



**Papio-Missouri River Natural Resources District
Board of Directors Meeting
Suggested Resolutions/Recommendations
October 8, 2009**

***Agenda Item 4 - Agenda**

BE IT RESOLVED that the agenda be adopted.

***Agenda Item 5 – Consent Agenda**

BE IT RESOLVED that the following resolutions on the consent agenda are hereby adopted.

Agenda Item 3.A.:

BE IT RESOLVED that the absence of the following Director(s) from the October 8, 2009, Board of Directors Meeting is excused:

John Conley

Agenda Item 7. A.

BE IT RESOLVED that the September 10, 2009 Papio-Missouri River NRD Board meeting minutes and the September 9, 2009 Dakota County Rural Water Advisory Board meeting minutes are approved as printed.

***Agenda Item 9.A. – Missouri River Levee Ad Hoc Consultant Selection Subcommittee**

BE IT RESOLVED that the minutes of the October 6, 2009, Missouri River Levee Ad Hoc Consultant Selection Subcommittee are accepted, incorporated in these minutes, and the following recommendation of the Subcommittee is hereby adopted and approved.

1. Selection of Consulting Firms for Missouri River Levee Professional Services: – Recommendation Board that the firms interviewed by the Subcommittee should be ranked in the following order, to-wit: Tetra Tech, JEO, AMEC; and, that the General Manager, on behalf of the District, should be authorized to negotiate a professional services contract with Tetra Tech to provide professional services for the Missouri River Levee Project.

***Agenda Item 9.B. – Regional Basin 15A Levee Ad Hoc Consultant Selection Subcommittee**

BE IT RESOLVED that the minutes of the October 6, 2009, Missouri River Levee Ad Hoc Consultant Selection Subcommittee are accepted, incorporated in these minutes, and the following recommendation of the Subcommittee is hereby adopted and approved.

1. Contract with HDR to Provide Engineering Services for Regional Basin 15A: Recommendation that the General Manager be authorized to execute a professional services contract with HDR to provide engineering services for Dam Site 15A for a maximum fee of \$620,300, subject to changes deemed necessary by the General Manager and approved as to form by District legal counsel.

***Agenda Item 9.C. – Programs, Projects and Operations Subcommittee**

BE IT RESOLVED that the minutes of the October 6, 2009, Programs, Projects and Operations Subcommittee are accepted, incorporated in these minutes, and the following recommendation(s) of the Subcommittee are hereby adopted and approved.

1. Presentation and Request for Funding for Emerging Water Contaminants: Recommendation that the General Manager be authorized to enter into an agreement with the University of Nebraska at Omaha to provide 50% cost share on the Davis Prairie Data Shack Project, up to a maximum District contribution of \$60,000, and also work with the University on providing river access to the public at this location, if feasible, all subject to approval as to form by District legal counsel.
2. Update on Design of the Washington County Service Center: No action taken.
3. Whitted Creek Professional Services Contract Addendum with CH2MHill: Recommendation that the General Manager be authorized to execute the proposed Amendment No. 1 to the professional services contract with CH2MHill for the Whitted Creek Stream Restoration Project, increasing the maximum not to exceed amount of the contract to \$318,897.07.
4. Western Sarpy Clear Creek Levee Project – Segment #3 Construction (Fairview Road to Lincoln Road) Irrigation Pivot Relocation: Recommendation that the General Manager be authorized to execute a contract with Mid-Continent Irrigation for the modification/relocation of five irrigation systems on Glasshoff and Horn properties for the Western Sarpy Clear Creek Flood Relocation Project.
5. Papio Watershed Structure W-3 Construction Bids: Recommendation that the General Manager be authorized to execute a contract with Pruss Excavating Company, for a total bid of \$604,927.90 for construction of the Papio Creek Watershed Structure W-3 Rehabilitation Project, contingent on obtaining necessary right-of-way (easements) for the project.

6. FY 2010 Long Range Implementation Plan: Recommendation that the proposed Fiscal Year 2010 Long Range Implementation Plan be approved.

7. Bids for District Vehicles: Recommendation that the following bids be accepted:

Bid Item A – 2010, 7-Passenger Van, Extended Length: The staff recommends that the low and best bid of \$19,770 from Woodhouse Auto Family be accepted with trade-in of the District's 1999, Ford Windstar, serial number 2FMZA5144XBA73833.

