

Agenda Item: 8.a.

MEMORANDUM

TO: Programs, Projects, and Operations Subcommittee

FROM: Zach Nelson, Project Manager

SUBJECT: Review and Recommendation on the Washington County Rural Water System - Lakeland Estates Water Company Water Supply Agreement

DATE: August 2, 2016

Lakeland Estates Water Company serves the Lakeland Community along with numerous other subdivisions near the intersection of Hwy 133 and County Road 34 in Central Washington County. Over 500 households are served by Lakeland Estates Water Company. Currently, the Company receives its' water through four wells throughout the system that it owns. Operating the system's wells is costly and the water produced from them is high in iron. Since last fall, the District has been working with Lakeland Estates Water Company to evaluate connecting the system as a wholesale customer to the Washington County Rural Water System.

The first option is to connect to an existing water main at the intersection of County Roads 37 and P37, and install a new 8" main 2,400 LF to Allen Hills Drive (East Connection). (see attached map). This option is the shortest route to provide water to Lakeland Estates Water Company. Currently, the Washington County Rural Water System has capacity to provide a connection from this location; however after running hydraulic calculations for future growth, this connection would limit the future buildout capacity of the system.

The second option is to connect to an existing water main at the intersection of Highway 133 and County Road 32, and install a new 10" main 4,505 LF to Todd Drive and an 8" main 1,018 LF from Todd Drive to County Road 34. (West Connection). (see attached map). While this option requires installation of more pipe, it does not limit future growth significantly like the proposed East Connection Option. It also positions the water system for further extensions along Highway 133. This option is recommended by District staff and the District's consulting engineer, Chris Koenig with HDR.

Attached is the proposed Papio-Missouri River Natural Resources District - Lakeland Estates Water Company – Water Supply Agreement. Under the agreement, Lakeland Estates Water Company would connect to the Washington County Rural Water System as a wholesale customer to receive 100% of its water. The District is proposing that Lakeland Estates Water Company be responsible for all engineering costs associated with the project and an amount equal to the construction costs to install the (East Connection.) The Washington County Rural Water System would then pay the difference in construction costs between the West Connection Option and the East Connection Option. The West Connection is projected to cost \$226,362.75. Based on unit costs from the low bid received, the East Connection Option would cost \$123,073.00, leaving a balance of \$103,289.75 for the rural water system to pay. Under the current water rate structure, the Washington County Rural Water System would receive roughly \$115,500 a year in additional revenue from water sales as a result of the Lakeland Connection. Within three years the system would recoup its investment in the project, when taking into consideration additional water purchase and maintenance costs.

When the former Washington County Rural Water #2 System was formed, the City of Blair and Washington County contributed funds towards the oversizing of water mains. Per the Interlocal Agreement between all three entities, the District must submit a rebate of \$1,155 to the City of Blair and a rebate of \$345 to Washington County for every new customer hookup. The City of Blair will be receiving additional revenue as a result of water sales for this project and views the Lakeland Connection as a single hookup. Washington County will receive a rebate in the amount of \$181,125 for the 525 households within the Lakeland Estates Water Company Service area. This rebate along with other rebate funds collected this year will pay off the outstanding balance to Washington County for their contribution to the Washington County Rural Water System. A monthly fee will be added to Lakeland Estates Water Company's monthly invoice, which will cover the debt service on the \$181,125 rebate due to Washington County.

District staff is currently working to refinance the system's existing debt and has submitted an application for an SRF Loan for this project. This agreement shall be subject to approval of financing as provided at the District's September Board Meeting.

The proposed Lakeland Connection Project as outlined in the agreement will provide a clean and dependable water source to over 500 households in Washington County. It will also result in additional revenue for the Washington County Rural Water System, which will help to improve the long term financial stability of the system.

It is Staff recommendation that the PPO Subcommittee recommend to the Board of Directors, that the General Manager be authorized to execute the proposed Washington County Rural Water System and Lakeland Estates Water Company Water Supply Agreement, as presented to the Subcommittee, subject to changes deemed necessary by the General Manager and approval as to form by District Legal Counsel and subject to project financing approval at the District's September Board Meeting.

