

Agenda Item: 10.

## Memorandum

**To:** Projects, Programs, and Operations Subcommittee  
**From:** Lori Ann Laster, Stormwater Management Engineer  
**Date:** October 6, 2011  
**Re:** Missouri River Floodway Purchase Program

---

The District's Missouri River Floodway Purchase Program involves the Elbow Bend, Holub's Place, and Iske Place communities located in the floodway of the Missouri River just south of Bellevue in Sarpy County. The Program began in April of 1994 when the Federal Emergency Management Agency (FEMA) approved the application to purchase properties in these three areas. The District administered the program and equally divided the local cost-share with Sarpy County.

The District and Sarpy County have been able to acquire approximately 105 out of 164 possible structures in the Missouri River floodway. Since the District and Sarpy County acquired the 105 properties, the City of Bellevue has expanded its jurisdictional boundaries. Bellevue's extraterritorial jurisdiction now includes Elbow Bend and Iske Place.

In light of the 2011 flooding on the Missouri River, there has been renewed interest in the Floodway Purchase Program. There are approximately 50 properties affected by the flooding that may be eligible for the Floodway Purchase Program.

District staff has met with representatives from Sarpy County and the City of Bellevue, as well as representatives from the Federal Emergency Management Agency (FEMA), the Nebraska Emergency Management Agency (NEMA), and the Nebraska Department of Natural Resources (NDNR) to discuss the Floodway Purchase Program.

At this time, Hazard Mitigation Grant Program (HMGP) funds are available from FEMA for buyout projects. The HMGP would provide 75% of the funds required for purchase of the land and structures, as well as demolition costs.

The original Interlocal Agreement with Sarpy County stipulated that Sarpy County and the District would evenly split any local costs for these buyouts. The agreement has been modified to include the City of Bellevue as they now have zoning jurisdiction in the affected area.

For the remaining 50 properties in Elbow Bend and Iske Place, the District, Sarpy County and the City of Bellevue will work together to apply for HMGP funds for the purposes of acquisition and demolition of structures. The District will act as the applicant for the purposes of the grant application and will coordinate the necessary actions to complete purchase and demolition. It is proposed that a consultant be hired

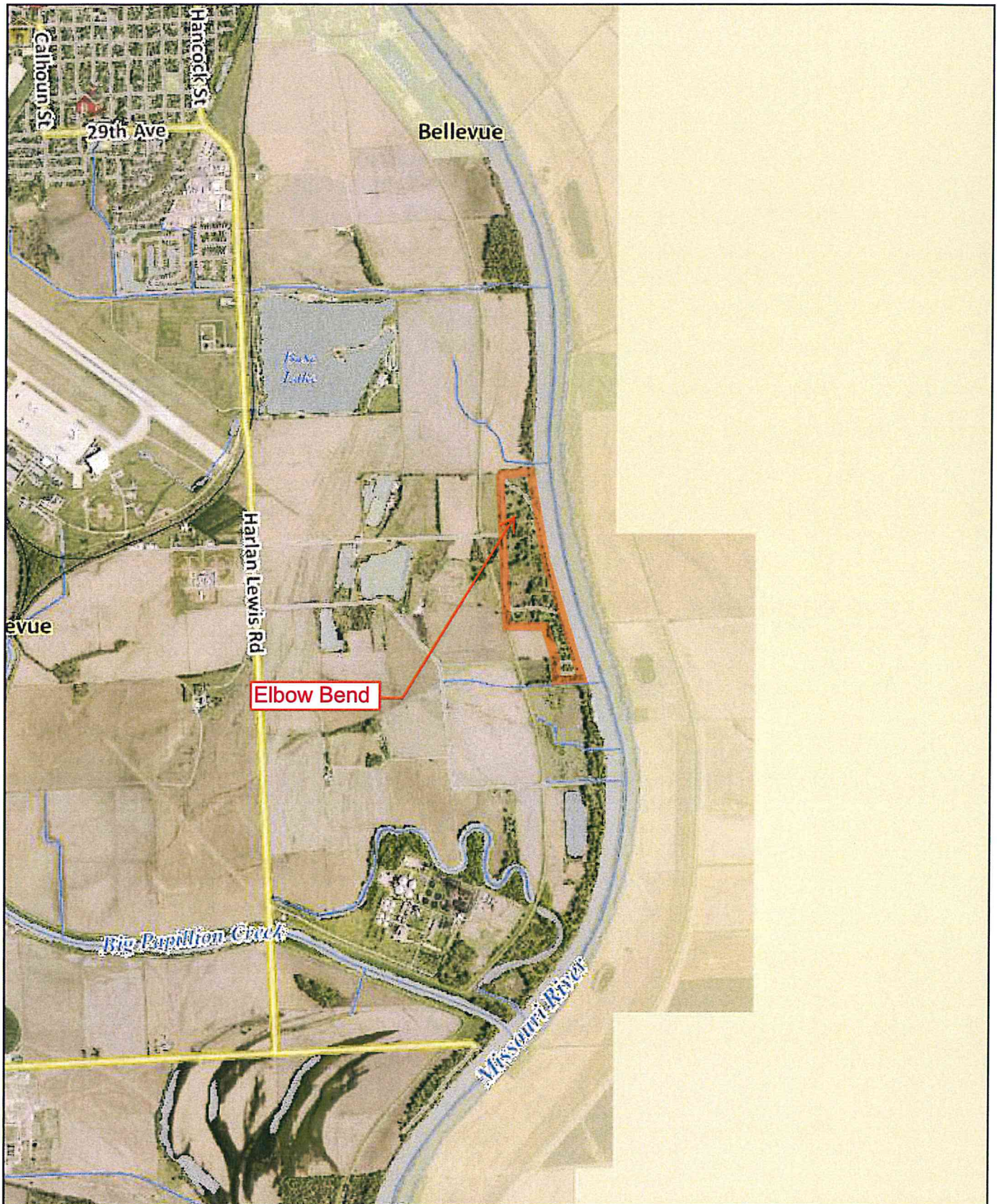
to prepare the application because of the detail of the application and the timeframe. The District recommends that Olsson Associates be hired to prepare the application because of the experience they have with the Hazard Mitigation Plan and with other applications for the District. This will be an under \$20,000 contract and therefore could be executed by District Management. Each entity will pay one-third of the local share (approximately 8 percent of the total project cost). The City of Bellevue and Sarpy County will reimburse the District for funds expended during the project.