Bid Item B – 2010, Mid-Size, AWD, Sport Utility Vehicle, Hybrid: The staff recommends that the low and best bid of \$23,241 from Woodhouse Auto Family be accepted with trade-in of the District's 2003, Ford Explorer, serial number 1FMZU72KX3ZA23445.

Bid Item C – 2010, Compact, Extended Cab, 4WD, Pickup Truck: The staff recommends that the low and best bid of \$17,700 from Woodhouse Auto Family be accepted with trade-in of the District's 1997, Chevrolet S-10, serial number 1GCDDT14XXV8147618.

Bid Item D – 2010, ¾ Ton, 4WD, Extended Cab, Pickup Truck w/Tow Package: The staff recommends that the low and best bid of \$14,570.71 from Performance Ford be accepted with trade-in of the District's 2000, Ford F-250, 4WD, Extended Cab, Pickup Truck, serial number 1FTNX21F2YEB79768.

Bid Item E – 2010, 1 Ton, Extended Chassis-Cab, Diesel, Truck: The staff recommends that the low and best bid of \$25,514 from Eck Ford be accepted with trade-in of the District's 2001, Ford F-350, Chassis-Cab Truck with Service Box, serial number 1FDWF37S01EB26067.

8. Bids for Silver Creek Site 9: Recommendation that Jensen Construction D.T. Inc.'s bid of \$53,635.64 for construction of Silver Creek Site 9 be accepted and that the General Manager is authorized to execute the necessary contract documents.

9. Discussion of Changes to District Programs and Policies: No action taken by the Subcommittee.

***Agenda Item 9.D. – Finance, Expenditures and Legal Subcommittee**

BE IT RESOLVED that the minutes of the October 6, 2009, Finance, Expenditures and Legal Subcommittee are accepted, incorporated in these minutes, and the following recommendation(s) of the Subcommittee are hereby adopted and approved.

1. Papio Creek Watershed Structure W-3 Right of Way Acquisition – John and Mary Camden Parcel –

- a. Authorize deposit of \$128,919 with the Clerk of the Washington County Court as awarded by the Board of Appraisers in the eminent domain action filed by the District, Washington County Court Case No. CI-09-585
- b. Consider deadline for filing appeal: October 14, 2009
- c. Determine amount Condemnees may withdraw from deposit pending completion of appeal proceedings, if appeal filed by either party.
- d. Consent to allow Financial account 03-12-4430 (Project Maintenance – Land Rights) to exceed 110% of budget
- e. Adopt of the following resolution:

RESOLUTION

WHEREAS, on its own motion, the Papio-Missouri River Natural Resources District ("the DISTRICT") has proposed a project ("the PROJECT") to rehabilitate the works and improvements comprising the DISTRICT'S Public Law-566 Dam Site W-3; and,

WHEREAS, the PROJECT is a plan, facility, work and program within the contemplation of Section 3-3229, R.R.S., 1997, which authorizes the DISTRICT as follows, to-wit:

“... to develop and execute, through the exercise of powers and authorities granted by law, plans, facilities, works, and programs relating to (1) erosion prevention and control, (2) prevention of damages from flood water and sediment, (3) flood prevention and control, (4) soil conservation, ... (6) development, management, utilization, and conservation of ground water and surface water, (7) pollution control, ... (9) drainage improvement and channel rectification”

and,

WHEREAS, the Board of Directors of the DISTRICT hereby finds and determines that:

A The DISTRICT has identified a certain temporary easement (hereinafter referred to as "the CORRECTED TEMPORARY INGRESS AND EGRESS EASEMENT"), hereinafter described, in, on, over and across lands owned by JOHN CAMDEN AND MARY CAMDEN, HUSBAND AND WIFE, AS JOINT TENANTS ("CONDEMNES"), that is necessary for the PROJECT; and,