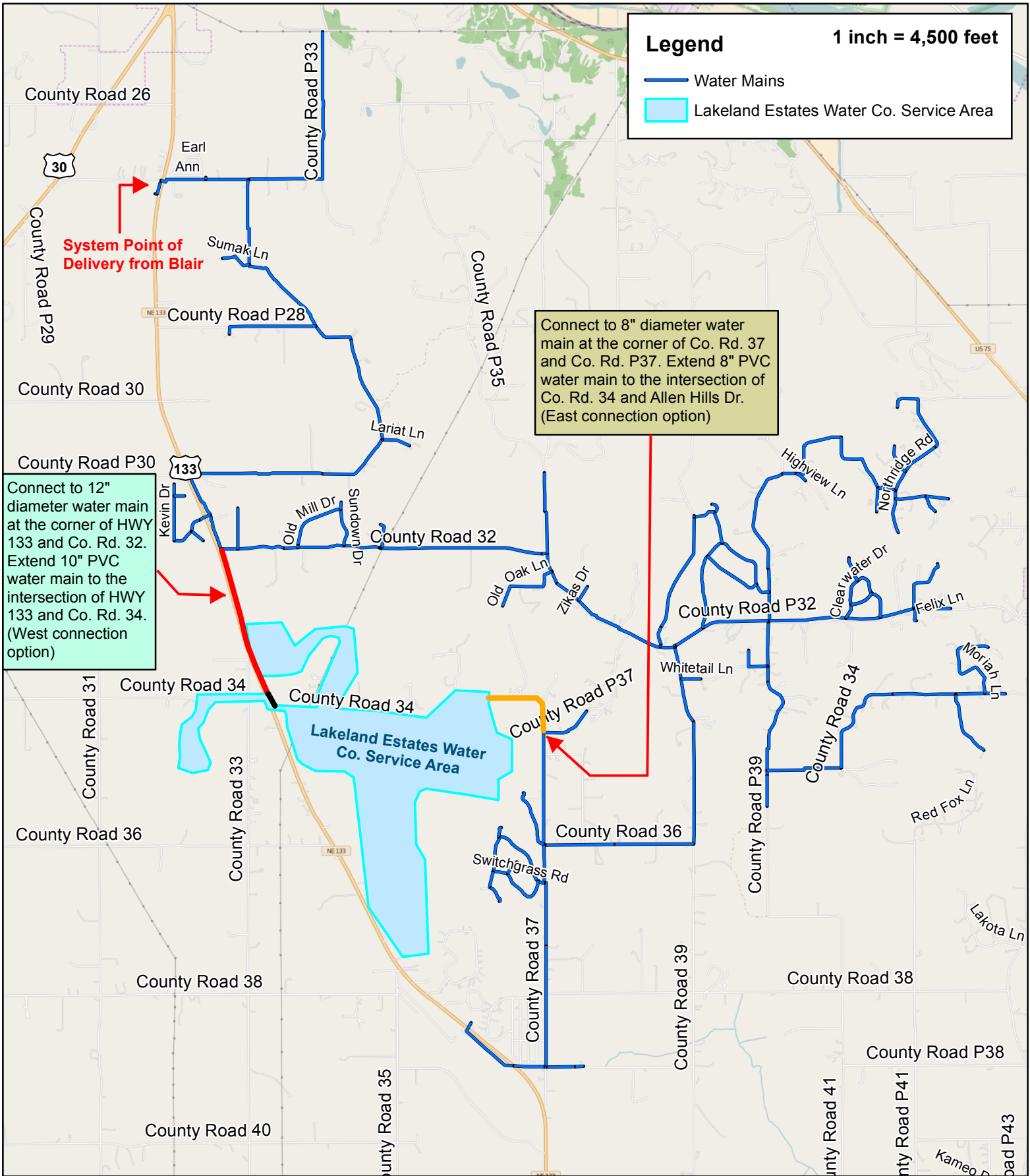


EXHIBIT A
Proposed Lakeland
Water Main Extension



PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT
LAKELAND ESTATES WATER COMPANY
WATER SUPPLY AGREEMENT

THIS WATER SUPPLY AGREEMENT (hereinafter referred to as the “AGREEMENT”) is made and entered into by and between LAKELAND ESTATE WATER COMPANY, a corporation organized under the laws of the State of Nebraska (hereinafter referred to as the “COMPANY”), and the PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT, a political subdivision of the State of Nebraska (hereinafter referred to as the “DISTRICT”), and their successors and assigns.

