of Nebraska.

(b) Upon final completion of construction of the FLOOD CONTROL PROJECTS, the NRD shall convey the right of way for Cornhusker Road as depicted on the attached Exhibit B, including the road and bridge improvements and the storm sewer and its appurtenances, to the COUNTY, provided however in such conveyance the NRD shall reserve for itself and for its successors and assigns the following permanent rights, to-wit:

1) the right to construct, operate, maintain, repair, replace, and regulate the DAMS adjacent, under and on the dedicated right of way; and,

2) the right to have unrestricted use and access over and across the dedicated right of way by any route or means and for any purpose referred to in THIS AGREEMENT.

**22. RISK OF LOSS.** After completion of construction of the FLOOD CONTROL PROJECTS and conveyance of PROJECT LAND to the CITY and COUNTY, the risk of loss of or damage to components or facilities of the FLOOD CONTROL PROJECTS shall be borne by the party that has an obligation hereunder to operate and maintain such components or facilities, whether such loss or damage results from flood or other casualty whatsoever.

**23. APPROVALS.** Wherever THIS AGREEMENT speaks of approval and/or consent:

a) such approval and/or consent by the CITY shall be provided by act of the CITY'S Mayor, Public Works Director or Parks, Recreation, and Public Property Director; and,

b) such approval and/or consent by the NRD shall be provided by act of the General Manager of the NRD; and,

c) such approval and/or consent by the COUNTY shall be provided by act of the Board of Commissioners of the COUNTY.

**24. NONDISCRIMINATION.** The PARTIES shall not, in the performance of THIS AGREEMENT, discriminate or permit discrimination in violation of federal or state laws or local ordinances because of race, color, sex, age, disability under the Americans with Disabilities Act, political or religious opinions, affiliations or national origin.



**25. CAPTIONS.** Captions used in THIS AGREEMENT are for convenience and are not used in the construction of THIS AGREEMENT.

**26. APPLICABLE LAW.** The PARTIES to THIS AGREEMENT shall conform to all existing and applicable state laws, federal laws, and all existing and applicable rules and regulations. Nebraska law will govern the terms and the performance under THIS AGREEMENT.

**27. MERGER.** THIS AGREEMENT shall not be merged into any other oral or written agreement, lease or deed of any type.

**28. MODIFICATION.** THIS AGREEMENT contains the entire agreement of the PARTIES. No representations were made or relied upon by either of the PARTIES other than those that may be expressly set forth herein. No agent, employee or other representative of any PARTY is empowered to alter any of the terms hereof unless done in writing and signed by an authorized officer of such PARTY.

**29. STRICT COMPLIANCE.** All provisions of THIS AGREEMENT and each and every document that shall be attached shall be strictly complied with as written, and no substitution or change shall be made except upon written direction from an authorized representative.

**30. INVALID PROVISIONS.** In the event that any covenant, condition, or provision herein contained is held to be invalid by any court of competent jurisdiction, the invalidity of any such covenant, condition, or provision herein contained shall not affect the validity of the remainder of the covenants, conditions or provisions of THIS AGREEMENT, which shall in all respects remain a legally binding agreement with the invalid portion being deleted; provided, however, that the validity of any such covenant, condition, or provision does

not materially prejudice either of the PARTIES in its respective rights and obligations contained in the valid covenants, conditions, or provisions of THIS AGREEMENT.

**31. NON-WAIVER.** No delay or failure by either of the PARTIES to exercise any right under THIS AGREEMENT, and no partial or single exercise of that right, shall constitute a waiver of that or any other right unless otherwise expressly provided herein. A valid waiver by either of the PARTIES shall not be deemed to extend the amount of time available to perform any other act required under THIS AGREEMENT.

**32. FURTHER AGREEMENTS.** Each of the PARTIES will, whenever and as often as the other may request, execute, acknowledge and deliver or cause to be executed, acknowledged and delivered any and all such further conveyances, assignments or other instruments and documents as the requesting party may believe to be necessary, expedient or proper in order to complete any and all conveyances, transfers, and assignments herein provided and to do any and all other acts and to execute, acknowledge and deliver any other documents so requested in order to carry out the intent and purposes of THIS AGREEMENT.

**33. TIME IS OF THE ESSENCE.** Time is expressly declared to be of the essence of THIS AGREEMENT.

**34. EFFECTIVE DATE AND TERM.** THIS AGREEMENT shall become effective upon its execution by all of the PARTIES, and shall be perpetual in its duration.

