

Memorandum

To: Programs, Projects, & Operations Subcommittee
From: Lori Laster, Stormwater Management Engineer
Date: May 2, 2022
Re: Interlocal Agreement with Gretna and Sarpy County for WP4

District staff and legal counsel have prepared the attached Interlocal Agreement with the City of Gretna and Sarpy County outlining the responsibilities of each entity regarding the design, construction, ownership, and operation and maintenance of the West Papio Basin 4 project (WP4) to be located near 204th Street and Schram Road.

The WP4 regional detention reservoir and recreation area will be designed and constructed by the District. The City of Gretna will take ownership and maintenance of the reservoir and park area immediately upon completion of the project. Maintenance of the flood control and water quality structures will be the responsibility of the District.

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

- The District will construct the main dam and flood control features just west of 204th Street in Gretna.
- The District will construct a water quality structure in the vicinity of the future extension of Schram Road and another water quality structure on Wehrspann Creek.
- The District will construct the ultimate grading section of Schram Road and provide a culvert of sufficient capacity to convey future traffic at the City's expense.
- Land within the future Schram Road area will be deeded to Sarpy County.
- The District will construct basic public recreational features including fishery enhancements in the reservoir, a boat ramp, a trail around the reservoir, one picnic shelter, one restroom, and associated access roads and parking lots.
- Design of additional recreation features desired by the City will be at the City's expense. Construction of additional recreation features in the future will be the sole responsibility of the City.
- After construction of WP4, the District will convey title of all public property to Gretna to maintain park facilities while reserving its right through permanent easement to construct, operate, and maintain the dam and water quality basin structures and to store water and sediment in the reservoir.
- The City agrees to operate and maintain WP4 as a public recreation area in perpetuity.

Management recommends that the Subcommittee recommend to the Board of Directors that the General Manager be authorized to execute the proposed West Papio Basin 4 Interlocal Agreement with the City of Gretna and Sarpy County, subject to changes deemed necessary by the General Manager and approval as to form by District Legal Counsel.



Basin WP-4 Preliminary Design

OVERALL SITE PLAN

0 125 250 500



This map was prepared using information from record drawings supplied by JEO and/or other applicable city, county, federal, or public private entities. JEO does not guarantee the accuracy of this map or the information used to prepare this map. This is not a scaled plot.

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INTERLOCAL COOPERATION ACT AGREEMENT

Among

THE COUNTY OF SARPY, NEBRASKA,

THE CITY OF GRETNA, NEBRASKA,

And

THE PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT

For

PAPIO WATERSHED REGIONAL FLOOD CONTROL DETENTION BASIN

WP-4

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 GRETNA, 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 the WP-4 PROJECT within the rapidly developing Papillion Creek watershed; and,

WHEREAS, the Implementation Plan of the Papillion Creek Watershed Partnership's Watershed Plan has identified WP-4 PROJECT (defined below) to be completed within the five-year period of 2019-2024; and,

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

constructed by the NRD on a site near South 204th Street and Schram Road in Sarpy County (collectively “the **WP-4 PROJECT**”); and,

WHEREAS, the PARTIES desire to provide herein for the cooperative design, construction, operation, maintenance, repair, replacement, regulation and ownership of the WP-4 PROJECT 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 WP-4 PROJECT 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 WP-4 PROJECT shall be as defined by THIS AGREEMENT.

2. PROJECT LAND. The WP-4 PROJECT shall be constructed on parcels of land in Section 36, Township 14 North, Range 10 East of the 6th P.M. and Section 1, Township 13 North, Range 10 East of the 6th 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, (the “**PROJECT LAND**”).

3. PRINCIPAL PROJECT COMPONENTS. The WP-4 PROJECT shall consist of the design, construction, engineering observation and administration of construction of the following principal project components, to-wit:

a) The WP-4 PROJECT dam, reservoir and two (2) water quality basins on the PROJECT LAND; and,

b) 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 WP-4 PROJECT; and,

c) 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 the reservoir located on the PROJECT LAND, an in-park access road to recreational improvements, a kayak launch, a picnic area, one shelter, a rest room, parking lot 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-4 PROJECT, a sub-project to modify, extend and improve a portion of the COUNTY'S Schram Road from South 204th Street approximately 1,300 feet westward from South 204th Street which will be designed and constructed, through contracts awarded by the NRD (the "**COUNTY ROAD SUB-PROJECT**"). The COUNTY ROAD SUB-PROJECT includes the following: grading work for the ultimate section of Schram Road as depicted on the FINAL PLANS (as defined in paragraph 7 below). 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 improvement portion of the COUNTY ROAD SUB-PROJECT at no expense to the COUNTY.

b) Contemporaneously with construction of the WP-4 PROJECT, a sub-project to relocate a sanitary sewer lift station and forcemain will be designed and constructed, through contracts awarded by the NRD (“the **SEWER SUB-PROJECT**”). 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 relocation of a sanitary sewer lift station and forcemain portion of the SEWER SUB-PROJECT at no expense to the CITY.