The Floodway Purchase Program is a voluntary program based on a willing seller and willing buyer basis. Eminent Domain cannot be exercised under this program. At this time, there are 50 properties eligible for buyout. If all 50 sellers accept a buyout, the total project cost would be approximately \$3 million. Federal funds would cover \$2.25 million, leaving \$750,000 as the local share. Each entity would be responsible for \$250,000.

**It is Management's recommendation that the General Manager be authorized to fully execute for and on behalf of the District an Interlocal Agreement with the City of Bellevue and Sarpy County which provides that the District sponsor and apply for FEMA Hazard Mitigation Grant Program funding for floodway buyouts of all properties in the Elbow Bend and Iske Place areas of Sarpy County and that the District, Sarpy County and the City of Bellevue equally share the non-federal costs of those acquisitions, subject to changes deemed necessary by the General Manager and approved as to form by District Legal Counsel.**



# Sarpy County, Nebraska



Disclaimer: This data is for informational purposes only, and should not be substituted for a true titles search, property appraisal, survey, or for zoning district verification. Sarpy County and the Sarpy County GIS Coalition assume no legal responsibility for the information contained in this data.

Map Scale  
1 inch = 0.5 mile

10/7/2011



## Sarpy County, Nebraska



Disclaimer: This data is for informational purposes only, and should not be substituted for a true titles search, property appraisal, survey, or for zoning district verification. Sarpy County and the Sarpy County GIS Coalition assume no legal responsibility for the information contained in this data.

Map Scale  
1 inch = 1376 feet

10/7/2011

Seeding Rate: 10 lbs of sweet clover per acre

[March 8, 1990]

**17.30 District Programs - Floodway Purchase Program.** The floodway purchase program is an authorized program of the District to promote the health, safety and well-being of the public and reduce flood damages through the purchase of floodway lands and improvements.

A. Purpose:

1. To reduce future flood insurance and disaster assistance costs by removing repetitively and/or substantially damaged structures from flood risk areas.
2. To provide an opportunity for owners of repetitively and/or substantially damaged structures to have those structures permanently removed from flood risk areas, and to reduce risk to life from flooding.
3. To complement Federal, state and local efforts to restore floodplain values, protect the environment and provide recreational and open space uses.

B. Objective: To provide a voluntary program whereby property in the floodway would be purchased, and whereby buildings in the floodway would be razed or relocated outside of the floodway, on a willing seller/willing buyer basis, without exercise of eminent domain.

C. Criteria for Eligibility:

1. The property/building(s) must be located within the District and within the floodway as identified on published FEMA Flood Insurance Maps. Portions of a parcel of property may be purchased.
2. The fair market value of the property and improvements will be based upon an appraisal prepared by a certified licensed appraiser retained and paid by the District. In the case where a portion of a parcel is purchased, severance damages will not be considered or paid.
3. The acquisition will be fee title, deeded to the District.
4. This program will not be carried out within the corporate limits of cities or villages, except as provided in Paragraph F. herein.

D. Priorities of Acquisition:

1. Priorities for acquisitions are as follows:
  - a. Residences and associated buildings
  - b. Commercial buildings
  - c. Farmsteads



d. Industrial buildings

2. Priority will be given to those properties and buildings that have experienced recurring flooding problems and/or have been substantially damaged.
3. Properties and buildings located on the riverside of a publicly owned and operated levee system will receive high priority.
4. Emphasis will be placed on acquiring these properties under foreclosure.

E. Funding Assistance:

1. Management will apply for Federal, state and local funds that are available to assist in the implementation of this program. This assistance may be available through:
  - a. Federal Emergency Management Agency (FEMA)
  - b. Department of Housing and Urban Development
  - c. USDA Natural Resources Conservation Service - P. L. 83-566
  - d. Others
2. Relocation assistance to families or businesses will not be provided by the District unless required by law.