**35. FUNDING.** THIS AGREEMENT shall be conditional and dependent upon the NRD'S determination that it has adequate funding for the FLOOD CONTROL PROJECTS.

**36. NOTICES.** Any notice required under the terms of THIS AGREEMENT shall be deemed to have been given within forty-eight (48) hours after written notice has been deposited in the United States mail; and

a) Notices to the CITY provided for in THIS AGREEMENT shall be sufficient if sent by certified or registered mail, postage prepaid, addressed to:

[Papillion]

b) Notices to the COUNTY provided for in THIS AGREEMENT shall be sufficient if sent by certified or registered mail, postage prepaid, addressed to:

County Clerk, County of Sarpy  
1210 Golden Gate Dr., Suite 1250  
Papillion, NE 68046

With a copy to:

Sarpy County Public Works  
Chief Deputy Engineer  
15100 South 84th Street  
Papillion, NE 68046

c) Notices to the NRD provided for in THIS AGREEMENT shall be sufficient if sent by certified or registered mail, postage prepaid addressed to:

General Manager  
Papio-Missouri River NRD  
8901 South 154th Street  
Omaha, Nebraska 68138-3621

or to such other respective address(s) as the PARTIES may designate to each other from time to time in writing.

**37. INTERLOCAL COOPERATION ACT PROVISIONS. THIS AGREEMENT** shall not create any separate legal or administrative entity. It shall be administered jointly by the PARTIES, through one representative to be designated by and on behalf of each PARTY. Each PARTY shall separately finance and budget its own duties and functions under THIS AGREEMENT. There shall be no jointly held property as a result of THIS AGREEMENT. Upon termination, each PARTY shall retain ownership of the property it owns at the time of

termination. THIS AGREEMENT does not authorize the levying, collecting or accounting of any tax.

**IN WITNESS WHEREOF**

**THIS AGREEMENT** is executed by the **PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT** on this \_\_\_\_ day of \_\_\_\_\_, 2018, pursuant to resolution duly adopted by its Board of Directors.

**PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT**

By \_\_\_\_\_  
**General Manager**

STATE OF NEBRASKA                    )  
  ) SS.  
COUNTY OF \_\_\_\_\_            )

On this \_\_\_\_ day of \_\_\_\_\_, 2018, before me, a Notary Public, personally came **JOHN WINKLER**, General Manager of the **PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT**, to me personally known to be the identical person whose name is affixed to the above and foregoing instrument, and he/she acknowledged the same to be his voluntary act and deed and the voluntary act and deed of said district.

WITNESS my hand and Notarial Seal the date last aforesaid.

\_\_\_\_\_  
Notary Public

**THIS AGREEMENT** is executed by the **CITY OF PAPILLION, NEBRASKA** on this \_\_\_\_ day of \_\_\_\_\_, 2018, pursuant to ordinance duly adopted by its City Council.

**CITY OF PAPILLION, NEBRASKA**

By \_\_\_\_\_  
**Mayor**

**ATTEST:**

\_\_\_\_\_  
**City Clerk**

STATE OF NEBRASKA                    )  
  ) SS.  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_ day of \_\_\_\_\_, 2018, before me, a Notary Public, personally came [     ], Mayor of the **CITY OF PAPILLION, NEBRASKA** to me personally known to be the identical person whose name is affixed to the above and foregoing instrument, and he acknowledged the same to be his voluntary act and deed and the voluntary act and deed of said City.

WITNESS my hand and Notarial Seal the date last aforesaid.

\_\_\_\_\_  
Notary Public



**THIS AGREEMENT** is executed by the **COUNTY OF SARPY, NEBRASKA** on this \_\_\_\_ day of \_\_\_\_\_, 2018, pursuant to resolution duly adopted by its Board of Commissioners.

