

MEMORANDUM

TO: Programs, Projects, and Operations Subcommittee

FROM: Martin P. Cleveland

SUBJECT: Interlocal Agreement with City of Omaha for the Little Papio Culverts Group B

DATE: March 28, 2024

The Little Papio Creek Channel Project is located between Spaulding Street and Q Street in Omaha, NE and is a federally constructed flood control channel completed in January 1970. The Papio NRD serves as the local project sponsor and is required to operate, maintain, and repair the channel and its appurtenances to keep it in safe operating condition to remain in Corps of Engineers Public Law (PL) 84-99 assistance program. The Papio NRD periodically inspects the Little Papio Project culverts and has identified 45 culverts that need to be repaired due to deficiencies. It has been determined that the City of Omaha is responsible for twenty-three (23) of the forty-five culverts, as they were installed by the City.

On May 13, 2021, the Board of Directors approved the Little Papio Creek Channel Culverts Project Interlocal Cooperation Agreement with City of Omaha (City) for Design of Drainage Structure Rehabilitation. This agreement provided for the City to reimburse design costs up to a maximum of \$350,000 for the design work associated with City owned culverts in the Project area.

During the design phase, it was decided to divide the culverts into Groups A and B based on the amount of design review required by Corps of Engineers (USACE) and to expediate the review process and start construction on portion of culverts project as soon as feasible. Group A consists of 19 culverts and Group B consists of 26 culverts. Group B culverts require more USACE reviews than Group A culverts. The City owns 13 and the Papio NRD owns 13 of the Group B culverts.

On December 9, 2021, the Board of Directors approved the Little Papio Creek Channel Culverts Project Interlocal Cooperation Agreement with the City for Construction of Drainage Structure Rehabilitation. This agreement provided for the City to reimburse construction related expenditures costs for Group A culverts up to a maximum of \$2,400,000 for the construction work associated with City owned culverts in the Project area. The construction work is completed.

Enclosed is a proposed Amendment to Interlocal Cooperation Agreement with the City for Construction of Drainage Structure Rehabilitation for Group B Culverts construction related expenditures, such as construction of drainage structure rehabilitation and construction administration associated with the Group B Culverts. See attached location

map. The Amendment will provide for the City of Omaha to reimburse the Papio NRD for construction expenditures associated with their share of the Group B Culverts (13 of 26) for a maximum not to exceed amount of \$4,281,413.56. The Papio NRD's cost for the remaining thirteen (13) culverts is estimated to be \$3,792,900.53. In addition, the Amendment will require the City of Omaha to pay \$35,399.00 in Culvert Rehabilitation Design Cost Overage and \$333,344.66 in Group A Culvert Construction Project Cost Overage beyond the Agreement Group A maximum cost of \$2,400,000. The total City Share will be \$4,650,157.22.

Management recommends that the Programs, Projects, and Operation Subcommittee recommend to the Board of Directors that the General Manager be authorized to execute the proposed Amendment to Interlocal Cooperation Agreement with the City of Omaha for Construction of Drainage Structure Rehabilitation for Little Papio Creek Levee/Channel Project, with a reimbursement maximum not to exceed amount of \$4,650,157.22, subject to changes deemed necessary by the General Manager and approval as to form by Papio NRD Legal Counsel.

File: 532 Little Papio Culverts PPO memo 3-28-24

AMENDMENT TO
THE INTERLOCAL COOPERATION AGREEMENT
Between
THE CITY OF OMAHA, NEBRASKA
And
PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT
For
CONSTRUCTION OF DRAINAGE STRUCTURE REHABILITATION FOR
LITTLE PAPIO CREEK LEVEE/CHANNEL PROJECT

THIS AMENDMENT TO THE INTERLOCAL COOPERATION AGREEMENT (this “**AMENDMENT**”) is made by and between the PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT (the “**NRD**”) and the CITY OF OMAHA, NEBRASKA (the “**CITY**”); (the NRD and the CITY are hereinafter individually referred to as a “**PARTY**”, and collectively as “**PARTIES**”), pursuant to the Nebraska Interlocal Cooperation Act, Neb. Rev. Stat. §§ 13-801 to 13-827;

