

Updated: December 7, 2004

**Joint Programs, Projects & Operations and  
Finance, Expenditures and Legal  
Subcommittee Meeting  
December 7, 2004  
7:00 p.m.  
Agenda**

**Programs, Projects & Operations:**

John Conley, Chairperson  
Rich Jansen, Vice-Chairperson  
Tim Fowler  
Joe Neary  
Rich Tesar

**Finance, Expenditures and Legal:**

Dick Connealy, Vice-Chairperson  
John Conley  
Barb Nichols  
Jim Thompson

**Alternate Member:** Dick Connealy

**Alternate Member:** Joe Neary

**Staff Liaison:** Gerry Bowen \*  
Jerry Herbster  
Ralph Puls  
Paul Woodward

**Staff Liaison:** Jim Becic  
Martin Cleveland  
Jack Lawless  
Dick Sklenar  
Trent Heiser

1. Meeting Called to Order – Chairperson John Conley
2. Quorum Call
3. Adoption of Agenda
4. Proof of Publication of Meeting Notice
5. Review and Recommendation(s) on Papio Dam Site 13 Project:
  - a. Engineering Services Contract with HDR Engineering, Inc. – John Engel, HDR, Inc., and Paul Woodward
  - b. Purchase Agreement for Lyman-Richey Corp. Property [*Executive Session, if needed*]– Kevin Schmidt, Lyman-Richey Corp; and Paul Woodward
  - c. Purchase Agreement to Sell the Western 2.88 Acres of the Lyman-Richey Corp. Property to Dial Realty Corp. [*Executive Session, if needed*]– Bob Welstead, Dial Realty Corp., and Paul Woodward

6. Review and Recommendation on Interlocal Agreement with P-MRNRD and City of Blair to Develop Cost Share on Master Plan for Public Access at California Bend – John Steward, City of Blair Representative and Jim Becic
7. Review and Recommendation on Bids for Picnic “A” Trail Reconstruction and NRC Patio Improvements at Chalco Hills Rec Area – Russ Falconer, Sides and Associates; and Jerry Herbster
8. Review and Recommendation on Western Sarpy/Clear Creek Flood Reduction Project – Sarpy County Riverside Cabins Purchase Agreements [*Executive Session, if needed*] – Paul Peters and Martin Cleveland
9. Other Items of Interest
10. Adjourn

# Memorandum

**To:** PPO Subcommittee  
**From:** Paul Woodward, Water Resources Engineer  
**Date:** November 29, 2004  
**Re:** Dam Site 13 Engineering Services Agreement with HDR Engineering

---

The agreement and scope of work, enclosed for your review and consideration, defines the professional services to be provided by HDR Engineering Inc. (HDR) for the design and construction inspection of Dam Site 13. Due to the complexity of this project, work tasks are divided into two phases. Phase I will include all work necessary to design and prepare plans for the dam and water quality basin, while Phase II provides the necessary construction contract administration. Completion of Phase I is scheduled for March 1, 2005 and Phase II is expected to occur between April and November of next year. The maximum fee estimated for Phase I and II is \$236,956 and \$189,354 respectively.

A summary of the tasks in each of these Phases is as follows:

## Phase I – Dam Design, Plan Preparation and Review

- Project Management will include project scheduling, progress reports, and meetings.
- Geotechnical Investigation needed for the dam, spillway, borrow areas, and Dodge Street Embankment will be performed by the subconsultant, Thiele Geotech. Following this investigation, geotechnical design of the dam embankment will be performed by HDR.
- HDR will update previous conceptual designs of the lake and reservoir using new field survey (previously obtained by the NRD and Dial) and proposed development plans. This updated information will be used to size and locate the principal and auxiliary spillways.
- HDR will obtain a Water Storage Permit from the State. The Section 404 Permit will be handled by Hayes Environmental under separate contract with the District. However, any necessary mitigation plans will be coordinated between Hayes Environmental and HDR.
- HDR will prepare right-of-way (ROW) maps necessary for the dam and reservoir as well as coordinate obtaining a ROW permit from the Nebraska Department of Roads.
- HDR will prepare all necessary contract documents including proposed plans and specifications for the dam and upstream water quality basin.
- HDR and District Staff will technically review plans prepared for the proposed development and make recommendations.

## Phase II – Construction Contract Administration

- HDR will prepare progress reports and meet monthly with NRD staff and/or Dial's Engineer to review construction activities.
- HDR will conduct full-time on-site observation to make sure construction of the dam and water quality basin is proceeding according to plans and specs.
- HDR will attend construction meetings with Dial's Engineer and the contractor.
- HDR will review and make recommendations on any change orders affecting the dam.

- HDR and the NRD will review and recommend payments made to the contractor.
- HDR will perform a substantial completion and final inspection.
- HDR will prepare record drawing of final construction.
- HDR will prepare an Operation and Maintenance Manual and an Emergency Action Plan.

In summary, HDR would provide the professional services noted above for the construction of Dam Site 13 for a maximum fee not to exceed \$ 426,311.

Management recommends that the Subcommittee recommend to the Board that the General Manager be authorized to execute the enclosed Professional Services Agreement between the District and HDR Engineering Inc for a maximum fee not to exceed \$426,311, subject to changes deemed necessary by the General Manager and approval as to form by District Legal Council.



**STANDARD FORM OF AGREEMENT  
BETWEEN OWNER AND ENGINEER  
FOR  
PROFESSIONAL SERVICES**

*Prepared by*

**ENGINEERS JOINT CONTRACT DOCUMENTS COMMITTEE**

and

Issued and Published Jointly By

[PEPP LOGO]

[ACEC LOGO]

[ASCE LOGO]

PROFESSIONAL ENGINEERS IN PRIVATE PRACTICE  
*a practice division of the*  
NATIONAL SOCIETY OF PROFESSIONAL ENGINEERS

---

AMERICAN CONSULTING ENGINEERS COUNCIL

---

AMERICAN SOCIETY OF CIVIL ENGINEERS

And

As Modified by the Parties Hereto (all changes shown in red-line/strike-out format)

This Agreement has been prepared for use with the Standard General Conditions of the Construction Contract (No. 1910-8, 1996 Edition) of the Engineers Joint Contract Documents Committee. Their provisions are interrelated, and a change in one may necessitate a change in the other. For guidance in the preparation of Supplementary Conditions, see Guide to the Preparation of Supplementary Conditions (No. 1910-17) (1996 Edition). For guidance on the completion and use of this Agreement, see EJCDC Users Guide, No. 1910-50.

Copyright ©1996 National Society of Professional Engineers  
1420 King Street, Alexandria, VA 22314

American Consulting Engineers Council  
1015 15th Street N.W., Washington, DC 20005

American Society of Civil Engineers  
345 East 47th Street, New York, NY 10017

## TABLE OF CONTENTS

## Page

ARTICLE 1 - SERVICES OF ENGINEER.....	2
1.01 Scope .....	2
ARTICLE 2 - OWNER'S RESPONSIBILITIES .....	2
2.01 General .....	2
ARTICLE 3 - TIMES FOR RENDERING SERVICES.....	2
3.01 General .....	2
3.02 Suspension.....	2
ARTICLE 4 - PAYMENTS TO ENGINEER.....	2
4.01 Methods of Payment for Services and Reimbursable Expenses of ENGINEER .....	2
4.02 Other Provisions Concerning Payments .....	3
ARTICLE 5 - OPINIONS OF COST .....	3
5.01 Opinions of Probable Construction Cost .....	3
5.03 Opinions of Total Project Costs .....	3
ARTICLE 6 - GENERAL CONSIDERATIONS .....	4
6.01 Standards of Performance .....	4
6.02 Authorized Project Representatives .....	5
6.03 Design without Construction Phase Services .....	5
6.04 Use of Documents .....	5
6.05 Insurance.....	6
6.06 Termination .....	6
6.07 Controlling Law .....	6
6.08 Successors, Assigns, and Beneficiaries .....	7
6.09 Dispute Resolution .....	7
6.10 Hazardous Environmental Condition .....	7
6.11 Allocation of Risks.....	7
6.12 Notices.....	8
6.13 Survival.....	8
6.14 Severability.....	8
6.15 Waiver .....	8
6.16 Headings.....	8
ARTICLE 7 - DEFINITIONS .....	9
7.01 Defined Terms.....	9
ARTICLE 8 - EXHIBITS AND SPECIAL PROVISIONS.....	11
8.01 Exhibits Included.....	11
8.02 Total Agreement.....	12

STANDARD FORM OF AGREEMENT  
BETWEEN OWNER AND ENGINEER  
FOR  
PROFESSIONAL SERVICES

THIS IS AN AGREEMENT effective as of \_\_\_\_\_, 2004 ("Effective Date") between  
Papio-Missouri River Natural Resources District ("OWNER") and HDR Engineering, Inc. ("ENGINEER").  
OWNER intends to provide professional engineering and science services for the design and construction contract  
administration services for Dam Site No. 13 located in western Douglas County. ("Project").  
OWNER and ENGINEER in consideration of their mutual covenants as set forth herein agree as follows:

## ARTICLE 1 - SERVICES OF ENGINEER

---

### 1.01 Scope

A. ENGINEER shall provide the Basic and Additional Services set forth herein and in Exhibit A.

B. Upon this Agreement becoming effective, ENGINEER is authorized to begin Basic Services as set forth in Exhibit A.

C. If authorized by OWNER, ENGINEER shall furnish Resident Project Representative(s) with duties, responsibilities and limitations of authority as set forth in Exhibit D.