F. City, County or Village Sponsored Floodway Purchase Projects

1. The District will cost share with Cities, Counties or Villages who wish to sponsor a Floodway Purchase Project, under the following conditions:
  - a. The sponsor shall execute an agreement with the District which generally meets the guidelines of this Program and the following:
    1. The acquisition(s) will be fee title, deeded to the sponsor.
    2. The sponsor shall administer all contracts for design, construction, and construction inspection.
    3. The sponsor shall apply for Federal, State, and other funding assistance.
    4. The District will cost share half the local cost of the project, including all professional services, except legal fees.
  - b. The sponsor shall provide for all future operation and maintenance on the project at no cost to the District.
  - c. The sponsor shall hold and save the District free from damages or claims due to the construction, operation, and maintenance of the project.

G. Disposition of the Property/Buildings:

1. Building(s) will either be demolished or sold as surplus property, depending upon the condition of the buildings and the marketability of the structure(s).
2. The land will be graded, smoothed and covered with a soil suitable for vegetative growth.
3. A revegetation plan (grasses, trees and shrubs) will be prepared and implemented.

H. Authorities:

1. The Board of Directors will decide all acquisitions, which shall be subject to the availability of funds.
2. Management will plan and implement grading and revegetation plans.
3. Policies of the District regarding purchasing (Policy 15) and property (Policy 16) shall apply.

[December 12, 1991; May 10, 2001]

**17.31 District Programs - Ice Jam Removal.** The Ice Jam Removal Program is an authorized program of the District.

- A. If the General Manager, or in his or her absence the Assistance General Manager, as the principal executive officer of the District, in the exercise of his or her discretion, and after a personal inspection of the affected area,
  1. Determines that flood waters impounded by an ice jam in the Platte or Elkhorn Rivers within the District pose an imminent threat of widespread or severe flood damage, injury or loss of life or property in an area intended to be protected by a District flood control project, unless such ice jam is promptly removed and the impounded waters released; and,
  2. Executes a written proclamation containing the aforesaid determination and his or her determination that such ice jam and resulting impoundment of flood waters constitute a local disaster emergency within the contemplation of Section 81-829.50(1), R.R.S., 1943, and, in accordance with Section 81-829.50(1), R.R.S., 1943, immediately mails a copy of such proclamation to the State Civil Defense Agency and the county clerk of each county within which such ice jam is occurring,

then, the General Manager is authorized to carry out District duties and responsibilities under applicable agreements creating local or interjurisdictional civil defense agencies and organizations; and, if the General Manager, on the basis of his or her inspection and after consultations with the District's engineers, determines that the use of explosives is the only feasible method to obtain the timely removal of such ice jam and release of impounded flood waters, then the General Manager, on behalf of the District, may employ any persons, firms or corporations who or which he or she determines are qualified, upon such terms and conditions as he or she determines reasonable, to remove such ice jam and release such impounded flood waters, using explosives; provided, however, in accordance with Section

## INTERLOCAL COOPERATION ACT AGREEMENT

---

### THE CITY OF BELLEVUE, NEBRASKA, THE COUNTY OF SARPY, NEBRASKA AND PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT

---

### MISSOURI RIVER FLOODWAY PURCHASE PROGRAM

---

This Agreement (hereinafter “**THIS AGREEMENT**”) is made by and among **THE CITY OF BELLEVUE, NEBRASKA** (hereinafter “**the CITY**”), **THE COUNTY OF SARPY, 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.

#### RECITALS:

WHEREAS, numerous private dwellings and other structures now exist in the designated floodway adjacent to the Missouri River Levee Unit R-613 and R-616 flood control levees in the CITY and COUNTY (hereinafter “**the PROGRAM FLOODWAY**”); and,

WHEREAS, the parties desire to establish a MISSOURI RIVER FLOODWAY PURCHASE PROGRAM (hereinafter “**the PROGRAM**”), for the purposes of purchasing, dwellings and other privately-owned structures on land within the



PROGRAM FLOODWAY, or removing the same from the PROGRAM FLOODWAY, 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 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 FLOODWAY will be purchased in voluntary transactions, pursuant to which such dwellings and other structures will be removed from the PROGRAM FLOODWAY 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 FLOODWAY, 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 FLOODWAY 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**”). To provide for the CITY’S and the COUNTY’S reimbursement to the DISTRICT of the NON-RECOVERABLE EXPENSES, the parties shall follow the following procedure:

(1) From time to time, but not more often than quarterly, as 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.

**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 FLOODWAY 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.** THIS AGREEMENT shall have permanent duration, commencing upon the occurrence of the signatures of all parties being affixed hereto.

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 \_\_\_\_\_, 2011.

THE CITY OF BELLEVUE, NEBRASKA

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

Attest:

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

Executed by the COUNTY this \_\_\_\_ day of \_\_\_\_\_, 2011.

THE COUNTY OF SARPY, NEBRASKA

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

Executed by the DISTRICT this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

PAPIO-MISSOURI RIVER NATURAL  
RESOURCES DISTRICT

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