WITNESSETH:

WHEREAS: the COMPANY operates a water supply distribution system furnishing and selling water to approximately 525 homeowners within a service area located in Washington County, Nebraska;

WHEREAS: the DISTRICT operates the Washington County Rural Water System, an authorized special improvement project, serving the rural areas in and around Washington and Douglas Counties, Nebraska (hereinafter referred to as “WCRWS”);

WHEREAS: the DISTRICT purchases potable water for the WCRWS from the city of Blair, Nebraska, and Metropolitan Utilities District (“MUD”).

WHEREAS: the COMPANY desires to upgrade their current water main infrastructure and connect to the WCRWS;

WHEREAS: the WCRWS is currently capable of serving the COMPANY’S present users;

WHEREAS: on or about February 17, 2016, the parties entered into an agreement providing for the preparation of plans and design for a waterline to connect the WCRWS to the COMPANY’S water distribution system (the “DESIGN AGREEMENT”);

NOW, THEREFORE, in consideration of the mutual promises of the DISTRICT and the COMPANY contained in this AGREEMENT, it is agreed as follows:

CONSTRUCTION OF WATER LINE EXTENSION

DISTRICT agrees to cause the construction of a water line extension to connect the WCRWS and the COMPANY'S water distribution system and the COMPANY agrees to assume responsibility for a portion of the costs and expenses associated with the construction of the extension, upon the following terms and conditions:

1. **DESIGN OF EXTENSION.** Pursuant to the DESIGN AGREEMENT, the DISTRICT contracted with a licensed engineering consultant ("CONSULTANT") for the design of a water line extension (the "EXTENSION") between the WCRWS and the COMPANY'S water distribution system. The EXTENSION shall connect to the COMPANY'S water distribution system near: Highway 133 and Todd Drive (collectively referred to as the "WEST CONNECTION"), as more particularly determined by the CONSULTANT, and said connection shall constitute the POINT OF DELIVERY. CONSULTANT shall prepare necessary documents to bid and construct the EXTENSION (the "CONSTRUCTION DOCUMENTS"). The CONSTRUCTION DOCUMENTS shall be reviewed by the DISTRICT, and the COMPANY may review the CONSTRUCTION DOCUMENTS upon reasonable request.

2. **BIDDING OF EXTENSION.** The DISTRICT, assisted by CONSULTANT, shall bid for the construction of the EXTENSION pursuant to the DISTRICT'S sealed bid policy and procedure. The bid form shall require unit prices. The DISTRICT shall select the contractor(s) ("CONTRACTOR") to construct the EXTENSION and will provide the COMPANY with a tabulation of the bids submitted. DISTRICT shall also provide a written justification for the selection of a CONTRACTOR if they were not the lowest bid received.

3. **CONSTRUCTION & MAINTENANCE OF EXTENSION.** The DISTRICT, assisted by CONSULTANT, shall cause the EXTENSION to be constructed by the CONTRACTOR pursuant to the CONSTRUCTION DOCUMENTS. The DISTRICT shall periodically update COMPANY concerning the construction, including material changes to the CONSTRUCTION DOCUMENTS, estimated percent completion of construction, and estimated timing of the connections of the EXTENSION to the COMPANY'S water distribution system. The meter at the POINT OF DELIVERY shall be the terminus points for the EXTENSION. The

DISTRICT shall be responsible for providing and maintaining the necessary parts and equipment for the EXTENSION upstream from the POINT OF DELIVERY. The DISTRICT shall install a meter, at the COMPANY'S expense, which will be located in the master vault at the POINT OF DELIVERY. The meter shall become part of the EXTENSION, and the DISTRICT shall be responsible for maintaining, and if necessary replacing, the meter. The COMPANY shall be responsible for any damage to the meter and the POINT OF DELIVERY equipment installed by the DISTRICT due to other than normal wear and tear, defect in workmanship or material, or the DISTRICT'S installation thereof.