## ARTICLE 2 - OWNER'S RESPONSIBILITIES

---

### 2.01 General

A. OWNER shall have the responsibilities set forth herein and in Exhibit B.

## ARTICLE 3 - TIMES FOR RENDERING SERVICES

---

### 3.01 General

A. ENGINEER's services and compensation under this Agreement have been agreed to in anticipation of the orderly and continuous progress of the Project through completion. Unless specific periods of time or specific dates for providing services are specified in this Agreement, ENGINEER's obligation to render services hereunder will be for a period which may reasonably be required for the completion of said services.

B. If in this Agreement specific periods of time for rendering services are set forth or specific dates by which services are to be completed are provided, and if such periods of time or dates are changed through no fault of ENGINEER, the rates and amounts of compensation provided for herein shall be subject to equitable adjustment. If OWNER has requested changes in the scope, extent, or character of the Project, the time of performance of ENGINEER's services shall be adjusted equitably.

C. For purposes of this Agreement the term "day" means a calendar day of 24 hours.

### 3.02 Suspension

A. If OWNER fails to give prompt written authorization to proceed with any phase of services after completion of the immediately preceding phase, or if ENGINEER's services are delayed through no fault of ENGINEER, ENGINEER may, after giving seven days written notice to OWNER, suspend services under this Agreement.

B. If ENGINEER's services are delayed or suspended in whole or in part by OWNER, or if ENGINEER's services are extended by Contractor's actions or inactions for more than 90 days through no fault of ENGINEER, ENGINEER shall be entitled to equitable adjustment of rates and amounts of compensation provided for elsewhere in this Agreement to reflect, reasonable costs incurred by ENGINEER in connection with, among other things, such delay or suspension and reactivation and the fact that the time for performance under this Agreement has been revised.

## ARTICLE 4 - PAYMENTS TO ENGINEER

---

### 4.01 Methods of Payment for Services and Reimbursable Expenses of ENGINEER

A. *For Basic Services.* OWNER shall pay ENGINEER for Basic Services performed or furnished under Exhibit A, Part 1, as set forth in Exhibit C.

B. *For Additional Services.* OWNER shall pay ENGINEER for Additional Services performed or furnished under Exhibit A, Part 2, as set forth in Exhibit C.

C. *For Reimbursable Expenses.* In addition to payments provided for in paragraphs 4.01.A and 4.01.B, OWNER shall pay ENGINEER for Reimbursable Expenses, plus 10%, incurred by ENGINEER and ENGINEER's Consultants as set forth in Exhibit C.. Reimbursable Expenses include the following categories: transportation and subsistence incidental thereto; obtaining bids or proposals from Contractor(s); providing and maintaining field office facilities including furnishings and utilities; subsistence and transportation of Resident Project Representative and their assistants; toll telephone calls and telegrams; reproduction of reports, Drawings, Specifications, Bidding Documents, and similar Project-related items in addition to those required under Exhibit A, and, if authorized in advance by OWNER, overtime work requiring higher than regular rates. In addition, if authorized in advance by OWNER, Reimbursable Expenses will also include expenses incurred for computer time and the use of other highly

specialized equipment. Reimbursable Expenses will also include the amount of any sales tax, excise tax, value added tax, or gross receipts tax or similar tax that may be imposed on this agreement.

#### **4.02 Other Provisions Concerning Payments**

A. *Preparation of Invoices.* Invoices will be prepared in accordance with ENGINEER's standard invoicing practices and will be submitted to OWNER by ENGINEER, unless otherwise agreed. The amount billed in each invoice will be calculated as set forth in Exhibit C.

B. *Payment of Invoices.* Invoices are due and payable within 30 days of receipt. If OWNER fails to make any payment due ENGINEER for services and expenses within 30 days after receipt of ENGINEER's invoice therefor, the amounts due ENGINEER will be increased at the rate of 1.0% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day. In addition, ENGINEER may, after giving seven days written notice to OWNER, suspend services under this Agreement until ENGINEER has been paid in full all amounts due for services, expenses, and other related charges. Payments will be credited first to interest and then to principal.

C. *Disputed Invoices.* In the event of a disputed or contested invoice, only that portion so contested may be withheld from payment, and the undisputed portion will be paid.

D. *Disputed Items.* OWNER may temporarily delete any disputed items contained in ENGINEER's invoice, including items disputed due to lack of supporting documentation, and pay the remaining amount of the invoice. OWNER shall promptly notify ENGINEER of the dispute and request clarification and/or remedial action. After any dispute has been settled, ENGINEER shall include the disputed item on a subsequent regularly scheduled invoice or on a special invoice for the disputed item only.

##### *E. Payments Upon Termination.*

1. In the event of any termination under paragraph 6.06, ENGINEER will be entitled to invoice OWNER and will be paid in accordance with Exhibit C for all services performed or furnished and all Reimbursable Expenses incurred through the effective date of termination.

2. In the event of termination by OWNER for convenience or by ENGINEER for cause, ENGINEER, in addition to invoicing for those items

identified in subparagraph 4.02.D.1, shall be entitled to invoice OWNER and shall be paid a reasonable amount for services and expenses directly attributable to termination, both before and after the effective date of termination, such as reassignment of personnel, costs of terminating contracts with ENGINEER's Consultants, and other related close-out costs, using methods and rates for Additional Services as set forth in Exhibit C.

F.. *Records of ENGINEER's Costs.* Records of ENGINEER's costs pertinent to ENGINEER's compensation under this Agreement shall be kept in accordance with generally accepted accounting practices. To the extent necessary to verify ENGINEER's charges and upon OWNER's timely request, copies of such records will be made available to OWNER at cost.

G.. *Legislative Actions.* In the event of legislative actions after the Effective Date of the Agreement by any level of government that impose taxes, fees, or costs on ENGINEER's services or other costs in connection with this Project or compensation therefor, such new taxes, fees, or costs shall be invoiced to and paid by OWNER as a Reimbursable Expense to which a Factor of 1.0 shall be applied. Should such taxes, fees, or costs be imposed, they shall be in addition to ENGINEER's estimated total compensation.

#### **ARTICLE 5 - OPINIONS OF COST**

---

##### **5.01 Opinions of Probable Construction Cost**

A. ENGINEER's opinions of probable Construction Cost provided for herein are to be made on the basis of ENGINEER's experience and qualifications and represent ENGINEER's best judgment as an experienced and qualified professional generally familiar with the industry. However, since ENGINEER has no control over the cost of labor, materials, equipment, or services furnished by others, or over the Contractor's methods of determining prices, or over competitive bidding or market conditions, ENGINEER cannot and does not guarantee that proposals, bids, or actual Construction Cost will not vary from opinions of probable Construction Cost prepared by ENGINEER. If OWNER wishes greater assurance as to probable Construction Cost, OWNER shall employ an independent cost estimator as provided in Exhibit B.

##### **5.02 NOT USED**

##### **5.03 Opinions of Total Project Costs**

A. ENGINEER assumes no responsibility for the accuracy of opinions of Total Project Costs.

## ARTICLE 6 - GENERAL CONSIDERATIONS

---

### 6.01 Standards of Performance

A. The standard of care for all professional engineering and related services performed or furnished by ENGINEER under this Agreement will be the care and skill ordinarily used by members of ENGINEER's profession practicing under similar circumstances at the same time and in the same locality. ENGINEER makes no warranties, express or implied, under this Agreement or otherwise, in connection with ENGINEER's services.

B. ENGINEER shall be responsible for the technical accuracy of its services and documents resulting therefrom, and OWNER shall not be responsible for discovering deficiencies therein. ENGINEER shall correct such deficiencies without additional compensation except to the extent such action is directly attributable to deficiencies in OWNER-furnished information.

C. ENGINEER shall perform or furnish professional engineering and related services in all phases of the Project to which this Agreement applies. ENGINEER shall serve as OWNER's prime professional for the Project. ENGINEER may employ such ENGINEER's Consultants as ENGINEER deems necessary to assist in the performance or furnishing of the services. ENGINEER shall not be required to employ any ENGINEER's Consultant unacceptable to ENGINEER.

D. ENGINEER and OWNER shall comply with applicable Laws or Regulations and OWNER-mandated standards. This Agreement is based on these requirements as of its Effective Date. Changes to these requirements after the Effective Date of this Agreement may be the basis for modifications to OWNER's responsibilities or to ENGINEER's scope of services, times of performance, or compensation.

