

Agenda Item: 6.

## Memorandum

**To:** Projects, Programs, and Operations Subcommittee  
**From:** Lori Ann Laster, Stormwater Management Engineer  
**Date:** October 1, 2012  
**Re:** King Lake Buyout Program in Douglas County

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The District has an ongoing Buyout Program in the King Lake area of Douglas County. To date, five properties have been purchased and structures have been removed.

After the June 2010 Elkhorn River flooding, staff mailed interest forms to all known property owners in King Lake. Over 80 people indicated interest in a buyout. The responses were evaluated to determine eligibility for a buyout. Based on the evaluation, 42 property owners (84 parcels total) are eligible for a buyout.

The Buyout Program is a voluntary program based on a willing seller and willing buyer basis. Eminent Domain cannot be exercised under this program. A Hazard Mitigation Grant Program (HMGP) application was submitted to FEMA for 75% of the funds required for the program. If all 42 sellers accept a buyout, the total project cost would be \$1.9 million. These federal funds would cover \$1.425 million, leaving \$475,000 as the non-federal local share.

The attached Interlocal Agreement with the City of Omaha and Douglas County provides for an even split with the District of the \$475,000 local share. Each entity would provide \$80,000 per year for two years to complete the project.

It is Management's recommendation that the General Manager be authorized to fully execute for and on behalf of the District the proposed Interlocal Agreement with the City of Omaha and Douglas County for the King Lake Buyout Program, subject to changes deemed necessary by the General Manager and approved as to form by District Legal Counsel.

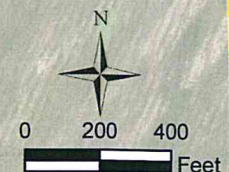
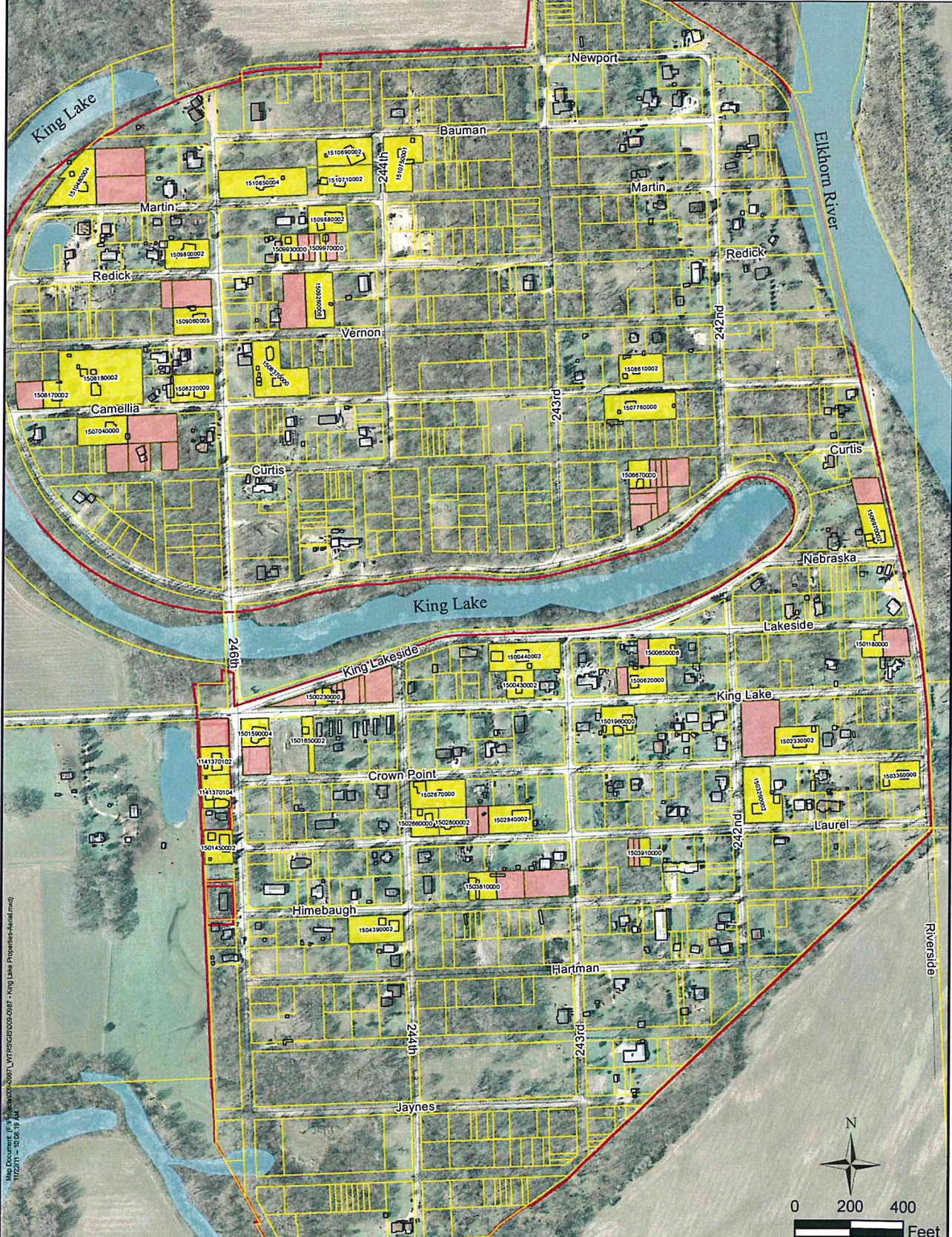