WHEREAS, the PARTIES first entered into an Interlocal Agreement allocating responsibility for payment or reimbursement for certain costs for the design and engineering (the “**DESIGN INTERLOCAL**”) for the eventual repair, rehabilitation, and restoration of those twenty-three (23) culverts which were installed by the CITY (Structure Nos. LP-L04, LP-L04A, LP-L12, LP-L13, LP-L15A, LP-L31, LP-L33, LP-L36, LP-L37, LP-38, LP-L44, LP-L49, LP-L50, LP-L55, LP-L56, LP-L63, LP-L84, LP-R13, LP-R15, LP-R19, LP-R21, LP-R24, LP-R27 (the “**CITY CULVERTS**”)), and those fourteen (14) culverts along or near the Little Papio Creek Levee/Channel from Keystone Drive in Omaha to north of L Street in Omaha which were installed or assumed by the NRD (Structure Nos. LP-L06, LP-L67, LP-L82, LP-R07, LP-R08, LP-R14, LP-R17, LP-R22, LP-R36A, LP-R37, LP-R61, LP-R62, LP-R63, and LP-R65 (the “**NRD CULVERTS**”)), and eight (8) culverts along or near the Little Papio Creek Levee/Channel from Keystone Drive in Omaha to north of L Street in Omaha which were installed or assumed by other property owners (Structure Nos. LP-L07, LP-L23, LP-L26, LP-L35, LP-L48, LP-R33, LP-

R47, and LP-R51 (the “**OTHER CULVERTS,**” collectively, with the NRD CULVERTS and CITY CULVERTS, the “**CULVERTS**”));

WHEREAS, pursuant to the terms of the DESIGN INTERLOCAL, the NRD retained an engineering firm (the “**ENGINEERS**”) to design and engineer the PROJECT;

WHEREAS, in the process of retaining the ENGINEERS the NRD executed an engineering contract for professional engineering services (the “**ENGINEERING CONTRACT**”) of which the CITY reimbursed the NRD in the amount of \$350,000 for the design costs for the rehabilitation and repair of all CULVERTS;

WHEREAS, in connection with the execution of the CONSTRUCTION INTERLOCAL, the NRD also executed, with CITY approval, an amendment to the ENGINEERING CONTRACT which outlined further costs incurred in relation to the DESIGN INTERLOCAL for which the NRD and the CITY were responsible;

WHEREAS, the total cost of the ENGINEERING CONTRACT exceeded the estimated amount;

WHEREAS, pursuant to the cost-sharing agreement in the DESIGN INTERLOCAL, the CITY is responsible for \$35,399, a part of the total overages as contemplated by the amendment to the ENGINEERING CONTRACT (the “**DESIGN OVERAGES**”);

WHEREAS, the PARTIES then entered into an Interlocal Agreement allocating responsibility for payment or reimbursement for certain costs incurred as a result of the repair, rehabilitation, and restoration of the CULVERTS (the “**CONSTRUCTION INTERLOCAL**”);

WHEREAS, in connection with the CONSTRUCTION INTERLOCAL, the NRD and CITY decided to divide the rehabilitation and repair of the CULVERTS into two groups based on the design review required by the United States Army Corps of Engineers and to expedite the review process and start construction on a portion of the culverts project as soon as feasible;

WHEREAS, the NRD and the CITY have identified nineteen (19) culverts to be rehabilitated and repaired for the Group A portion of the project which consists of ten

(10) culverts that were installed by the CITY (LP-12, LP-33, LP-L37, LP-L44, LP-L63, LP-L84, LP-R13, LP-R15, LP-R19, LP-R24) (the “**CITY GROUP A CULVERTS**”) and nine (9) culverts that were installed or assumed by the NRD or other property owners (LP-L06, LP-L26, LP-L35, LP-R07, LP-R08, LP-R33, LP-R37, LP-R47, LP-R65) (the “**NRD GROUP A CULVERTS.**”) (collectively, “**GROUP A PROJECT**”);

WHEREAS, the NRD retained and compensated a contractor (the “**CONTRACTOR**”) to perform the construction services required to complete the GROUP A PROJECT;

WHEREAS, the CONTRACTOR was required to perform additional work for the GROUP A PROJECT which entitled the CONTRACTOR to additional compensation above the original estimate for the GROUP A PROJECT;

WHEREAS, the CITY must now compensate the NRD for the overages incurred by the ENGINEERS and CONTRACTOR for the additional work for the GROUP A PROJECT on the CITY GROUP A CULVERTS (the “**GROUP A OVERAGES**”);