E. OWNER shall be responsible for, and ENGINEER may rely upon, the accuracy and completeness of all requirements, programs, instructions, reports, data, and other information furnished by OWNER to ENGINEER pursuant to this Agreement. ENGINEER may use such requirements, reports, data, and information in performing or furnishing services under this Agreement.

F. OWNER shall make decisions and carry out its other responsibilities in a timely manner and shall bear all

costs incident thereto so as not to delay the services of ENGINEER.

G. Prior to the commencement of the Construction Phase, OWNER shall notify ENGINEER of any notice or certification that ENGINEER will be requested to provide to OWNER or third parties in connection with the Project. OWNER and ENGINEER shall reach agreement on the terms of any such requested notice or certification, and OWNER shall authorize such Additional Services as are necessary to enable ENGINEER to provide the notices or certifications requested.

H. ENGINEER shall not be required to sign any documents, no matter by whom requested, that would result in the ENGINEER's having to certify, guarantee or warrant the existence of conditions whose existence the ENGINEER cannot ascertain. OWNER agrees not to make resolution of any dispute with the ENGINEER or payment of any amount due to the ENGINEER in any way contingent upon the ENGINEER's signing any such certification.

I. During the Construction Phase, ENGINEER shall not supervise, direct, or have control over Contractor's work, nor shall ENGINEER have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected by Contractor, for safety precautions and programs incident to the Contractor's work in progress, nor for any failure of Contractor to comply with Laws and Regulations applicable to Contractor's furnishing and performing the Work.

J. ENGINEER neither guarantees the performance of any Contractor nor assumes responsibility for any Contractor's failure to furnish and perform the Work in accordance with the Contract Documents.

K. ENGINEER shall not be responsible for the acts or omissions of any Contractor(s), subcontractor or supplier, or of any of the Contractor's agents or employees or any other persons (except ENGINEER's own employees) at the Site or otherwise furnishing or performing any of the Contractor's work; or for any decision made on interpretations or clarifications of the Contract Documents given by OWNER without consultation and advice of ENGINEER.

L. The General Conditions for any construction contract documents prepared hereunder are to be the "Standard General Conditions of the Construction Contract" as prepared by the Engineers Joint Contract Documents Committee (Document No. 1910-8, 1996 Edition) unless both parties mutually agree to use other General Conditions as specifically referenced in Exhibit J.



## **6.02 Authorized Project Representatives**

A. Contemporaneous with the execution of this Agreement, ENGINEER and OWNER shall designate specific individuals to act as ENGINEER's and OWNER's representatives with respect to the services to be performed or furnished by ENGINEER and responsibilities of OWNER under this Agreement. Such individuals shall have authority to transmit instructions, receive information, and render decisions relative to the Project on behalf of each respective party.

## **6.03 Design without Construction Phase Services**

A. Should OWNER provide Construction Phase services with either OWNER's representatives or a third party, ENGINEER's Basic Services under this Agreement will be considered to be completed upon completion of the Final Design Phase or Bidding or Negotiating Phase as outlined in Exhibit A.

B. It is understood and agreed that if ENGINEER's Basic Services under this Agreement do not include Project observation, or review of the Contractor's performance, or any other Construction Phase services, and that such services will be provided by OWNER, then OWNER assumes all responsibility for interpretation of the Contract Documents and for construction observation or review and waives any claims against the ENGINEER that may be in any way connected thereto.

## **6.04 Use of Documents**

A. All Documents are instruments of service in respect to this Project, and ENGINEER shall retain an ownership and property interest therein (including the right of reuse at the discretion of the ENGINEER) whether or not the Project is completed.

B. Copies of OWNER-furnished data that may be relied upon by ENGINEER are limited to the printed copies (also known as hard copies) that are delivered to the ENGINEER pursuant to Exhibit A. Files in electronic media format of text, data, graphics, or of other types that are furnished by OWNER to ENGINEER are only for convenience of ENGINEER. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk.

C. Copies of Documents that may be relied upon by OWNER are limited to the printed copies (also known as hard copies) that are signed or sealed by the ENGINEER. Files in electronic media format of text, data, graphics, or of other types that are furnished by ENGINEER to OWNER

are only for convenience of OWNER. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk.

D. Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it will perform acceptance tests or procedures within 60 days, after which the receiving party shall be deemed to have accepted the data thus transferred. Any errors detected within the 60-day acceptance period will be corrected by the party delivering the electronic files. ENGINEER shall not be responsible to maintain documents stored in electronic media format after acceptance by OWNER.

E. When transferring documents in electronic media format, ENGINEER makes no representations as to long term compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by ENGINEER at the beginning of this Project.

F. OWNER may make and retain copies of Documents for information and reference in connection with use on the Project by OWNER. Such Documents are not intended or represented to be suitable for reuse by OWNER or others on extensions of the Project or on any other project. Any such reuse or modification without written verification or adaptation by ENGINEER, as appropriate for the specific purpose intended, will be at OWNER's sole risk and without liability or legal exposure to ENGINEER or to ENGINEER's Consultants. OWNER shall indemnify and hold harmless ENGINEER and ENGINEER's Consultants from all claims, damages, losses, and expenses, including attorneys' fees arising out of or resulting therefrom.

G. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.

H. Any verification or adaptation of the Documents for extensions of the Project or for any other project will entitle ENGINEER to further compensation at rates to be agreed upon by OWNER and ENGINEER.

I. After termination. Upon termination, ENGINEER shall: (1) promptly discontinue all Services affected (unless a termination notice from OWNER directs otherwise); and (2) upon full payment for services, deliver or otherwise make available to OWNER all documents, data, drawings, specifications, reports, estimates, summaries, and such other information and materials as may have been accumulated by ENGINEER in performing this Agreement, whether completed or in process.



## 6.05 Insurance

A. ENGINEER shall procure and maintain insurance as set forth in Exhibit G, "Insurance."

B. OWNER shall cause ENGINEER and ENGINEER's Consultants to be listed as additional insureds on any general liability or property insurance policies carried by OWNER which are applicable to the Project.

C. OWNER shall require Contractor to purchase and maintain general liability and other insurance as specified in the Contract Documents and to cause ENGINEER and ENGINEER's Consultants to be listed as additional insureds with respect to such liability and other insurance purchased and maintained by Contractor for the Project

D. OWNER and ENGINEER shall each deliver to the other certificates of insurance evidencing the coverages indicated in Exhibit G. Such certificates shall be furnished prior to commencement of ENGINEER's services and at renewals thereafter during the life of the Agreement.

E. All policies of property insurance shall contain provisions to the effect that ENGINEER's and ENGINEER's Consultants' interests are covered and that in the event of payment of any loss or damage the insurers will have no rights of recovery against any of the insureds or additional insureds thereunder.

F. At any time, OWNER may request that ENGINEER, at OWNER's sole expense, provide additional insurance coverage, increased limits, or revised deductibles that are more protective than those specified in Exhibit G. If so requested by OWNER, with the concurrence of ENGINEER, and if commercially available, ENGINEER shall obtain and shall require ENGINEER's Consultants to obtain such additional insurance coverage, different limits, or revised deductibles for such periods of time as requested by OWNER, and Exhibit G will be supplemented to incorporate these requirements.

## 6.06 Termination

A. The obligation to provide further services under this Agreement may be terminated:

1. *For cause,*

a. By either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the

terms hereof through no fault of the terminating party.

b. By ENGINEER:

1) upon seven days written notice if ENGINEER believes that ENGINEER is being requested by OWNER to furnish or perform services contrary to ENGINEER's responsibilities as a licensed professional; or

2) upon seven days written notice if the ENGINEER's services for the Project are delayed or suspended for more than 90 days for reasons beyond ENGINEER's control.

3) ENGINEER shall have no liability to OWNER on account of such termination.

c. Notwithstanding the foregoing, this Agreement will not terminate as a result of such substantial failure if the party receiving such notice begins, within seven days of receipt of such notice, to correct its failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt thereof; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 30 day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein shall extend up to, but in no case more than, 60 days after the date of receipt of the notice.

2. *For convenience,*

a. By OWNER effective upon the receipt of notice by ENGINEER.

B. The terminating party under paragraphs 6.06.A.1 or 6.06.A.2 may set the effective date of termination at a time up to 30 days later than otherwise provided to allow ENGINEER to demobilize personnel and equipment from the Site, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files.

## 6.07 Controlling Law

A. This Agreement is to be governed by the law of the state in which the Project is located.

#### **6.08 Successors, Assigns, and Beneficiaries**

A. OWNER and ENGINEER each is hereby bound and the partners, successors, executors, administrators and legal representatives of OWNER and ENGINEER (and to the extent permitted by paragraph 6.08.B the assigns of OWNER and ENGINEER) are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements and obligations of this Agreement.