**COUNTY OF SARPY, NEBRASKA**

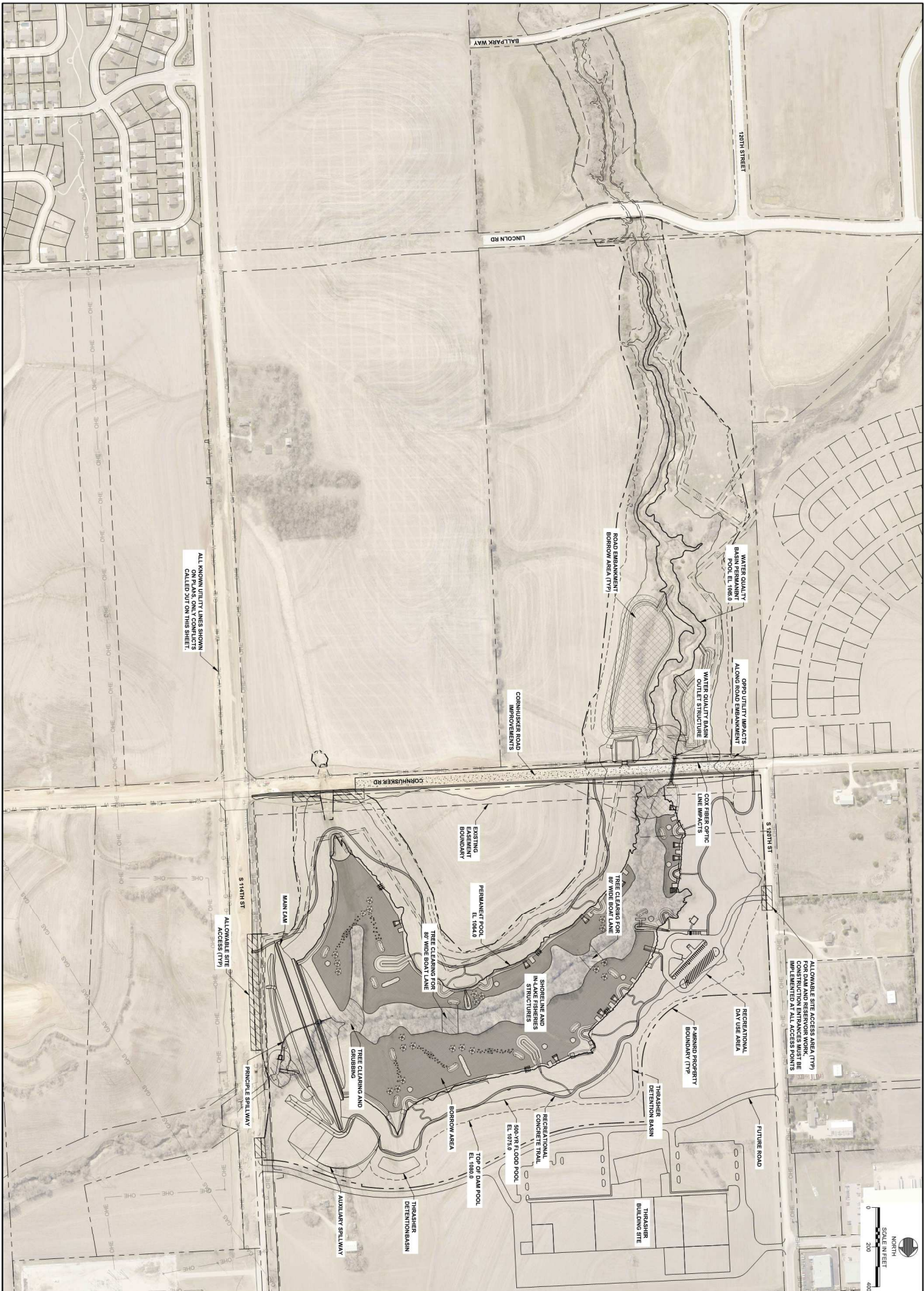
By \_\_\_\_\_  
Chairperson, Board of County Commissioners



STATE OF NEBRASKA                    )  
  ) SS.  
COUNTY OF \_\_\_\_\_          )

On this \_\_\_\_ day of \_\_\_\_\_, 2018, before me, a Notary Public, personally came [     ], Chairperson of the Board of Commissioners of **COUNTY OF SARPY, NEBRASKA** to me personally known to be the identical person whose name is affixed to the above and foregoing instrument, and he acknowledged the same to be his voluntary act and deed and the voluntary act and deed of said City.

WITNESS my hand and Notarial Seal the date last aforesaid.

