

**Agenda Item: 7.**

## **Memorandum**

**To:** Programs, Projects & Operation Subcommittee  
**From:** Lori Ann Laster, Stormwater Management Engineer  
**Date:** April 27, 2012  
**Re:** Addendum to Cole Creek Inter-Local Agreement

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In September 2002, the District and the City of Omaha entered into an Interlocal Agreement to acquire flood-prone properties along Cole Creek. Through the agreement and two subsequent addendums to the agreement, more than 30 properties have been purchased and improvements have been made to culverts on Cole Creek. The District has reimbursed the City of Omaha fifty percent of local project costs funding sources (i.e., FEMA Hazard Mitigation Grants) have been applied. Approximately \$5.8 million dollars have been spent on the Cole Creek Project, with a District contribution of \$2,082,500.

In recent years, the City of Omaha has not had the funds to continue with the project. However, the City now has \$265,000 to acquire more properties along Cole Creek and construct some channel improvements to protect the Burt Street Bridge.

The total contribution from the District in the current agreement is \$2,100,000. To date, the District has reimbursed the City of Omaha \$2,082,500, leaving \$17,500. The third addendum to the Cole Creek agreement provides for fifty percent cost share from the District for an additional \$250,000, bringing the total District contribution up to \$2,350,000, in order to match the \$265,000 in funds the City of Omaha has budgeted for this project.

Management recommends that the Subcommittee recommend to the Board that the General Manager be authorized to execute the Third Addendum to the Cole Creek Flood Mitigation Program Agreement with the City of Omaha for an additional \$250,000 bringing the total District contribution for the project to \$2,350,000, subject to changes as deemed necessary by the General Manager and to approval as to form by District Legal Council.

**THIRD ADDENDUM TO  
INTERLOCAL COOPERATION ACT AGREEMENT  
Between  
THE CITY OF OMAHA, NEBRASKA  
And  
PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT  
For  
COLE CREEK FLOOD MITIGATION PROGRAM**

This THIRD ADDENDUM (“this THIRD ADDENDUM”) amends Paragraph 23 of the INTERLOCAL COOPERATION ACT AGREEMENT BETWEEN THE CITY OF OMAHA, NEBRASKA AND PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT FOR COLE CREEK FLOOD MITIGATION PROGRAM (“the AGREEMENT”), originally entered into by and between the CITY OF OMAHA, NEBRASKA (“the CITY”) and the PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT (“the NRD”). The AGREEMENT was signed by the NRD on July 12, 2002 and by the CITY on September 12, 2002. Paragraph 23 of the AGREEMENT is hereby further amended as follows, to-wit:

23. COST-SHARING. As its contribution towards the CITY’S outlays to third parties, other than the CITY’S own personnel, for the costs of design, land, easements and rights-of-way, administration, construction, operation, maintenance, repair, replacement and regulation of the MITIGATION PROGRAM and its separate components (hereinafter referred to as “the PROGRAM COSTS”), and subject to the limitations hereinafter provided, the NRD shall pay to the CITY on the first day of June in each of the years 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010 and 2013 an annual installment payment equal to fifty percent (50%) of the total amount actually expended by the CITY during the preceding calendar year for PROGRAM COSTS (other than expenditures which are paid or reimbursed by federal or state grant programs or by ABUTTING LANDOWNERS, or recouped by sale of structures and other property in the STUDY AREA acquired by the CITY during the course of administering the MITIGATION PROGRAM); provided, however, the payments due on the first day of June in the years 2004 and 2005 shall not exceed FOUR HUNDRED THOUSAND DOLLARS (\$400,000), each, the payment due on the first day of June in the year 2006

shall not exceed TWO HUNDRED THOUSAND DOLLARS (\$200,000), the payment due on the first day of June in the year 2003 shall not exceed ONE HUNDRED THOUSAND DOLLARS (\$100,000), and the payments due on the first day of June in the years 2007, 2008, 2009, ~~and 2010~~ and 2012 shall not exceed TWO HUNDRED FIFTY THOUSAND DOLLARS (\$250,000), each such annual installment to be payable without interest prior to said installment becoming due; and, provided further, the total of the contributions due to the CITY pursuant to this AGREEMENT shall not in any case exceed ~~TWO MILLION ONE HUNDRED THOUSAND DOLLARS (\$2,100,000.00)~~ TWO MILLION THREE HUNDRED FIFTY THOUSAND DOLLARS (\$2,350,000.00). The CITY shall be solely responsible for the payment of all remaining PROGRAM COSTS and other costs of the MITIGATION PROGRAM in any calendar year without NRD contribution. At least 30 days and not more than 120 days prior to the date an annual installment payment is due to the CITY pursuant to this AGREEMENT, the CITY shall send a written invoice to the General Manager of the NRD itemizing the PROGRAM COSTS from the preceding calendar year for which NRD contribution is sought under this AGREEMENT. Grants or contributions made by third parties to the CITY for PROGRAM COSTS, other than federal or state grants and the contributions of ABUTTING LANDOWNERS, shall not be deemed to offset or diminish the NRD'S obligations under this AGREEMENT.

2. Except as amended by the FIRST ADDENDUM, the SECOND ADDENDUM and this THIRD ADDENDUM, all pursuant to authorizing resolutions duly adopted at regularly-called meetings of their governing bodies, the AGREEMENT is ratified and confirmed in all respects.

The CITY has executed this THIRD ADDENDUM on \_\_\_\_\_, 2012.

THE CITY OF OMAHA, NEBRASKA

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

Attest:

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

The NRD has executed this THIRD ADDENDUM on \_\_\_\_\_, 2012.

PAPIO-MISSOURI RIVER NATURAL  
RESOURCES DISTRICT

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