B. Neither OWNER nor ENGINEER may assign, sublet, or transfer any rights under or interest (including, but without limitation, moneys that are due or may become due) in this Agreement or any claims arising out of this Agreement without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated or restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.

C. Unless expressly provided otherwise in this Agreement:

1. Nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by OWNER or ENGINEER to any Contractor, Contractor's subcontractor, supplier, other individual or entity, or to any surety for or employee of any of them.

2. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of OWNER and ENGINEER and not for the benefit of any other party. The OWNER agrees that the substance of the provisions of this paragraph 6.08.C shall appear in the Contract Documents.

#### **6.09 Dispute Resolution**

A. OWNER and ENGINEER agree to negotiate all disputes between them in good faith prior to exercising their rights under law.

#### **6.10 Hazardous Environmental Condition**

A. OWNER represents to Engineer that to the best of its knowledge a Hazardous Environmental Condition does not exist.

B. OWNER has disclosed to the best of its knowledge to ENGINEER the existence of all Asbestos,

PCB's, Petroleum, Hazardous Waste, or Radioactive Material located at or near the Site, including type, quantity and location.

C. If a Hazardous Environmental Condition is encountered or alleged, ENGINEER shall have the obligation to notify OWNER and, to the extent of applicable Laws and Regulations, appropriate governmental officials.

D. It is acknowledged by both parties that ENGINEER's scope of services does not include any services related to a Hazardous Environmental Condition. In the event ENGINEER or any other party encounters a Hazardous Environmental Condition, ENGINEER may, at its option and without liability for consequential or any other damages, suspend performance of services on the portion of the Project affected thereby until OWNER: (i) retains appropriate specialist consultant(s) or contractor(s) to identify and, as appropriate, abate, remediate, or remove the Hazardous Environmental Condition; and (ii) warrants that the Site is in full compliance with applicable Laws and Regulations.

E. OWNER acknowledges that ENGINEER is performing professional services for OWNER and that ENGINEER is not and shall not be required to become an "arranger," "operator," "generator," or "transporter" of hazardous substances, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1990 (CERCLA), which are or may be encountered at or near the Site in connection with ENGINEER's activities under this Agreement.

F. If ENGINEER's services under this Agreement cannot be performed because of a Hazardous Environmental Condition, the existence of the condition shall justify ENGINEER's terminating this Agreement for cause on 30 days notice.

#### **6.11 Allocation of Risks**

##### **A. Indemnification**

1. To the fullest extent permitted by law, ENGINEER shall indemnify and hold harmless OWNER, OWNER's officers, directors, partners, and employees from and against any and all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) caused solely by the negligent acts or omissions of ENGINEER or ENGINEER's officers, directors, partners, employees, and ENGINEER's Consultants in the performance and

furnishing of ENGINEER's services under this Agreement.

2. To the fullest extent permitted by law, OWNER shall indemnify and hold harmless ENGINEER, ENGINEER's officers, directors, partners, employees, and ENGINEER's Consultants from and against any and all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) caused solely by the negligent acts or omissions of OWNER or OWNER's officers, directors, partners, employees, and OWNER's consultants with respect to this Agreement or the Project.

3. To the fullest extent permitted by law, ENGINEER's total liability to OWNER and anyone claiming by, through, or under OWNER for any cost, loss, or damages caused in part by the negligence of ENGINEER and in part by the negligence of OWNER or any other negligent entity or individual, shall not exceed the percentage share that ENGINEER's negligence bears to the total negligence of OWNER, ENGINEER, and all other negligent entities and individuals.

4. In addition to the indemnity provided under paragraph 6.11.A.2 of this Agreement, and to the fullest extent permitted by law, OWNER shall indemnify and hold harmless ENGINEER and its officers, directors, partners, employees, and ENGINEER's Consultants from and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) caused by, arising out of or resulting from a Hazardous Environmental Condition, provided that (i) any such cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than completed Work), including the loss of use resulting therefrom, and (ii) nothing in this paragraph 6.11.A.4. shall obligate OWNER to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence or willful misconduct.

5. The indemnification provision of paragraph 6.11.A.1 is subject to and limited by the provisions agreed to by OWNER and ENGINEER in Exhibit H, "Allocation of Risks," if any.

## **6.12 Notices**

A. Any notice required under this Agreement will be in writing, addressed to the appropriate party at its address on the signature page and given personally, or by registered or certified mail postage prepaid, or by a commercial courier service. All notices shall be effective upon the date of receipt.

## **6.13 Survival**

A. All express representations, indemnifications, or limitations of liability included in this Agreement will survive its completion or termination for any reason.

## **6.14 Severability**

A. Any provision or part of the Agreement held to be void or unenforceable under any Laws or Regulations shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon OWNER and ENGINEER, who agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

## **6.15 Waiver**

A. Non-enforcement of any provision by either party shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Agreement. One or more waivers by either party of any provision, term, condition or covenant shall not be constructed as a waiver of a subsequent breach of the same by the other party.

## **6.16 Headings**

A. The headings used in this Agreement are for general reference only and do not have special significance.

## ARTICLE 7 - DEFINITIONS

---

### 7.01 Defined Terms

A. Wherever used in this Agreement (including the Exhibits hereto) and printed with initial or all capital letters, the terms listed below have the meanings indicated, which are applicable to both the singular and plural thereof:

1. *Addenda*--Written or graphic instruments issued prior to the opening of Bids which clarify, correct, or change the Bidding Documents.

2. *Additional Services*--The services to be performed for or furnished to OWNER by ENGINEER in accordance with Exhibit A, Part 2 of this Agreement.

3. *Agreement*--This "Standard Form of Agreement between OWNER and ENGINEER for Professional Services," including those Exhibits listed in Article 8 hereof.

4. *Application for Payment*--The form acceptable to ENGINEER which is to be used by Contractor in requesting progress or final payments for the completion of its Work and which is to be accompanied by such supporting documentation as is required by the Contract Documents.

5. *Asbestos*--Any material that contains more than one percent asbestos and is friable or is releasing asbestos fibers into the air above current action levels established by the United States Occupational Safety and Health Administration.

6. *Basic Services*--The services to be performed for or furnished to OWNER by ENGINEER in accordance with Exhibit A, Part 1, of this Agreement.

7. *Bid*--The offer or proposal of the bidder submitted on the prescribed form setting forth the prices for the Work to be performed.

8. *Bidding Documents*--The advertisement or invitation to Bid, instructions to bidders, the Bid form and attachments, the Bid bond, if any, the proposed Contract Documents, and all Addenda, if any.

9. *Change Order*--A document recommended by ENGINEER, which is signed by Contractor and OWNER to authorize an addition, deletion or revision in the Work, or an adjustment in the Contract Price or

the Contract Times, issued on or after the Effective Date of the Construction Agreement.

10. *Construction Agreement*--The written instrument which is evidence of the agreement, contained in the Contract Documents, between OWNER and Contractor covering the Work.

11. *Construction Contract*--The entire and integrated written agreement between the OWNER and Contractor concerning the Work.

12. *Construction Cost*--The cost to OWNER of those portions of the entire Project designed or specified by ENGINEER. Construction Cost does not include costs of services of ENGINEER or other design professionals and consultants, cost of land, rights-of-way, or compensation for damages to properties, or OWNER's costs for legal, accounting, insurance counseling or auditing services, or interest and financing charges incurred in connection with the Project, or the cost of other services to be provided by others to OWNER pursuant to Exhibit B of this Agreement. Construction Cost is one of the items comprising Total Project Costs.

13. *Contract Documents*--Documents that establish the rights and obligations of the parties engaged in construction and include the Construction Agreement between OWNER and Contractor, Addenda (which pertain to the Contract Documents), Contractor's Bid (including documentation accompanying the Bid and any post-Bid documentation submitted prior to the notice of award) when attached as an exhibit to the Construction Agreement, the notice to proceed, the bonds, appropriate certifications, the General Conditions, the Supplementary Conditions, the Specifications and the Drawings as the same are more specifically identified in the Construction Agreement, together with all Written Amendments, Change Orders, Work Change Directives, Field Orders, and ENGINEER's written interpretations and clarifications issued on or after the Effective Date of the Construction Agreement. Approved Shop Drawings and the reports and drawings of subsurface and physical conditions are not Contract Documents.

14. *Contract Price*--The moneys payable by OWNER to Contractor for completion of the Work in accordance with the Contract Documents and as stated in the Construction Agreement.

15. *Contract Times*--The numbers of days or the dates stated in the Construction Agreement to: (i) achieve Substantial Completion, and (ii) complete

the Work so that it is ready for final payment as evidenced by ENGINEER's written recommendation of final payment.

16. *Contractor*--An individual or entity with whom OWNER enters into a Construction Agreement.

17. *Correction Period*--The time after Substantial Completion during which Contractor must correct, at no cost to OWNER, any Defective Work, normally one year after the date of Substantial Completion or such longer period of time as may be prescribed by Laws or Regulations or by the terms of any applicable special guarantee or specific provision of the Contract Documents.