\_\_\_\_\_  
Notary Public



SHEET NO.  B.1	DESIGNED BY: JMM CHECKED BY: JMM PROJECT NO: 200-1420 DATE: 6/20/2018	RESERVOIR PLAN		NO.	REVISIONS		BY	DATE	 ENGINEER'S SEAL	
		REGIONAL DETENTION BASIN WP-6								
		PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT								
		SARPY COUNTY, NEBRASKA		2018						





**EXHIBIT C**  
**WP6 CITY ROAD SUB PROJECT**

**CORNHUSKER ROAD**

ITEM DESCRIPTION	UNIT	QUANTITY	UNIT COST	COST
EARTH ROAD EMBANKMENT	CY	6,883	\$2.50	\$17,207.50
60" CLASS IV RCP	LF	46	\$550.00	\$25,300.00
SAW CUT - FULL DEPTH	LF	76	\$10.00	\$760.00
REMOVE CONCRETE HEADER	LF	76	\$2.00	\$152.00
REMOVE 15" TO 18" SEWER PIPE	LF	69	\$10.00	\$690.00
REMOVE FLARED END SECTION (LESS THAN 24")	EA	1	\$100.00	\$100.00
REMOVE FLARED END SECTION OVER 36" TO 48"	EA	1	\$500.00	\$500.00
REMOVE MANHOLE	EA	1	\$500.00	\$500.00
REMOVE AREA INLET	EA	1	\$500.00	\$500.00
RECONSTRUCT MANHOLE	VF	22	\$250.00	\$5,500.00
CONSTRUCT 9" CONCRETE PAVEMENT (TYPE L65) W/ INTEGRAL CURB	SY	7,028	\$40.00	\$281,120.00
CONSTRUCT 6" CONCRETE DRIVEWAY (TYPE L65)	SY	51	\$50.00	\$2,550.00
CONSTRUCT 6" PCC RECREATIONAL TRAIL	SF	17,251	\$5.00	\$86,255.00
CONSTRUCT 5" PCC SIDEWALK	SF	4,226	\$4.50	\$19,017.00
CONSTRUCT CURB RAMP	SF	58	\$20.00	\$1,160.00
SUBGRADE COMPACTION	CY	3,349	\$3.00	\$10,047.00
CONSTRUCT W-BEAM GUARDRAIL	LF	375	\$50.00	\$18,750.00
CONSTRUCT 18" RCP, CLASS III	LF	712	\$45.00	\$32,040.00
CONSTRUCT 36" RCP, D(0.01) = 1,350	LF	557	\$90.00	\$50,130.00
CONSTRUCT CURB INLET - TYPE I	EA	8	\$2,500.00	\$20,000.00
CONSTRUCT CURB INLET - TYPE III	EA	4	\$3,000.00	\$12,000.00
CONSTRUCT MODIFIED CURB INLET	EA	2	\$5,000.00	\$10,000.00
CONSTRUCT 18" CONCRETE COLLAR	EA	1	\$500.00	\$500.00
CONSTRUCT 36" CONCRETE COLLAR	EA	1	\$1,000.00	\$1,000.00
INSTALL PERMANENT PREFORMED TAPE MARKING -TYPE 4,5" YELLOW, GROOVED	LF	4,598	\$4.50	\$20,691.00
INSTALL PERMANENT PREFORMED TAPE MARKING - TYPE 4, 5" WHITE, GROOVED	LF	150	\$4.50	\$675.00
INSTALL PERMANENT PREFORMED TAPE MARKING - TYPE4, 24" WHITE, GROOVED	EA	2	\$250.00	\$500.00
INSTALL PERMANENT PREFORMED TAPE MARKING - TYPE "ONLY", WHITE	EA	1	\$250.00	\$250.00
INSTALL TRAFFIC SIGNS AND POSTS	LS	1	\$10,000.00	\$10,000.00
TEMPORARY TRAFFIC CONTROL	LS	1	\$10,000.00	\$10,000.00

<b>Subtotal</b>	<b>\$637,895</b>
<b>20% Contingency</b>	<b>\$127,579</b>
<b>Design</b>	<b>\$17,710</b>
<b>Construction Observation</b>	<b>\$63,575</b>
<b>Total</b>	<b>\$846,758</b>