# Legend

- Proposed Purchase - Residential
- Proposed Purchase - Vacant
- Parcel King Lake



INDEX MAP - DOUGLAS COUNTY



PROJECT NO: 009-0987  
 DRAWN BY: SLK  
 DATE: 11-22-11

## Location Map King Lake Properties

**OLSSON**  
ASSOCIATES

2120 South 72nd Street  
 Suite 1400  
 Omaha, Ne 68124-6316  
 TEL 402.341.1116  
 FAX 402.341.5895

FIGURE  
**A-1**



**INTERLOCAL COOPERATION ACT AGREEMENT**

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**THE CITY OF OMAHA, NEBRASKA,  
THE COUNTY OF DOUGLAS, NEBRASKA  
AND  
PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT**

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**KING LAKE FLOODPLAIN PURCHASE PROGRAM**

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This Agreement (hereinafter **“THIS AGREEMENT”**) is made by and among **THE CITY OF OMAHA, NEBRASKA** (hereinafter **“the CITY”**), **THE COUNTY OF DOUGLAS, NEBRASKA** (hereinafter **“the COUNTY”**), and the **PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT** (hereinafter **“the DISTRICT”**), pursuant to the Nebraska Interlocal Cooperation Act, Sections 13-801, R.R.S. Neb., 1943, et seq.

**R E C I T A L S:**

WHEREAS, numerous private dwellings and other structures now exist in the designated floodplain adjacent to the Elkhorn River in the COUNTY and the extraterritorial jurisdiction of the CITY (hereinafter **“the PROGRAM FLOODPLAIN”**); and,

WHEREAS, the parties desire to establish a KING LAKE FLOODPLAIN PURCHASE PROGRAM (hereinafter **“the PROGRAM”**), for the purposes of

purchasing, dwellings and other privately-owned structures on land within the PROGRAM FLOODPLAIN and removing the same from the PROGRAM FLOODPLAIN, in order to prevent or reduce recurring flood damages, repetitive claims for disaster assistance or flood insurance benefits, and repetitive public outlays for emergency rescues, utility restorations, and other public services; and, the parties desire to convert such lands to uses which are non-insurable under the federal Flood Insurance Act; and,

WHEREAS, federal and state grant programs are available to assist the parties to carry out the PROGRAM, such programs including the Hazard Mitigation Grant Program, administered by the Federal Emergency Management Agency (hereinafter “FEMA”).

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. PURPOSE.** The purpose of this Agreement is to provide for cooperative undertakings by and among the CITY, the COUNTY and the DISTRICT, without any separate entity being created; and, the duties and responsibilities of the parties shall be as defined by this Agreement.

**2. THE PROGRAM.** The parties hereby establish the PROGRAM, pursuant to which ownership of private dwellings and other structures now existing in the PROGRAM FLOODPLAIN will be purchased in voluntary transactions, pursuant to which such dwellings and other structures will be removed from the PROGRAM FLOODPLAIN and pursuant to which the land now occupied by such

dwellings and other structures will be converted to uses which are not insurable under the flood insurance programs administered by FEMA.

**3. RESPONSIBILITIES OF THE DISTRICT.** The DISTRICT shall be responsible for administering the PROGRAM, and shall have the following responsibilities and duties:

(a) The DISTRICT shall acquire, by voluntary purchase and sale, such real estate and interests therein, including leaseholds, as the DISTRICT determines necessary or convenient in order to obtain removal of private dwellings and other structures, now located in the PROGRAM FLOODPLAIN, which presently are eligible for disaster assistance, flood damage insurance and other benefits under federal disaster assistance and flood insurance programs, and shall make such payments in respect to such acquisitions as the DISTRICT determines necessary or convenient;

(b) The DISTRICT shall prepare, execute and file with appropriate federal and state agencies, such proposals and grant applications, and documents related thereto, as the DISTRICT determines necessary for purposes of the PROGRAM;

(c) The DISTRICT shall employ and compensate such appraisers, title searchers, title insurers, surveyors, engineers, attorneys, demolition contractors and other persons, firms and corporations, and pay such other expenses, as the DISTRICT determines necessary to administer the PROGRAM pursuant to THIS AGREEMENT; and,

(d) The DISTRICT shall execute on its own behalf such contracts, applications, and other documents as the DISTRICT determines necessary to administer the PROGRAM pursuant to THIS AGREEMENT.