18. *Defective*--An adjective which, when modifying the word Work, refers to Work that is unsatisfactory, faulty, or deficient, in that it does not conform to the Contract Documents, or does not meet the requirements of any inspection, reference standard, test, or approval referred to in the Contract Documents, or has been damaged prior to ENGINEER's recommendation of final payment.

19. *Documents*--Data, reports, Drawings, Specifications, Record Drawings, and other deliverables, whether in printed or electronic media format, provided or furnished in appropriate phases by ENGINEER to OWNER pursuant to this Agreement.

20. *Drawings*--That part of the Contract Documents prepared or approved by ENGINEER which graphically shows the scope, extent, and character of the Work to be performed by Contractor. Shop Drawings are not Drawings as so defined.

21. *Effective Date of the Construction Agreement*--The date indicated in the Construction Agreement on which it becomes effective, but if no such date is indicated, it means the date on which the Construction Agreement is signed and delivered by the last of the two parties to sign and deliver.

22. *Effective Date of the Agreement*--The date indicated in this Agreement on which it becomes effective, but if no such date is indicated, it means the date on which the Agreement is signed and delivered by the last of the two parties to sign and deliver.

23. *ENGINEER's Consultants*--Individuals or entities having a contract with ENGINEER to furnish services with respect to this Project as ENGINEER's independent professional associates, consultants, subcontractors, or vendors. The term ENGINEER includes ENGINEER's Consultants.

24. *Field Order*--A written order issued by ENGINEER which directs minor changes in the Work but which does not involve a change in the Contract Price or the Contract Times.

25. *General Conditions*--That part of the Contract Documents which sets forth terms, conditions, and procedures that govern the Work to be performed or furnished by Contractor with respect to the Project.

26. *Hazardous Environmental Condition*--The presence at the Site of Asbestos, PCB's, Petroleum, Hazardous Waste, or Radioactive Materials in such quantities or circumstances that may present a substantial danger to persons or property exposed thereto in connection with the Work.

27. *Hazardous Waste*--The term Hazardous Waste shall have the meaning provided in Section 1004 of the Solid Waste Disposal Act (42 USC Section 6903) as amended from time to time.

28. *Laws and Regulations; Laws or Regulations*--Any and all applicable laws, rules, regulations, ordinances, codes, standards, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.

29. *PCB's*--Polychlorinated biphenyls.

30. *Petroleum*--Petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute), such as oil, petroleum, fuel oil, oil sludge, oil refuse, gasoline, kerosene, and oil mixed with other non-Hazardous Waste and crude oils.

31. *Radioactive Materials*--Source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954 (42 USC Section 2011 et seq.) as amended from time to time.

32. *Record Drawings*--The Drawings as issued for construction on which the ENGINEER, upon completion of the Work, has shown changes due to Addenda or Change Orders and other information which ENGINEER considers significant based on record documents furnished by Contractor to ENGINEER and which were annotated by Contractor to show changes made during construction.

33. *Reimbursable Expenses*--The expenses incurred directly by ENGINEER in connection with the performing or furnishing of Basic and Additional



Services for the Project for which OWNER shall pay ENGINEER as indicated in Exhibit C.

34. *Resident Project Representative*--The authorized representative of ENGINEER, if any, assigned to assist ENGINEER at the Site during the Construction Phase. The Resident Project Representative will be ENGINEER's agent or employee and under ENGINEER's supervision. As used herein, the term Resident Project Representative includes any assistants of Resident Project Representative agreed to by OWNER. The duties and responsibilities of the Resident Project Representative are as set forth in Exhibit D.

35. *Samples*--Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and which establish the standards by which such portion of the Work will be judged.

36. *Shop Drawings*--All drawings, diagrams, illustrations, schedules, and other data or information which are specifically prepared or assembled by or for Contractor and submitted by Contractor to ENGINEER to illustrate some portion of the Work.

37. *Site*--Lands or areas indicated in the Contract Documents as being furnished by OWNER upon which the Work is to be performed, rights-of-way and easements for access thereto, and such other lands furnished by OWNER which are designated for use of Contractor.

38. *Specifications*--That part of the Contract Documents consisting of written technical descriptions of materials, equipment, systems, standards, and workmanship as applied to the Work and certain administrative details applicable thereto.

39. *Substantial Completion*--The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of ENGINEER, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms "substantially complete" and "substantially completed" as applied to all or part of the Work refer to Substantial Completion thereof.

40. *Supplementary Conditions*--That part of the Contract Documents which amends or supplements the General Conditions.

41. *Total Project Costs*--The sum of the Construction Cost, allowances for contingencies, the total costs of services of ENGINEER or other design professionals and consultants, cost of land, rights-of-way, or compensation for damages to properties, or OWNER's costs for legal, accounting, insurance counseling or auditing services, or interest and financing charges incurred in connection with the Project, or the cost of other services to be provided by others to OWNER pursuant to Exhibit B of this Agreement.

42. *Work*--The entire completed construction or the various separately identifiable parts thereof required to be provided under the Contract Documents with respect to this Project. Work includes and is the result of performing or furnishing labor, services, and documentation necessary to produce such construction and furnishing, installing, and incorporating all materials and all equipment into such construction, all as required by the Contract Documents.

43. *Work Change Directive*--A written directive to Contractor issued on or after the Effective Date of the Construction Agreement and signed by OWNER upon recommendation of the ENGINEER, ordering an addition, deletion, or revision in the Work, or responding to differing or unforeseen subsurface or physical conditions under which the Work is to be performed or to emergencies. A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the change directed or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order following negotiations by the parties as to its effect, if any, on the Contract Price or Contract Times.

44. *Written Amendment*--A written amendment of the Contract Documents signed by OWNER and Contractor on or after the Effective Date of the Construction Agreement and normally dealing with the non-engineering or non-technical rather than strictly construction-related aspects of the Contract Documents.

## **ARTICLE 8 - EXHIBITS AND SPECIAL PROVISIONS**

---

### **8.01 Exhibits Included**

A. Exhibit A, "ENGINEER's Services," consisting of 14 pages.

B. Exhibit B, "OWNER's Responsibilities," consisting of 3 pages.

C. Exhibit C and Appendices 1 and 2, "Payments to Engineer for Services and Reimbursable Expenses," consisting of 5 pages.

D. Exhibit D, "Duties, Responsibilities and Limitations of Authority of Resident Project Representative," consisting of 4 pages.

E. NOT USED.

F. NOT USED.

G. Exhibit G, "Insurance," consisting of 1 page.

H. Exhibit H, "Allocation of Risks," consisting of 1 page.

I. NOT USED.

#### **8.02 Total Agreement**

A. This Agreement (consisting of pages 1 to 44 inclusive, together with the Exhibits identified above) constitutes the entire agreement between OWNER and ENGINEER and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, the Effective Date of which is indicated on page 1.

OWNER:

PAPIO-MISSOURI RIVER NATURAL  
RESOURCES DISTRICT

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date Signed: \_\_\_\_\_

Address for giving notices:

8901 S. 154th Street

Omaha, NE 68138-3621

ENGINEER:

HDR ENGINEERING, INC.

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date Signed: \_\_\_\_\_

Address for giving notices:

8404 Indian Hills Drive

Omaha, NE 68114

Designated Representative (paragraph 6.02.A):

Name: Steven Oltmans

Title: General Manager

Phone Number: (402) 444-6222

Facsimile Number: (402) 895-6543

E-Mail Address: soltmans@papionrd.org

Designated Representative (paragraph 6.02.A):

Name: Timothy Crockett, P.E.

Title: Senior Vice President

Phone Number: (402) 399-1257

Facsimile Number: (402) 399-1111

E-Mail Address: tcrocket@hdrinc.com



**EXHIBIT A  
OF  
STANDARD FORM OF AGREEMENT  
BETWEEN OWNER AND ENGINEER**

This is **EXHIBIT A**, consisting of 14 pages, referred to in and part of the **Agreement between OWNER and ENGINEER for Professional Services** dated \_\_\_\_\_, 2004.

Initial:  
OWNER \_\_\_\_\_  
ENGINEER \_\_\_\_\_

**ENGINEER's Services**

---

Article 1 of the Agreement is amended and supplemented to include the following agreement of the parties. ENGINEER shall provide Basic and Additional Services as set forth below

**PART 1 -- BASIC SERVICES**

**Dam Site 13, Chappel Hill/Elkhorn Site  
for Papio-Missouri River Natural Resources District  
Omaha, NE**



**ENGINEERING PROPOSAL**



**BACKGROUND AND BASIS OF PROPOSAL**

The purpose of this effort is to provide engineering services for preliminary and final design of a proposed flood control structure, formerly known as Dam Site 13, on an unnamed right bank tributary of West Papillion Creek (Project). The Project consists of the construction of an earthen dam with principal and auxiliary spillways. The dam is located in the E ½ of Section 18, T 15 N, R 11 E, in Douglas County, Nebraska.