**Total estimated for CITY ROAD SUB PROJECT                      \$846,758**

**EXHIBIT D**  
**WP7 COUNTY ROAD SUB PROJECT**

## PEDESTRIAN AND CORNHUSKER RD BRIDGES

ITEM DESCRIPTION	UNIT	QUANTITY	UNIT COST	COST
EPOXY COATED REINFORCING STEEL - PEDESTRIAN BRIDGE	LBS	1,860	\$1.25	\$2,325.00
CONCRETE FOR ROAD BRIDGE SLAB - CLASS 47BD-4000	CY	46	\$650.00	\$29,900.00
CONCRETE FOR ROAD BRIDGE RAILS - CLASS 47BD-4000	CY	6	\$750.00	\$4,425.00
EPOXY COATED REINFORCING STEEL - ROAD BRIDGE SLAB	LBS	7,875	\$1.30	\$10,237.50
EPOXY COATED REINFORCING STEEL - ROAD BRIDGE RAILS	LBS	1,170	\$1.50	\$1,755.00
PRECAST/PRESTRESSED CONCRETE SUPERSTRUCTURE	LS	1	\$71,230.00	\$71,230.00
PRECOMPRESSED POLYETHYLENE FOAM JOINT, TYPE B	LF	81	\$95.00	\$7,666.50
CONCRETE FOR PAVEMENT APPROACH SLABS - CLASS 47BD-4000	CY	172	\$400.00	\$68,920.00
CONCRETE FOR PAVEMENT APPROACH RAILS - CLASS 47BD-4000	CY	4	\$750.00	\$3,300.00
EPOXY COATED REINFORCING STEEL - PAVING APPROACH SLABS	LBS	19,835	\$1.10	\$21,818.50
EPOXY COATED REINFORCING STEEL - PAVING APPROACH RAILS	LBS	2,680	\$1.50	\$4,020.00
HP 10 X 42 STEEL PILING	LF	1,560	\$45.00	\$70,200.00
			<b>Subtotal</b>	<b>\$295,797.50</b>

### MAIN DAM AND ROAD EMBANKMENT

ITEM DESCRIPTION	UNIT	QUANTITY	UNIT COST	COST
EARTHEN DAM/ROAD EMBANKMENT - CLASS "A"	CY	70,108	\$2.50	\$175,270.00
STRIP, STOCKPILE, REPLACE/WASTE TOPSOIL	LS	0.5	\$70,000.00	\$35,000.00
COMMON EXCAVATION	CY	7,584	\$2.00	\$15,168.00
48" RCCP - PRINCIPAL SPILLWAY CONDUIT	FT	127	\$646.00	\$82,042.00
FORMED CONCRETE	CY	185	\$850.00	\$157,250.00
CONCRETE SLAB - FIXED CREST AUXILIARY SPILLWAY	CY	246.0	\$650.00	\$159,900.00
STEEL REINFORCEMENT - FORMED CONCRETE	LBS	9,904	\$2.00	\$19,808.00
STEEL REINFORCEMENT - CONCRETE SLAB	LBS	25,792	\$1.30	\$33,529.60
UNFORMED CONCRETE	CY	14	\$250.00	\$3,500.00
FINE SAND	CY	42	\$20.00	\$840.00
AGGREGATE EMBANKMENT	CY	542	\$20.00	\$10,840.00
8" SOLID WALL PVC PIPE	FT	387	\$10.00	\$3,870.00
8" SLOTTED WALL PVC PIPE	FT	781	\$10.00	\$7,810.00
GEOTEXTILE FILTER FABRIC	SY	729	\$3.00	\$2,187.00
SANITARY SEWER MANHOLE RAISE	VF	37	\$500.00	\$18,400.00
NEW 54" SANITARY SEWER MANHOLE	VF	18	\$400.00	\$7,080.00
54" CITY OF OMAHA STORM SEWER MANHOLES	EA	2	\$4,000.00	\$8,000.00
CITY OF OMAHA TYPE II AREA INLET	EA	1	\$4,000.00	\$4,000.00
24" CLASS III RCP	LF	68	\$65.00	\$4,420.00
18" CLASS III RCP	LF	355	\$55.00	\$19,525.00
18" SANITARY PVC PIPE INSTALL AND DIP REMOVAL	LF	70	\$30.00	\$2,100.00
			<b>Subtotal</b>	<b>\$770,539.60</b>

Subtotal	\$770,539.60
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<b>Subtotal for Cornhusker</b>	<b>\$1,066,337.10</b>
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<b>20% Contingency</b>	<b>\$213,267.42</b>
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Design	\$17,710.00
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Construction Observation	\$63,575.00
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<b>Total</b>	<b>\$1,360,889.52</b>
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<b>TOTAL ESTIMATE FOR COUNTY ROAD SUB PROJECT</b>	<b>\$1,360,889.52</b>
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