WHEREAS, the NRD and the CITY have identified twenty-six (26) culverts to be rehabilitated and repaired for the Group B portion of the project which consists of thirteen (13) culverts that were installed by the CITY (Structure Nos. LP-L04, LP-L04A, LP-L13, LP-L15A, LP-L31, LP-L36, LP-38, LP-L49, LP-L50, LP-L55, LP-L56, LP-R21, LP-R27) (the “**CITY GROUP B CULVERTS**”) and thirteen (13) NRD CULVERTS and OTHER CULVERTS that were installed or assumed by the NRD or other property owners (LP-L07, LP-L11, LP-L23, LP-L48, LP-L67, LP-L82, LP-R17, LP-R22, LP-R36A, LP-R51, LP-R61, LP-R62, LP-R63) (the “**NRD GROUP B CULVERTS**”) (collectively, “**GROUP B PROJECT**”). The CITY GROUP B CULVERTS and NRD GROUP B CULVERTS are depicted collectively on Exhibit “A”;

WHEREAS, in addition to the DESIGN OVERAGES and GROUP A OVERAGES, the NRD desires to receive cost-sharing assistance from the CITY for the costs of design and construction of the CITY GROUP B CULVERTS in connection the commencement of the GROUP B PROJECT; and

WHEREAS, in order to properly allocate GROUP A OVERAGES, and to accurately allocate the costs in connection with the commencement of the GROUP B

PROJECT, the PARTIES wish to amend the AGREEMENT as outlined in this AMENDMENT.

NOW, THEREFORE, for and in consideration of their mutual covenants contained in this AMENDMENT and in the AGREEMENT, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the AGREEMENT is amended as follows:

- 1) The Recitals to the CONSTRUCTION INTERLOCAL are deleted in their entirety and are replaced with the recitals to this AMENDMENT.
- 2) Paragraph 9 of the CONSTRUCTION INTERLOCAL is deleted in its entirety and replaced with the following:

9. CITY CONTRIBUTION.

a. Payment Amount. The CITY shall pay a total of **\$4,650,157.22** to the NRD as detailed below:

i. **GROUP A OVERAGES** -- Change Order/Cost overrun for the Design (RES2021-0567) and Construction (ORD42846) of Group A Culverts:

a) Group A Design Overage: \$35,399.00; and

b) Group A Construction Overage:
\$333,344.66

ii. Design and Construction Costs of CITY GROUP B CULVERTS:

a) Group B Design : \$282,293.90; and

b) Group B Construction: \$3,999,119.66

b. Payment Procedure. The NRD will invoice the CITY annually for \$800,000 until the costs of the DESIGN OVERAGES, GROUP A OVERAGES, CITY GROUP A CULVERTS and CITY GROUP B CULVERTS, have been fully reimbursed by the

CITY. The estimated payment schedule is attached as Exhibit “B” for reference. The CITY shall pay the NRD within sixty (60) days from receipt of the invoice from the NRD.

IN WITNESS WHEREOF, the PARTIES have executed this AMENDMENT, on the respective dates hereinafter indicated, pursuant to authorizing resolutions duly adopted at regularly-called meetings of their governing bodies.

The CITY has executed this AMENDMENT on _____, 2024.