5. GENERAL BENEFIT. The PARTIES do hereby find and agree that the WP-4 PROJECT and the SUB-PROJECTS will be of general benefit to the PARTIES, with only an incidental special benefit.

6. THE ENGINEERS. The NRD has retained engineering consultants (“the **ENGINEERS**”), to design the WP-4 PROJECT and SUB-PROJECTS and to prepare plans and specifications and contract documents for, and administer construction of, the WP-4 PROJECT and SUB-PROJECTS.

7. PREPARATION OF FINAL PLANS. The NRD shall direct the ENGINEERS to prepare final plans and specifications for the WP-4 PROJECT 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 SEWER SUB-PROJECT and the applicable CITY 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 WP-4 PROJECT 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 WP-4 PROJECT, and for the SUB-PROJECTS.

f) The FINAL PLANS shall include a cost estimate for the WP-4 PROJECT and the SUB-PROJECTS.

8. 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 thirty (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.

9. 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 WP-4 PROJECT and the SUB-PROJECTS. The CITY and the COUNTY shall have a period of fourteen (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.

10. CONSTRUCTION OF THE WP-4 PROJECT. 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 WP-4 PROJECT and the SUB-PROJECTS. Upon receipt of the competitive bids, the NRD shall make the bids available to the CITY for review. The CITY shall review the COUNTY ROAD SUB-PROJECT portion of the competitive bids within seven (7) days from when the NRD makes the bids available to the CITY. The CITY shall review the SEWER SUB-PROJECT portion of the competitive bids within seven (7) days from when the NRD makes the bids available to the CITY. The NRD shall award the contracts for such construction to the bidders that the NRD determines provide the lowest responsible bid.

11. 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.

12. 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 WP-4 PROJECT; and,
- b) the NRD shall pay, without CITY or COUNTY reimbursement, all the costs of design, construction, engineering observation and administration of construction of the

SEWER SUB-PROJECT. The CITY shall review, within ten (10) days of receipt, any required change orders for the SEWER SUB-PROJECT; and,

c) 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 COUNTY ROAD SUB-PROJECT, estimated by the ENGINEERS in the approximate amount of \$250,000 for the items identified in the list attached hereto as Exhibit “B” and incorporated herein by reference. The CITY 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.

13. PAYMENT OF COSTS. Reimbursement by the CITY for the actual costs of design, construction, engineering, observation and administration of construction of the COUNTY ROAD SUB-PROJECT shall made to the NRD in two payments. The first payment from the CITY to the NRD shall be fifty percent (50%) of the actual costs of design, construction, engineering, observation and administration of construction of the COUNTY ROAD SUB-PROJECT and shall be due and payable thirty (30) days after issuance of the engineering certificate of substantial completion of the WP-4 PROJECT and the SUB-PROJECTS. The second payment by the CITY to the NRD shall be the remaining balance of the actual costs of design, construction, engineering, observation and administration of construction of the COUNTY ROAD SUB-PROJECT and shall be due one calendar year after the issuance of the engineering certificate of substantial completion of the WP-4 PROJECT and the SUB-PROJECTS.

14. NAMING RIGHTS. The NRD, the CITY, and the COUNTY shall have the responsibility of gathering public input on the names for the WP-4 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-4 PROJECT.

15. CONSTRUCTION OBSERVATION. The NRD will contract for engineering observation and administration of construction of the WP-4 PROJECT 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.

16. 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 WP-4 PROJECT, and the SUB-PROJECTS.

17. OPERATION AND MAINTENANCE. After completion of construction of the WP-4 PROJECT,

a) the NRD, at its sole cost and expense, shall permanently operate, maintain, repair, replace and regulate the dam structure located at the WP-4 PROJECT (the “**DAM**”), 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 DAM, as 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 the MITIGATION IMPROVEMENTS 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 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-4 PROJECT; including without limitation:

i) the reservoir located at the WP-4 PROJECT, which shall be operated as a no-wake lake;

ii) the NRD'S RECREATIONAL IMPROVEMENTS;

iii) the water quality basins located at the WP-4 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 COUNTY shall take possession of and, at its sole cost and expense, shall permanently operate, maintain, repair, replace and regulate the COUNTY ROAD SUB-PROJECT, as located on the remainder of the lands to be conveyed by the NRD to the COUNTY in accordance with THIS AGREEMENT and as depicted in on Exhibit "C" attached hereto; and,

e) the CITY shall take possession of and, at its sole cost and expense, shall permanently operate, maintain, repair, replace and regulate the sanitary sewer lift station and sewer improvements of the SEWER 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 as depicted on Exhibit “D” attached hereto; and,

f) The CITY shall be solely responsible for the costs and expenses associated with reservoir or lake dredging, sediment/siltation removal, reservoir or lake bed rehabilitation or reconstruction, and invasive species removal and lake restoration; provided however, the NRD and other federal, state and local government entities have cost share programs which are available to the CITY for the potential future costs and expenses described herein this subsection 17(f).