Papio-Missouri River Natural Resources District (P-MRNRD) has entered into an agreement with Dial Realty Corp (DIAL) to partner on the construction of Dam Site 13. DIAL has retained Lamp Ryncarson & Associates, Inc. (LRA) as registered professional engineers, hereinafter referred to as DIAL ENGINEERS, to assist in the design of the DIAL property and P-MRNRD has retained HDR Engineering, Inc. (HDR) to assist in the design of the main dam and associated reservoir components. HDR has retained LRA and Thiele Geotech as subconsultants, to assist in the completion of Phase I and II services.

HDR has developed a phased approach for the Project. Phase I consists of preliminary and final design and the development of the Contract Documents including the plans and specifications. Phase II will provide construction contract administration (CCA) services.

**SCOPE OF SERVICES – PHASE I – PRELIMINARY AND FINAL DESIGN**

HDR will perform preliminary and final design services. The Phase I scope of work is segmented into seven (7) task series:

Task Series 100 – Project Management

Task Series 200 – Geotechnical Investigation and Design

Task Series 300 – Principal and Auxiliary Spillway Designs  
Task Series 400 – Permitting  
Task Series 500 – Rights-of-Way Design  
Task Series 600 – Contract Document Preparation  
Task Series 700 – Plan Reviews

The HDR Team proposes to provide the following professional services for Phase I over an anticipated four (4) – month project period from the time of contract authorization. Final contract documents are to be submitted to DIAL ENGINEERS on or before March 1, 2005.

### **TASK SERIES 100 PROJECT MANAGEMENT**

**Task Objective:** Confirm that Project elements are being completed.

**HDR Activities:** **Task 110 Project Management.** Includes Project scheduling, administration and coordination activities on the Project. Internal HDR Project Team meetings will be conducted to discuss tasks, provide Project updates and review deliverables. Prepare monthly invoices and progress reports.

**Task 120 Coordination Meetings.** Several coordination meetings will be made with the P-MRNRD and DIAL ENGINEERS. An agenda will be prepared prior to the meeting and meeting minutes prepared after the meeting.

**Subtask 120.1 Project Kickoff Meeting.** Conduct a kickoff meeting with P-MRNRD and DIAL ENGINEERS to discuss the details of the project. The alignment of the main dam and auxiliary spillway will be defined.

**Subtask 120.2 Coordination/Progress Meetings.** Meet with P-MRNRD to review and discuss project progress. A total of 4 coordination meetings are assumed.

**Task Deliverables:**

- Monthly invoices and progress report
- Meeting agenda and minutes

**Key Understandings:** The meetings will be held at the offices of the P-MRNRD, unless notified elsewhere.

### **TASK SERIES 200 GEOTECHNICAL INVESTIGATION AND DESIGN**

**Task Objectives:** Conduct subsurface geotechnical investigation and conduct preliminary and final designs.

**HDR Activities:** **Task 210 Subsurface Investigations.** Conduct an investigation of the subsurface conditions.

**Subtask 210.1 Scope Boring Program.** HDR to prepare a boring location plan showing the location of the borings and the test requirements.

- Along centerline of embankment - 8 borings to 50 feet at 150-foot intervals
- Along principal spillway - 2 borings to 50 feet near upstream and downstream toes of dam
- Auxiliary spillway - 3 borings to 50 feet

- Borrow areas – 4 borings to 25 feet at off-site locations and 3 borings to 25 feet in reservoir area
- Existing culvert and roadway – 2 borings to 35 feet along West Dodge Road

Testing requirements include:

- Atterberg Limits (silts and clays, per D4318)
- Grain size analyses (sands, per D422)
- Moisture/Density tests (tube samples, per D2166)
- Unconfined Compressive Strength tests (tube samples, per D2166)
- Triaxial compression tests (UU) (tube samples, per D2850)
- Consolidation tests (tube samples, per D2435)

**Subtask 210.2 Field Subsurface Exploration** Thiele Geotech to conduct field drilling, conduct laboratory tests and prepare geotechnical report. Geo technical report includes field logs and preparing sketch of cross-sections. LRA will stake dam alignment, location of soil borings and survey top of boring hole elevations.

**Subtask 210.3 Subsurface Investigative Review.** Review field and lab data.

**Task 220 Preliminary Design and Analysis.** Preliminary geotechnical design will be performed. The design includes:

- Select design foundation section and shear strengths
- Select trial embankment section (w/drain, if needed)
- Run stability analyses for end of construction (EOC) case
- Run seepage analyses (does not include reservoir water balance)
  - foundation underseepage
  - embankment seepage
- Run stability analyses for SS, EQ, SD cases
- Run settlement analyses
  - embankment centerline
  - principal spillway (vertical and horizontal)

**Task 230 Final Design and Analysis.** Final geotechnical design will be performed. The design includes:

- Specify final embankment section.
- Specify, size and locate the chimney drain, horizontal blanket drain and drain outlets.
- Refine upstream slope geometry (Section C).
- Evaluate principal spillway alignment, stability and settlement.
- Evaluate auxiliary spillway stability.
- Develop instrumentation program for construction and operational monitoring.
- Evaluate slope stability of embankment closure section.
- Evaluate riprap location and requirements.
- Prepare final design technical memorandum of geotechnical analysis.

**Task 240 Instrumentation.** Identify locations and types of instrumentation required to monitor horizontal movement, vertical movement, settlement and pore-pressures during construction and subsequent operation of the embankment. Design instrumentation requirements.

**Task 250 Design Technical Memorandum.** Prepare technical memorandum documenting the results of the geotechnical investigation and design.

**Task Deliverables:**

- Subsurface investigation report
- Design technical memorandum

**Key Understandings:**

- Thiele Geotech, as a subconsultant to HDR, will conduct field investigation tasks.
- LRA, as a subconsultant to HDR, will stake dam alignment, location of soil borings and survey top of boring hole elevations.
- Subsurface investigation completed for the DIAL property will be furnished to HDR.
- Instrumentation is limited to piezometers and settlement plates.

**TASK SERIES 300 PRINCIPAL AND AUXILIARY SPILLWAYS DESIGN**

HDR will perform the final hydrologic/hydraulic computations to define approximate facility sizes for the sediment basin and outlet structure. The basis for the design will be the Reevaluation Report prepared by HDR dated September 2004.

Guidelines as adopted by the State of Nebraska and criteria as adopted by the Natural Resources Conservation Service (NRCS) will be incorporated into this task. The dam is to be designed in accordance with the NRCS publication "Earth Dams and Reservoirs", Technical Release 60 (TR-60). The principal outlet will be designed for the 100-year event.

**Task Objective:** To size spillways for design conditions.

**HDR Activities:** **Task 310 Hydrology Confirmation.** Reevaluate the stage-area-storage relationship for the dam and reservoir by comparing existing aerial topographic mapping, DIAL ENGINEER'S proposed grading plan and allowances for Lyman Richey headquarters grading and any wetland and channel mitigations. Evaluate impact of grading changes to stage-storage data for the main dam and the upstream water quality basin located upstream of Dodge Street.

**Task 320 Dam Breach Analysis.** A dam breach analysis will be conducted to define potential inundation areas should the structure fail. The breach routing will extend from the structure downstream to a point where the flood wave water surface has been attenuated below the existing published 100-yr water surface elevation. Lidar mapping will be used to develop cross-section data along the unnamed tributary. Inundation maps will be prepared as part of the dam breach analysis.

**Task 330 Type, Size, and Location of Spillways.** Determine the type, size and location of the principal and auxiliary spillways. Also size inlet to Water Quality Basin No. 1, located upstream of Dodge Street.

**Task 340 Technical Memorandum.** Prepare a technical memorandum documenting the results of the spillway designs.

**Task Deliverables:** Spillway design technical memorandum

**Key Understandings:**

- Channel geometry for the unnamed tributary will be obtained from the 2004 Lidar data collected from the contract between MAPA and Horizons, Inc..
- It is assumed that no more than 2 grading plan scenarios will be evaluated.
- DIAL ENGINEERS to provide existing aerial topographic mapping and proposed grading plans in CAD format.

**TASK SERIES 400 PERMITTING**

**Task Objectives:** To coordinate with permitting agencies, and prepare and submit appropriate permits.

**HDR Activities:** **Task 410 Permit Coordination and Consultation.** HDR will coordinate with state regulatory agencies to define the project design standards and permitting requirements.

**Subtask 410.1 Nebraska Department of Natural Resources Coordination.** Meet with the Nebraska Department of Natural Resources (DNR) to redefine dam design parameters and discuss permit application.

**Subtask 410.2 Coordinate with Others.** Coordinate with Hayes Environmental and DIAL ENGINEERS on permits.

**Task 420 Mitigation Plan Drawings Development.** Develop mitigation plan drawings only based upon conceptual design prepared by Hayes Environmental for disturbance of the “waters of the United States”.