**4. RESPONSIBILITIES OF THE CITY AND COUNTY.** The CITY and COUNTY shall assist the DISTRICT in administering the PROGRAM, and shall have the following responsibilities:

(a) The CITY and the COUNTY each shall prepare, execute, and file with appropriate federal and state agencies such grant applications, and documents related thereto, as the DISTRICT determines necessary for purposes of the PROGRAM; and, the CITY and the COUNTY each shall direct the proceeds of such grants to the DISTRICT, or as the DISTRICT may direct, for purposes of the PROGRAM; and,

(b) The CITY and the COUNTY each shall reimburse the DISTRICT in the amount of one-third (1/3) of all expenditures made by the DISTRICT in administering the PROGRAM, other than expenditures which are reimbursed by federal or state grant programs or recouped by sale of structures and other property in the PROGRAM FLOODPLAIN acquired by the DISTRICT during the course of administering the PROGRAM (such unreimbursed and unrecouped expenditures hereinafter being referred to as “the **NON-RECOVERABLE EXPENSES**”); provided, however, neither the CITY nor the COUNTY shall be required to reimburse the DISTRICT more than ONE HUNDRED SIXTY THOUSAND DOLLARS (\$160,000), each, for such NON-RECOVERABLE EXPENSES; and, provided, further, the DISTRICT shall not

be required to incur NON-RECOVERABLE EXPENSES that require the DISTRICT to expend, without assurance of proportionate reimbursement by the CITY and COUNTY, more than ONE HUNDRED SIXTY THOUSAND DOLLARS (\$160,000) of its own funds.

(c) To provide for the CITY'S and the COUNTY'S reimbursement to the DISTRICT of such NON-RECOVERABLE EXPENSES, the parties shall follow the following procedure:

(1) From time to time, but not more often than quarterly, after actual monetary outlays are made by the DISTRICT for land acquisition and other expenses of administering the PROGRAM, the DISTRICT shall transmit to the CITY and the COUNTY written notifications of the amounts of such outlays. In each such written notification and with respect to each such outlay, the DISTRICT shall state the identity of the payee to whom such outlay was paid, the purpose for such outlay, the date of such outlay, and whether such outlay is a NON-RECOVERABLE EXPENSE.

(2) Within 45 days after receipt by the CITY and the COUNTY of such a written notification, the CITY and the COUNTY each shall reimburse the DISTRICT in the amount of one-third (1/3) of the DISTRICT'S NON-RECOVERABLE EXPENSES described in such written notification.

(3)

**5. LAND ACQUISITION.** All lands, easements and rights-of-way necessary to be acquired for purposes of the PROGRAM, as determined by the DISTRICT, shall be acquired by the DISTRICT, which shall take title in the name of the DISTRICT. The CITY and the COUNTY, on request of the DISTRICT, respectively shall donate to the DISTRICT such temporary and permanent easements and rights-of-way over CITY-owned or COUNTY-owned rights-of-way within the PROGRAM FLOODPLAIN as the DISTRICT determines necessary for the PROGRAM.

**6. OPERATION AND MAINTENANCE.** After acquisition of land pursuant to THIS AGREEMENT, the DISTRICT, at the DISTRICT'S sole cost and expense, shall maintain or dispose of such land in such manner and at such times as the DISTRICT determines necessary or convenient, for uses and purposes consistent with THIS AGREEMENT, and shall be entitled to the rents and profits therefrom.

**7. DURATION AND EFFECTIVE DATE.** THIS AGREEMENT shall be effective, and shall have permanent duration, commencing (1) upon the occurrence of the signatures of all of the parties being affixed hereto, and (2) upon receipt by the DISTRICT of FEMA'S commitment to pay 75% of the sums expended by the DISTRICT during the course of administering the PROGRAM, whichever is the later date.

**8. SEVERABILITY.** In the event any portion of THIS AGREEMENT is held invalid or unenforceable for any reason, it is agreed that any such invalidity or unenforceability shall not affect the remainder of THIS AGREEMENT, and the remaining provisions shall remain in full force and effect, and any court of



competent jurisdiction may so modify any objectionable provision of THIS AGREEMENT so as to render it valid, reasonable, and enforceable.

**IN WITNESS WHEREOF** the parties have executed THIS AGREEMENT on the dates hereinafter indicated pursuant to authorizing resolutions duly adopted at regularly-convened public meetings of their governing bodies.

Executed by the CITY this \_\_\_\_ day of \_\_\_\_\_, 2012.

THE CITY OF OMAHA, NEBRASKA

By \_\_\_\_\_  
MAYOR

Attest:

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

Executed by the COUNTY this \_\_\_\_ day of \_\_\_\_\_, 2012.

THE COUNTY OF DOUGLAS, NEBRASKA

By \_\_\_\_\_  
CHAIRPERSON, BOARD OF  
COMMISSIONERS

Attest:

\_\_\_\_\_  
County Clerk

Executed by the DISTRICT this \_\_\_\_ day of \_\_\_\_\_, 2012.

PAPIO-MISSOURI RIVER NATURAL  
RESOURCES DISTRICT

By \_\_\_\_\_  
GENERAL MANAGER