18. INDEMNIFICATION.

a) The CITY shall, to the extent allowed by law, 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 WP-4 PROJECT (except the DAM) and the SEWER SUB-PROJECT which the CITY has taken possession of pursuant to paragraphs 17(c) and (e) above, 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, to the extend allowed by law, 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 DAM, and the MITIGATION

IMPROVEMENTS (prior to their acceptance by the CORPS), 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, to the extent allowed by law, 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 Schram Road as depicted on the attached Exhibit "C," excepting any costs, loss or damage solely caused by the negligence of the NRD or solely caused by the negligence of the CITY.

19. POST-CONSTRUCTION GRANTS AND CONVEYANCES.

a) Upon final completion of construction of the WP-4 PROJECT, the NRD shall convey to the CITY the WP-4 PROJECT portion of the PROJECT LAND (except the DAM, the MITIGATION IMPROVEMENTS prior to their acceptance by the CORPS and the property conveyed to the COUNTY for the COUNTY ROAD SUB-PROJECT), 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 DAM in the PROJECT LAND (including the WP-4 PROJECT water quality basin embankment); and,

2) the right to use any and all unimproved portions of the PROJECT LAND for the borrow and fill of earthen material for use in operation, maintenance, repair, replacement of the DAM, MITIGATION IMPROVEMENTS, and/or the non-recreational appurtenances thereto; and

3) 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

4) the right to periodically adjust the elevation of the permanent pool of the reservoir in order to perform necessary operation, maintenance, repair, or replacement of the DAM and/or MITIGATION IMPROVEMENTS; and

5) 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 DAM (“the **MAXIMUM POOL**”); and,

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

(a) WP-4 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-4 PROJECT, having a ground surface elevation lower than 1,233.0 feet above mean sea level, NAVD 1988, which elevation the 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-4 PROJECT.

(b) WP-4 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-4 PROJECT, having a ground surface elevation lower than 1,233.0 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.

(c) WP-4 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-4 PROJECT, having a ground surface elevation higher than 1,233.0 feet above mean sea level and lower than 1,236.0 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.

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:

1) 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,

2) 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

3) 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,

4) 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,

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

6) 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 WP-4 PROJECT, the NRD shall convey the right of way for Schram Road as depicted on the attached Exhibit "D, 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 DAM 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.

20. RISK OF LOSS. After completion of construction of the WP-4 PROJECT and conveyance of PROJECT LAND to the CITY and COUNTY, the risk of loss of or damage to components or facilities of the WP-4 PROJECT 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.

21. 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 or Public Works 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 COUNTY Public Works Director.

22. 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.

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

24. 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.

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

26. 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.

27. 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.

28. 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 any of the PARTIES in its respective rights and obligations contained in the valid covenants, conditions, or provisions of THIS AGREEMENT.

29. NON-WAIVER. No delay or failure by any 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 any of the PARTIES shall not be deemed to extend the amount of time available to perform any other act required under THIS AGREEMENT.

30. 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.

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

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

33. FUNDING. THIS AGREEMENT shall be conditional and dependent upon the NRD'S determination that it has adequate funding for the WP-4 PROJECT.

34. 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:

City Clerk
City of Gretna
204 N. McKenna Ave.
P.O. Box 69
Gretna, NE 68028

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.

35. 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 _____, 2022, 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 _____, 2022, 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 GRETNA, NEBRASKA** on this _____ day of _____, 2022, pursuant to resolution duly adopted by its City Council.

CITY OF GRETNA, NEBRASKA

By _____

Michael D. Evans
Mayor

ATTEST:

City Clerk

STATE OF NEBRASKA)
) SS.
COUNTY OF _____)

On this _____ day of _____, 2022, before me, a Notary Public, personally came Michael D. Evans, Mayor of the **CITY OF GRETNA, 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 _____, 2022, pursuant to resolution duly adopted by its Board of Commissioners.

COUNTY OF SARPY, NEBRASKA

By _____

Donald R. Kelly
Chairperson, Board of County Commissioners

STATE OF NEBRASKA)
) SS.
COUNTY OF _____)

On this ____ day of _____, 2022, before me, a Notary Public, personally came Donald R. Kelly, 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 County.

WITNESS my hand and Notarial Seal the date last aforesaid.

Notary Public