**Task 430 Permit Application Preparation.** Prepare documentation to obtain a DNR Application for a “Permit to Impound Water” and “Application for Approval of Plans for Dams”.

**Task Deliverables:**

- Meeting minutes
- Nebraska Department of Natural Resources permits
- Mitigation Plans

**Key Understandings:**

- P-MRNRD will retain Hayes Environmental for Section 404 permitting and environmental mitigation concept designs.
- Section 404 permit and supporting compensatory mitigation requirements (Parts a-j) will be submitted as a joint permit application for the main dam and water quality basin construction and residential development and will be prepared by Hayes Environmental. Public comments also will be prepared by Hayes Environmental.
- Mitigation design is limited to wetland and channel mitigation at three (3) separate locations within the P-MRNRD Project Land.
- DIAL ENGINEERS will obtain NPDES construction activity permit and city of Omaha grading permit.
- DIAL ENGINEERS will be responsible for erosion control monitoring and recording requirements of the city of Omaha grading permit for the P-MRNRD Project Land and Dial Project Land.

- P-MRNRD is responsible for payment of permit application fees.

## **TASK SERIES 500 – RIGHT-OF-WAY DESIGN**

**Task Objectives:** To prepare right-of-way design and coordinate with Nebraska Department of Roads.

**HDR Activities:** **Task 510 Preliminary Right-of-Way (ROW) Plans.** This task includes the development of Preliminary ROW strip map plans based on dimensional control provided by recorded subdivision plats and other recorded surveys at the Douglas County Surveyor's office and the Douglas County Register of Deeds Office and the aerial topographic survey provided by DIAL ENGINEERS. Items depicted on these plans include: limits of maximum pool based on the top of proposed dam elevation (1180) and other construction outside this limit.

**Task 520 Right-of-Way Design.** Permanent and temporary easements will be delineated for five (5) tracts. Proposed ROW design will follow these general guidelines:

- Easements will be limited to the maximum pool elevation of 1180.
- Temporary easements will be acquired where grading or temporary construction is necessary outside of the proposed ROW.

**Subtask 520.1 Meeting.** A review meeting will be arranged with the P-MRNRD prior to development of the individual tract maps and legal descriptions.

**Subtask 520.2 Plat Maps and Legal Descriptions.** Prepare plat maps and legal descriptions for acquisition or easement lands.

**Subtask 520.3 Final ROW Design.** Update the Preliminary ROW strip map plans to final ROW plans.

**Task 530 Coordination with the Nebraska Department of Roads (NDOR).** Four (4) meetings with the NDOR and P-MRNRD are anticipated to discuss the maximum pool design and the impacts on NDOR ROW and facilities. The necessary paperwork to obtain a permit to occupy NDOR ROW will be prepared.

### **Task Deliverables:**

- Preliminary and final ROW plans
- Plat maps and legal descriptions
- Meeting agenda and minutes

### **Key Understandings:**

- P-MRNRD will be responsible for appraising and negotiating with the property owner(s), preparing the necessary legal language to go with the legal descriptions and plats, and the filing of the documents with the County.
- It is assumed that Elk Valley drainage easements to the cities of Elkhorn and Omaha and SID 458 are adequate for this Project. No additional easements will be necessary on these tracts.
- Permanent or temporary easements will be delineated for five (5) tracts.
- P-MRNRD will provide property ownership information.

- It is assumed that ROW will not be acquired by fee title, and therefore, no ground survey will be required to establish property boundary lines.
- Meetings with NDOR are assumed to be held in Omaha (3 meetings) and Lincoln (1 meeting).

## **TASK SERIES 600 CONTRACT DOCUMENT PREPARATION**

Contract drawings are to be prepared utilizing Micro Station Version 7 and then converted to AutoCAD.

**Task Objective:** To prepare contract documents.

**HDR Activities:** **Task 610 Plan Development Coordination.** Coordinate with DIAL ENGINEERS on design drawings and specifications. Define sheet layout, font libraries, title blocks, etc. Typical details to be used by DIAL ENGINEERS and HDR will be coordinated and provided by DIAL ENGINEERS (e.g. erosion control details). A preliminary drawing list of 36 sheets includes:

- Title Sheet (1 sheet)
- General Notes, Legend, Abbreviations, Hydrologic/Hydraulic Data and Quantities (2 sheets)
- Main Dam and Auxiliary Spillway Horizontal Control Plan (1"=100', 1 sheet)
- Typical Sections (typical cross section along principal spillway, auxiliary spillway section, 1 sheet)
- Main Dam Grading Plan and Embankment Drain Plan (1"= 50', 2 sheets)
- Main Dam Principal Spillway Surcharge Plan and Section (1"= 50', 2 sheets)
- Main Dam Details (e.g. embankment drain detail, toe drain detail, slotted drain detail, and cutoff detail, 1 sheet)
- Water Quality Basin No. 1 Plan and Details (1"= 50', 1 sheet)
- Lyman Richey Property Trail Grading (1"= 50', 1 sheet)
- Soil and Erosion Control Plan (1"= 50', 4 sheets)
- Right-of-Way (2 sheets)
- Instrumentation and Controls (e.g. piezometer, settlement plate, 1 sheet)
- Structural Details (e.g. riser, stilling basin, 6 sheets)
- Miscellaneous Details (trash rack, 1 sheet)
- Mitigation Design (6 sheets)
- Cross Sections (every 100', 4 sheets)

**Task 620 Preliminary Contract Document Design Development.** Prepare preliminary, approximately 50%, drawings for dam elements.

**Subtask 620.1 Drawing Development.** Prepare contract plan drawings for preliminary submittal. Prepare majority of the sheets.

**Subtask 620.2 Opinion of Probable Construction Cost.** Prepare preliminary opinion of probable construction cost.

**Task 630 Final Design Plan Development.** Prepare final drawings for dam elements.

**Subtask 630.1 Drawing Development.** Prepare final contract plan drawings.

**Subtask 630.2 Specification Development.** Develop final technical specifications.



**Subtask 630.3 Opinion of Probable Construction Cost.** Prepare final opinion of probable construction cost.

**Task Deliverables:** Preliminary and final plans, technical specifications and opinion of probable construction cost

**Key Understandings:**

- Design is limited to main dam, auxiliary spillway and water quality basin. Grading for the trail is limited to the Lyman Richey property adjacent to the stormwater detention cell. Additional trail, lake access or improvement to the site is not included.
- DIAL ENGINEERS is responsible for design of all roadways, including ingress/egress into commercial development in the south abutment.
- Payment quantities will be based on established quantities. No measurement for final payment will be made in the field, except for change order quantities.
- HDR will provide the technical specifications only.
- DIAL ENGINEERS will be responsible for the integration of the technical specifications with the contract documents.
- EJCDC contract documents will be used.
- HDR to provide DIAL ENGINEERS final, "contractor negotiation ready", stamped mylar plans, an electronic copy of the plans in AutoCAD format and specifications in WORD format.
- HDR to provide 2 half-size drawing and PDF to the P-MRNRD for preliminary and final submittals.

### **TASK SERIES 700 PLAN REVIEWS**

**Task Objectives:** To review plans prepared by DIAL ENGINEERS in association with those areas impacting the dam and reservoir.

**HDR Activities:** **Task 710 Plan Review.** Review conceptual, preliminary and final plans of the development which impacts the construction of the dam and reservoir area. Provide written comments of review.

**Task Deliverables:** Plan review comments

**Key Understandings:**

- Review comments are to be completed within 30 days of submittal.



## PHASE II - CONSTRUCTION CONTRACT ADMINISTRATIVE SERVICES

HDR will act as DIAL'S representative regarding construction contract administration of the construction of the main dam and water quality basin. DIAL will be kept informed of contractual matters and will make the final decision on matters that have a cost or schedule implication. HDR will furnish a full-time resident project representative (RPR), and other field staff in observing performance of Contractor's work. Duties, responsibilities, and authority of the RPR are as set forth in Exhibit D of the Agreement..

The HDR Team proposes to provide the following professional services for Phase II over an anticipated seven (7) –month project period from April 1 to November 1, 2005. The scope of work is segmented into four (4) task series:

Task Series 100 – Project Management

Task Series 200 – Contractor Negotiations Assistance

Task Series 300 – Construction Contract Administration Services

Task Series 400 – Operation and Maintenance Manual and Emergency Action Plan

### TASK SERIES 100 PROJECT MANAGEMENT

**Task Objectives:** Confirm that Project elements are being completed.

**HDR Activities:** **Task 110 Project Management.** Includes Project scheduling, administration and coordination activities on the Project. Internal HDR Project Team meetings will be conducted to discuss tasks, provide Project updates and review deliverables. Prepare monthly invoices and progress report.