The COMPANY shall be responsible for maintaining and repairing, at its sole cost, the vault at the POINT OF DELIVERY in which the meter will be placed and all other equipment and parts from the POINTS OF DELIVERY downstream to the COMPANY'S water distribution system.

4. PERMITS. The DISTRICT, assisted by CONSULTANT, shall obtain all necessary local, state, and federal permits related to construction of the EXTENSION and the provision of potable water from the WCRWS to the COMPANY.

5. RIGHT OF WAY. The DISTRICT, assisted by CONSULTANT and legal counsel, shall acquire all necessary easements and rights of way for the EXTENSION. All easements and rights of way for the EXTENSION will be in the name of and held by the DISTRICT.

6. CONNECTION FEE. The parties acknowledge that the shortest route to connect the COMPANY'S water distribution system to the WCRWS is via a main connected to the WCRWS in the vicinity of County Road P37 and County Road 37 and connecting into the COMPANY'S water distribution system from the east (the "EAST CONNECTION") as conceptually depicted on Exhibit "A." The parties further acknowledge that it is beneficial to the WCRWS for the EXTENSION to connect to the WCRWS in the vicinity of the intersection of Highway 133 and County Road 32 and to the COMPANY'S water distribution system at the POINTS OF DELIVERY, as conceptually depicted on Exhibit "A." The parties further acknowledge that the chosen route for the EXTENSION will cost more than the EAST CONNECTION route while providing more benefit for the WCRWS. Therefore, the COMPANY shall be responsible for the total probable costs associated with the construction of the EAST CONNECTION, had it been selected as the route of the extension, along with the

actual costs of constructing and equipping the POINT OF DELIVERY, and the DISTRICT will be responsible for the difference between the cost of the construction of the EXTENSION and the probable costs for the construction of the EAST CONNECTION.

The CONSULTANT shall assist the DISTRICT in determining the probable cost of the construction of the EAST CONNECTION by use of the unit prices contained in the chosen contractor's proposal along with CONSULTANT'S professional judgment ("ESTIMATED EAST CONNECTION FEE"). In the event the actual costs related to the construction of the EXTENSION is different than the costs utilized in determining the ESTIMATED EAST CONNECTION FEE, then the DISTRICT, assisted by the CONSULTANT, shall utilize the actual costs to determine the CONNECTION FEE, which shall be paid by the COMPANY. The CONNECTION FEE shall also include any and all costs associated with bidding, permitting costs, right of way acquisition costs, hook-up fees required by the City of Blair and Washington County, and legal fees associated with the PROJECT.

At the time of the execution of this AGREEMENT, the ESTIMATED EAST CONNECTION FEE is \$135,000.00. In the event that the CONNECTION FEE exceeds \$135,000, then the COMPANY and DISTRICT shall each pay 50% of the amount of the CONNECTION FEE that exceeds \$135,000.

Prior to the DISTRICT entering into a contract with the CONTRACTOR, the COMPANY shall deposit the ESTIMATED EAST CONNECTION FEE with the DISTRICT for the DISTRICT'S use on the construction of the EXTENSION. In the event the COMPANY refuses or is unable to deposit the funds necessary to pay the CONNECTION FEE, the DISTRICT shall have the right, in its sole and exclusive discretion, to suspend the PROJECT until such time as the COMPANY deposits the funds. The COMPANY shall be responsible for any and all costs associated with any suspension of the PROJECT due to insufficient deposited funds to pay the CONNECTION FEE. Upon completion of the PROJECT, the DISTRICT, with assistance from the CONSULTANT, shall determine the final amount of the CONNECTION FEE. In the event the final CONNECTION FEE total is different than the amount deposited by the COMPANY with the DISTRICT, any excess funds shall be returned, without interest, to the COMPANY, and any shortage of funds shall immediately be paid by the COMPANY to the DISTRICT.