The CITY of OMAHA

By _____
JEAN STOTHERT, Mayor

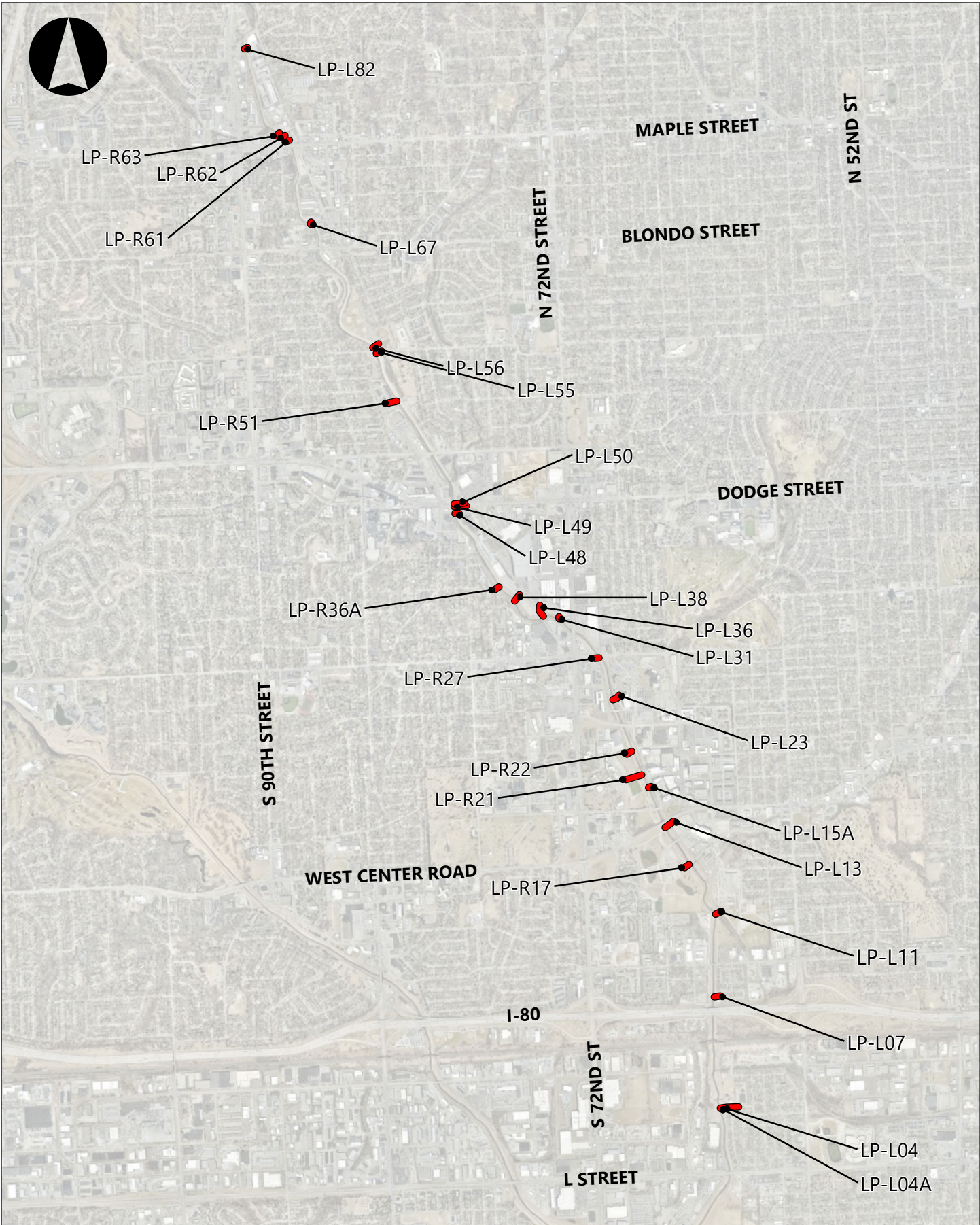
Attest:

City Clerk

The NRD has executed this AMENDMENT on _____, 2024.

**PAPIO-MISSOURI RIVER NATURAL
RESOURCES DISTRICT**

By _____
JOHN WINKLER, General Manager



**LITTLE PAPIO CREEK CHANNEL/LEVEE CULVERT
REHABILITATION PROJECT - GROUP B
DOUGLAS COUNTY, NE - AUGUST 2023**

Exhibit "A"



Construction of Drainage Structure Rehabilitation for Little Papio Creek/Levee Channel Project

CITY OF OMAHA - CULVERT REHABILITATION TOTAL COST BREAKDOWN - March 27, 2024

D. City Share of Design, Group A Culvert Construction, and Group B Culvert Construction

1. Culvert Rehabilitation Design - City Balance							\$ 87,538.85
2. Group A Project Cost overrun beyond Amendment No. 1 maximum							\$ 333,344.66
3. Group A Construction and Engineering Project Cost - City Share Not Paid Yet <i>(Does not include cost overrun)</i>							\$ 1,332,609.51
4. Group B Construction and Engineering Costs							\$ 4,281,413.56
5. Grand Total of City of Omaha Share of Project Costs							<u>\$ 6,034,906.58</u>
6. City of Omaha Cost Share Payment Schedule (based on \$800,000 per year maximum)							
A.	2024	\$	800,000.00				
B.	2025	\$	800,000.00				
C.	2026	\$	800,000.00				
D.	2027	\$	800,000.00				
E.	2028	\$	800,000.00				
F.	2029	\$	800,000.00				
G.	2030	\$	800,000.00				
H.	2031	\$	434,906.58				
I.	TOTAL	\$	6,034,906.58				

Exhibit "B"