B The DISTRICT previously negotiated in good faith with CONDEMNES in that the DISTRICT retained a licensed real estate appraiser to appraise the damages from the DISTRICT'S acquisition of the TEMPORARY INGRESS AND EGRESS EASEMENT; the DISTRICT offered to CONDEMNES an amount of money equal to the full fair market value of the appraised damages that would be sustained by CONDEMNES as a result of the DISTRICT'S acquisition of the TEMPORARY INGRESS AND EGRESS EASEMENT; and, the DISTRICT'S representatives made reasonable efforts by conference, telephone and correspondence to induce CONDEMNES to accept the DISTRICT'S offer, but such offer was refused, counterproposals by CONDEMNES were unreasonable and unacceptable to the DISTRICT, such negotiations therefore failed, and the parties are at an impasse; and,

C Economic and physical feasibility necessitate that the PROJECT be constructed in the location of the CORRECTED TEMPORARY INGRESS AND EGRESS EASEMENT; and,

D Approvals by other agencies are not required; and,

E It has been discovered that, due to clerical error in the legal description provided by the DISTRICT, the necessary TEMPORARY INGRESS AND EGRESS EASEMENT sought to be acquired by the District in the eminent domain action in Washington County Court Case No. CI-09-585 was not successfully acquired by the DISTRICT; and,

F It is necessary that the DISTRICT exercise the right of eminent domain, granted to it by Section 2-3234, R.R.S., 1997, in order to acquire for the PROJECT the following CORRECTED TEMPORARY INGRESS AND EGRESS EASEMENT, to-wit:

CORRECTED TEMPORARY INGRESS AND EGRESS EASEMENT. The DISTRICT, and its officers, agents, employees and contractors, shall have the temporary and non-exclusive right to use the dirt road in the tract of land in Washington County, Nebraska referred to and described as the “TEMPORARY CONSTRUCTION ACCESS EASEMENT” in the amended legal description and diagram attached hereto as Exhibit “A” and incorporated herein by reference, for vehicular, equipment and pedestrian ingress and egress between the location of other easements acquired for the PROJECT and the public roads rights-of-way during the period of time between the commencement and completion of the DISTRICT’S construction of the PROJECT’S rehabilitated dam and reservoir in such other easement areas, provided, however, such period of time shall not exceed one year beginning with commencement of such construction. Upon termination of the DISTRICT’S temporary use of such tract for such rehabilitation, the DISTRICT shall restore such dirt road in such tract to its condition preceding such use.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the DISTRICT that the foregoing findings and determinations are hereby adopted; and that, in the absence of a voluntary grant of the CORRECTED TEMPORARY INGRESS AND EGRESS EASEMENT to the DISTRICT, the DISTRICT’S Legal Counsel should be, and is hereby, authorized and directed to initiate the filing of a petition in the County Court of Washington County, Nebraska, on behalf of the DISTRICT, for the appointment of appraisers to ascertain, determine and report the damages sustained by CONDEMNES from the DISTRICT’S taking of the afore-described CORRECTED TEMPORARY INGRESS AND EGRESS EASEMENT, pursuant to the procedures governing eminent domain, as provided by Section 76-701, et seq., R.R.S., 1997.

2. Papio WP-5 Right of Way Acquisition: No action taken by the Subcommittee.

*Agenda Item 10. A.-I. - Financials

BE IT RESOLVED that the Treasurer is authorized to expend general funds to pay: (1) claims listed in the September, 2009, financial report; and, (2) any claims made prior to the next Board meeting for (a) earned salaries of District employees, (b) withholding taxes, (c) social security payments, (d) retirement program contributions, (e) utilities, (f) registration fees and expenses for upcoming meetings and conferences, (g) certified completed CAP and Special Project Area

applications, (h) invoices which offer a credit or discount for payment made prior to the next Board meeting, (i) postage, and, (j) building and grounds contract expenses.

BE IT FURTHER RESOLVED that the Treasurer is authorized to pay, from the respective operating accounts of the Dakota County, Thurston County and Washington County #1 and Washington County #2 rural water supply projects, the Elkhorn River Bank Stabilization Project, the Elkhorn Breakout Project, the Elk/Pigeon Creek Drainage Project, and the Western Sarpy Drainage District, the project bills listed on the September, 2009, financial report, and future claims for project utilities.

BE IT FURTHER RESOLVED that the financial reports be affixed to and made a part of the minutes.

/pt/board/2009/october/draft resolutions