7. OWNERSHIP OF EXTENSION. The EXTENSION, including all components upstream of the POINT OF DELIVERY thereof, shall be part of the WCRWS and owned by the DISTRICT. The DISTRICT, in its sole and exclusive discretion, may establish additional connections at any point(s) along the EXTENSION for the provision of water services to current or prospective customers of WCRWS without informing or seeking approval from the COMPANY.

WATER SUPPLY AGREEMENT

In addition to contracting for the designing and constructing the EXTENSION, the DISTRICT agrees to furnish and sell water to the COMPANY, and the COMPANY agrees to purchase water from the DISTRICT for the duration of this AGREEMENT in such amounts and upon the following terms and conditions:

8. POINTS OF DELIVERY AND METERING EQUIPMENT. COMPANY hereby grants permission to the DISTRICT to establish the POINT OF DELIVERY between WCRWS and the COMPANY'S water distribution system in such a manner and at such a place as designated in the CONSTRUCTION DOCUMENTS. The water systems of the WCRWS and the COMPANY shall continue to be joined at the POINT OF DELIVERY by master valves and a meter. Although purchased as part of the CONNECTION FEE by the COMPANY, the master valves, meter, and associated equipment upstream from the meter, shall be owned by and under the control of the DISTRICT. Operation, maintenance, repairs, improvements, and replacement of the master valves and meter shall occur promptly at the discretion of the DISTRICT at its own cost and expense.

9. METER READING. The meter at the POINTS OF DELIVERY shall be AMR (Automatic Meter Reading) capable. On or around the last day of each month, the DISTRICT shall read the meters and bill the COMPANY as hereinafter provided. Upon request, the COMPANY shall be granted reasonable access to the meter, for the purpose of verifying readings. If the meter fails to register for any period, the amount of water furnished during such period shall be deemed to be the amount of water delivered in the corresponding period immediately prior to the failure, unless DISTRICT and COMPANY shall agree upon a different amount.

10. METER TESTING. The meter shall be tested by the DISTRICT whenever requested by the COMPANY, but not more frequently than once every twelve (12) months. Either party may request a meter test at any reasonable time. A meter registering not more than two percent (2%) above or below the test result shall be deemed to be accurate. Readings for the three (3) months prior to any test shall be corrected in accordance with the percentage of inaccuracy found by the test when the test reflects greater than a two percent (2%) variance. Meter tests shall be conducted by the DISTRICT or DISTRICT'S agent. In the event the COMPANY requests a test, the DISTRICT shall coordinate the requested test in a manner that allows the COMPANY'S representative to be present at the testing. COMPANY shall bear the costs of any meter tests it has demanded unless meter inaccuracy exceeds two percent (2%) to the detriment of the COMPANY, in which event DISTRICT shall bear the costs of such test.

11. WATER QUALITY AND QUANTITY. DISTRICT agrees to furnish COMPANY at the POINT OF DELIVERY potable water meeting applicable purity standards of the State of Nebraska in such quantity as may be required by the COMPANY not to exceed 270,000 gallons per day and at a rate not to exceed 700 (seven hundred) gallons per minute. The DISTRICT shall have reasonable time to repair any equipment or material malfunction which results in DISTRICT'S inability to furnish said water.

12. EMERGENCY PRO-RATION. In the event an emergency exists and the total water supply for the WCRWS shall not be sufficient to meet all of the needs of the WCRWS' customers as well as those of the COMPANY, the DISTRICT has the discretion to pro-rate the available water supply between COMPANY and other consumers on the WCRWS on a reasonable basis giving first consideration to domestic users. In addition to emergencies, the DISTRICT may invoke this provision for pro-ration in the event the City of Blair and/or MUD pro-rates, reduces, stops, or terminates the water supply to the WCRWS for whatever reason.

13. MAXIMUM SUPPLY. Should COMPANY exceed its absolute limit of 270,000 gallons during any one day, DISTRICT may, at its discretion, terminate said water supply for the remainder of such day. If the DISTRICT elects to provide the COMPANY water in excess of 270,000 gallons during any one day, the DISTRICT may assess a penalty for such excess at no more than double the rates established under this AGREEMENT. The WCRWS, including the EXTENSION and work contemplated herein, is not designed for the supply of water for fire protection purposes.

14. POINTS OF DELIVERY PRESSURE. The DISTRICT will furnish water at the POINT OF DELIVERY at a reasonably constant pressure, not less than the standard required by the state regulatory agency as calculated at the POINTS OF DELIVERY, which as of the date of this AGREEMENT is twenty (20) PSI. Emergency failures of pressure or supply due to main supply line breaks, power failures, flood, fire and use of water to fight fire, earthquake, or other catastrophe shall excuse the DISTRICT from this provision and obligations contained in Paragraph 11, above, for such reasonable period of time as may be necessary to restore service.

15. BILLING, RATES, AND PAYMENT. The DISTRICT shall furnish to COMPANY, on or about the first day of each month, an itemized statement of the amount of water furnished to COMPANY during the preceding month. The COMPANY agrees to pay DISTRICT for all water provided by DISTRICT no later than the 15th of each month. In the event the COMPANY fails to pay the DISTRICT within thirty (30) days of billing, the DISTRICT shall have the right to terminate the water supply provided herein until such time as the COMPANY has paid all outstanding balances to the DISTRICT. The rate charged the COMPANY for the water will be the established rate for consumers of the WCRWS. Said rates may be adjusted by the DISTRICT pursuant to the rules and regulations applicable to the WCRWS. The rules and regulations promulgated by the DISTRICT, and as amended from time to time, for the WCRWS shall apply to the COMPANY. The Company also agrees to pay DISTRICT one thousand and fifty dollars (“\$1,050”) per month for reimbursement of financing costs.

16. TERM AND MODIFICATION. COMPANY and DISTRICT agree this AGREEMENT shall run for a term of twenty (20) years from the date of the initial delivery of any water as shown by the first statement submitted by DISTRICT to COMPANY (“INITIAL TERM”). If COMPANY terminates this AGREEMENT before the expiration of the INITIAL TERM, the COMPANY shall pay all costs incurred by the DISTRICT related to the EXTENSION project. After the expiration of the INITIAL TERM, this AGREEMENT shall be renewed, unless terminated as provided below, for an additional period of not less than two (2) years (“INITIAL RENEWAL PERIOD”). After the INITIAL RENEWAL PERIOD, the AGREEMENT may be renewed or extended for such term, or terms, as may be agreed by DISTRICT and COMPANY. The provisions of this AGREEMENT may be modified at any time by the written agreement of both parties hereto. Either party desiring to terminate or forego

renewing of this AGREEMENT after the initial renewal period shall give notice to the other party at least twelve (12) months prior to the expiration of the AGREEMENT and any agreed upon extension. In the event the City of Blair or MUD terminates its agreement with the DISTRICT to supply water to the WCRWS or stops supplying water to the WCRWS on a permanent basis, the DISTRICT may terminate this AGREEMENT unless at that time an alternate source of water supply for the WCRWS has been established.

17. SUCCESSOR OF COMPANY. The COMPANY binds itself, its successor and assigns to all covenants, agreements, and obligations contained in this AGREEMENT. COMPANY may not assign this AGREEMENT and/or any of its rights or obligations in or under this AGREEMENT without receiving the prior, written consent of the DISTRICT which shall not be unjustifiably withheld. Any such assignment made without the DISTRICT'S prior written consent shall be null and void and of no legal force or effect.

18. REPAIRS. Each party assumes responsibility for any maintenance, repair, and improvements occurring within its own water distribution system, except as otherwise provided in this AGREEMENT. DISTRICT assumes the responsibility and costs of maintaining and improving the WCRWS and the COMPANY assumes the responsibility and costs of maintaining, repairing, and upgrading, at its sole cost, its water distribution system in a manner that is compliant with law, rules and regulations for the provision of potable water, and the DISTRICT'S rules, regulations, and policies for the WCRWS.

19. OTHER SOURCES OF WATER FORBIDDEN. COMPANY shall not connect, or allow to be connected, to its water distribution system any other source or supply of water, including specifically, but not limited to, any and all wells. In the event, the COMPANY currently has wells connected to its water distribution system, the COMPANY shall physically and permanently disconnect said wells from its water distribution system prior to establishment of the POINT OF DELIVERY.

20. INITIAL DELIVERY OF WATER. Thirty (30) days prior to the estimated date of completion of construction of the EXTENSION, DISTRICT will notify COMPANY in writing of the estimated date for the initial delivery of water to the COMPANY at the POINT OF DELIVERY.

21. REGULATORY AGENCIES. This AGREEMENT is subject to such rules, regulations, or laws as may be applicable to similar agreements in the State of Nebraska, and the

parties will collaborate in obtaining and maintaining such permits or certificates as may be required to comply herewith.

22. RECORD INSPECTION. Each party's water supply distribution system records shall be subject to inspection by the other party upon reasonable notice.

23. ANNUAL MEETING AND REPORT. Representatives of the DISTRICT and COMPANY may meet at an annual meeting called by either party to discuss the status and future plans of the subject matter of this AGREEMENT. On an annual basis, the COMPANY shall provide the DISTRICT a report detailing the total number of water consumers connected to its water distribution system. Additionally, the COMPANY shall provide the DISTRICT with the total number of water consumers connected to its water distribution system within fifteen (15) days of the DISTRICT'S written request.

24. EXPANSION OF THE COMPANY'S WATER DISTRIBUTION SYSTEM. The COMPANY shall not expand its water distribution system beyond its current service area as depicted on Exhibit "A," nor shall the COMPANY allow additional users to connect to its current water distribution system without first receiving written authorization from the DISTRICT which shall not be unjustifiably withheld.

25. EFFECTIVE DATE. This AGREEMENT shall become effective upon its complete execution by both parties.

26. NO WAIVER. No delay or failure by either party hereto 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 party hereto must be in writing and executed by the waiving party.

27. INDEMNIFICATION. The COMPANY shall indemnify and hold the DISTRICT harmless from and against any claims, costs, losses, and damages (including but not limited to all fees and costs associated with attorneys, engineers, and other professionals, and all court or arbitration costs) arising out of or relating to COMPANY'S obligations under this AGREEMENT, including but not limited to, the construction, maintenance, and upgrades to the COMPANY'S water distribution system, and any harm to the WCRWS caused by the COMPANY, its agents, and its customers.

28. ENTIRE AGREEMENT. Each party hereto acknowledges that this AGREEMENT, along with the terms of the DESIGN AGREEMENT, contains the entire

agreement between the parties hereto, and the terms of this AGREEMENT are contractual in nature in all respects and not a mere recital. Each party hereto further acknowledges that it has not made or relied upon any representations or promises related to the subject matter of this AGREEMENT that have not been made part of this AGREEMENT or the DESIGN AGREEMENT.

29. COUNTERPARTS. This AGREEMENT may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument. Each party hereto agrees that facsimile or other electronic signatures and copies hereof shall be considered legal and binding with respect to this AGREEMENT.

30. CONSTRUCTION. This AGREEMENT shall be construed and enforced in accordance with laws of the State of Nebraska.

31. **IN WITNESS WHEREOF** the parties hereto, acting under authority of their respective governing bodies have caused this AGREEMENT to be duly executed.

EXECUTED by the COMPANY on this ____ day of _____, 2016.

LAKELAND ESTATES WATER COMPANY

By: _____
Ronald A. Henn, President and Director

STATE OF NEBRASKA)

) ss.

COUNTY OF _____)

On this _____, day of _____, 2016, before me, a Notary Public, personally came Ronald A. Henn, President and Director of the Lakeland Estates Water Company, to me known to be the identical person whose name is affixed to the above and foregoing instrument, and freely and voluntarily executed the instrument.

Notary Public

EXECUTED by the DISTRICT on this ____ day of _____, 2016.

PAPIO-MISSOURI RIVER NATURAL
RESOURCES DISTRICT

By: _____
General Manager

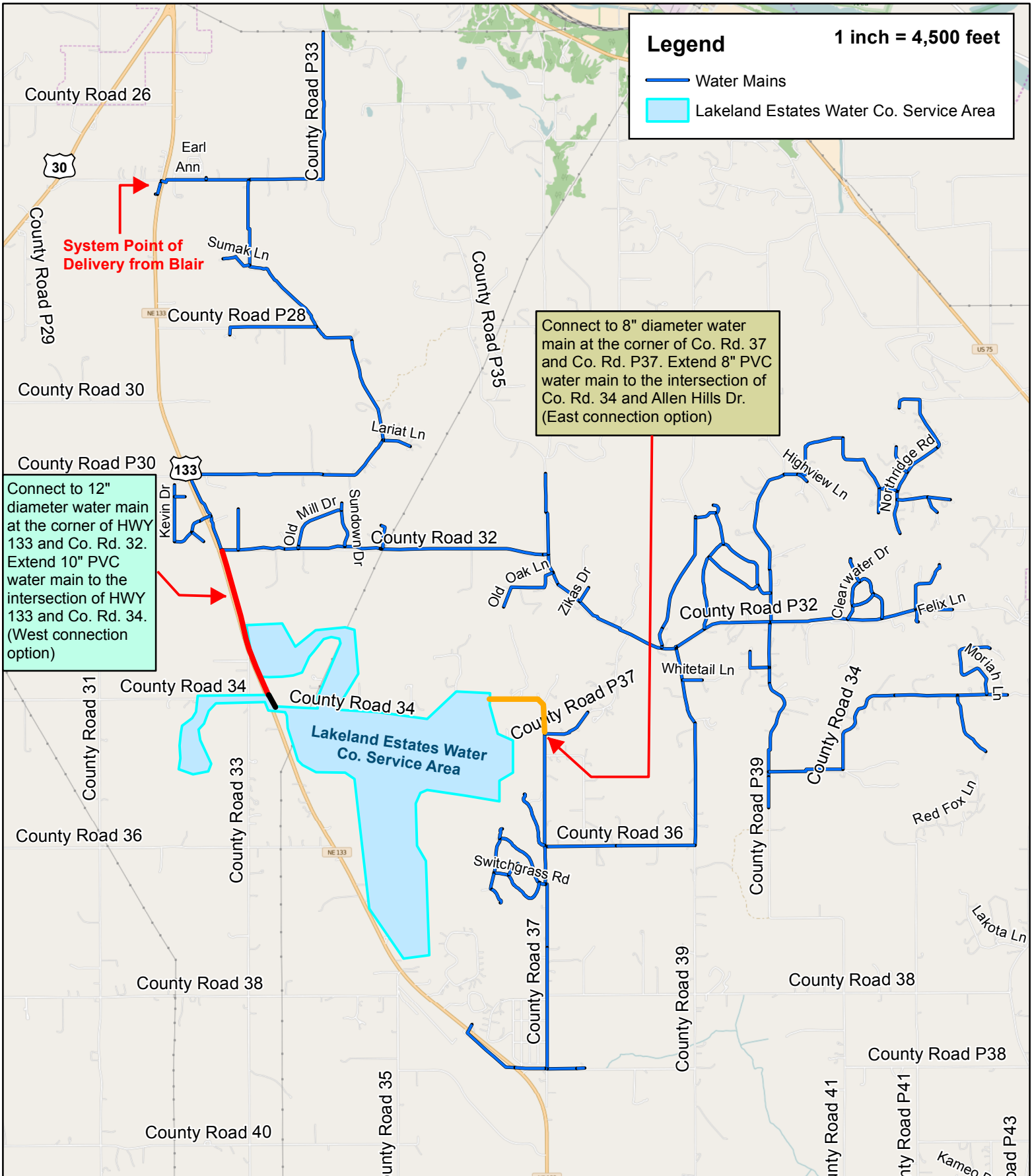


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