**Task 120 Coordination Meetings.** Several coordination meetings will be made with the P-MRNRD and/or DIAL ENGINEERS. An agenda will be prepared prior to the meeting and meeting minutes prepared after the meeting. A total of 4 coordination meetings are assumed.

**Task Deliverables:**

- Monthly invoices and progress report
- Meeting agenda and minutes

**Key Understandings:** The meetings will be held at the offices of the P-MRNRD, unless notified elsewhere.

### TASK SERIES 200 CONTRACTOR NEGOTIATIONS ASSISTANCE

**Task Objective:** To assist in the contractor negotiations process.

**HDR Activities:** **Task 210 Contractor Negotiations Assistance.**

**Subtask 210.1 Meetings.** HDR to assists in meeting with prospective contractors.

**Subtask 210.2 Contract Document Clarification.** HDR to provide clarifications and interpretations of Contract Documents to Contractor.

**Subtask 210.3 Change Order Negotiations.** HDR to assist in negotiating change orders.

**Task Deliverables:** None

**Key Understandings:**

- DIAL ENGINEERS will provide meeting minutes.
- Contract will not be advertised for bids. DIAL will negotiate with Contractors and select Contractor.
- Addendums will not be prepared.

**TASK SERIES 300 CONSTRUCTION CONTRACT ADMINISTRATIVE SERVICES**

**Task Objectives:** To provide construction contract administration services.

**HDR Activities:** **Task 310 Construction Contract Administration.**

**Subtask 310.1 Pre-Construction Meeting.** HDR will assist DIAL ENGINEERS with organizing and holding a pre-construction meeting. Representatives from HDR, DIAL ENGINEERS, Dial Development Corp., P-MRNRD, Contractor, and other interested parties will attend this meeting. The main purpose of this meeting will be to establish lines of communication, discuss areas of responsibility, establish operational constraints, and to discuss and clarify items.

**Subtask 310.2 Survey Control and Verification Checks.** LRA, as a subconsultant to HDR, will provide survey control and verification checks for the Project.

**Subtask 310.3 Shop Drawing Review.** HDR to review shop drawings and samples for compliance with contract documents.

**Subtask 310.4 Construction Meetings** HDR to attend construction meetings with representatives of the Contractor and the design team.

**Subtask 310.5 On-Site Observation.** HDR to conduct full time on-site observation of work in progress to determine if work is generally proceeding in accordance with the Contract Documents.

**Subtask 310.6 Contract Document Clarification.** HDR to provide clarifications and interpretations of Contract Documents to Contractor.

**Subtask 310.7 Change Order Negotiations.** HDR to assist in negotiating change orders.

**Subtask 310.8 Project Filing.** HDR to maintain files for correspondence, shop drawings and samples, change orders and other project related documents.

**Subtask 310.9 Project Documentation.** HDR to maintain log book to record working days; weather conditions; weekly activities; decisions; and general observations.

**Subtask 310.10 Payment Application Verification.** DIAL ENGINEERS to prepare and verify applications for payment with Contractor. HDR and P-MRNRD will review and recommend payment.

**Subtask 310.11 Substantial Completion Inspection.** HDR to conduct a substantial completion inspection and submit a list of observed items requiring completion or correction.

**Subtask 310.12 Final Inspection.** HDR to conduct a final inspection and submit a list of observed items requiring completion or correction. After items on list have been completed or corrected, HDR to review final payment application.

**Subtask 310.13 Record Drawings.** HDR to prepare record drawings corrected to reflect actual field conditions and changes made during the construction period. The Contractor will be responsible for marking up a set of prints as changes are identified. HDR to provide DIAL ENGINEERS record mylar plans.

**Subtask 310.14 Permit Application Preparation.** Prepare DNR Construction Certification Form for Dams. Coordinate Section 404 Verification of Completion of Construction.

**Task Deliverables:**

- Shop drawing review submittals
- Daily and weekly construction reports
- Material testing reports
- Change order documentation
- Record drawings (1 hard copy and electronic copy)
- DNR Construction Certification Form for Dams

**Key Understandings:**

- Anticipated duration of the dam construction is from April 1, 2005 to November 1, 2005.
- LRA, as a subconsultant to HDR, will provide survey control and verification checks during construction. Contractor will be responsible for cost of reestablishing survey control or rechecking nonconforming elevations.
- Contractor will be responsible for construction survey. Contractor will be responsible to survey final dam cross sections and other grading work for record drawings.
- The level of construction observation effort included in this scope equates to 1,120 hours for the RPR commencing with start of Contractor's field activities. This budget assumes RPR will be on-site at all times during the period when the Contractor is performing work requiring observation, as determined by HDR. Reasonable variations in work days and schedules are anticipated, but no protracted overtime, work stoppages or extended work schedules are anticipated.
- HDR's RPR will not authorize any deviation from the Contract Documents.
- RPR will not exceed the limitations of ENGINEER's authority as set forth in the Agreement or the Contract Documents. RPR will not undertake any of the responsibilities of the Contractors, subcontractors, suppliers, or Contractor's superintendents.
- HDR will not supervise, direct or manage the Contractor's forces or Contractor's means and methods. HDR will not assume responsibility for health and safety of Contractor's personnel.
- Testing of materials during placement will be conducted to verify compaction and moisture requirements. HDR will contract with Thiele

Geotech for laboratory analysis of soils and concrete. HDR will provide nuclear density testing of embankment materials.

- DIAL ENGINEER'S will provide a meeting place and HDR will participate in construction progress meetings when appropriate.
- DIAL DEVELOPMENT will make all decisions on contractual matters and will process and take appropriate action on Contractor pay requests, change orders, and other administrative matters.
- Hayes Environmental will prepare and submit USACE mitigation verification of completion of construction.

## **TASK SERIES 400 OPERATION AND MAINTENANCE MANUAL AND EMERGENCY ACTION PLAN**

An Operation and Maintenance (O&M) manual containing information regarding the operation and maintenance of equipment will be prepared. In addition, instructions related to the emergency action plan will be prepared.

**Task Objectives:** To prepare documentation on equipment.

**HDR Activities:** **Task 410 Operation and Maintenance Manual.** HDR will prepare an O&M manual documenting the equipment purchased for the project and other general O&M activities. This manual will be included in the O&M manual in their entirety with any beneficial supplemental information resulting from the review.

**Task 420 Emergency Action Plan.** HDR will develop an emergency action plan, including a dam safety inspection program. Contact information will be updated to include the City of Elkhorn.

**Task Deliverables:**

- Operation and Maintenance Manual
- Emergency Action Plan

**Key Understandings:** Emergency Action Plan is similar to Candlewood Dam submitted in 2004.

## **PART 2 – ADDITIONAL SERVICES**

### *A2.01 Additional Services Requiring OWNER's Authorization in Advance*

A. If authorized in writing by OWNER, ENGINEER shall furnish or obtain from others Additional Services of the types listed below. These services will be paid for by OWNER as indicated in Article 4 of the Agreement.

1. Preparation of applications and supporting documents (in addition to those furnished under Basic Services) for private or governmental grants, loans or advances in connection with the Project; preparation or review of environmental assessments and impact statements; review and evaluation of the effects on the design requirements for the Project of any such statements and documents prepared by others; and assistance in obtaining approvals of authorities having jurisdiction over the anticipated environmental impact of the Project.

2. Services to make measured drawings of or to investigate existing conditions or facilities, or to verify the accuracy of drawings or other information furnished by OWNER.

3. Services resulting from significant changes in the scope, extent, or character of the portions of the Project designed or specified by ENGINEER or its design requirements including, but not limited to, changes in size, complexity, OWNER's schedule, character of construction, or method of financing; and revising previously

accepted studies, reports, Drawings, Specifications, or Contract Documents when such revisions are required by changes in Laws and Regulations enacted subsequent to the Effective Date of this Agreement or are due to any other causes beyond ENGINEER's control.

4. NOT USED.
5. Services required as a result of OWNER's providing incomplete or incorrect Project information with respect to Exhibit B.
6. Providing renderings or models for OWNER's use.
7. Undertaking investigations and studies including, but not limited to, detailed consideration of operations, maintenance, and overhead expenses; the preparation of feasibility studies, cash flow and economic evaluations, rate schedules, and appraisals; assistance in obtaining financing for the Project; evaluating processes available for licensing, and assisting OWNER in obtaining process licensing; detailed quantity surveys of materials, equipment, and labor; and audits or inventories required in connection with construction performed by OWNER.
8. Furnishing services of ENGINEER's Consultants for other than Basic Services.
9. Services attributable to more prime construction contracts than specified in paragraph A1.03.C.
10. Services during out-of-town travel required of ENGINEER other than for visits to the Site or OWNER's office.
11. Preparing for, coordinating with, participating in and responding to structured independent review processes, including, but not limited to, construction management, cost estimating, project peer review, value engineering, and constructibility review requested by OWNER; and performing or furnishing services required to revise studies, reports, Drawings, Specifications, or other Bidding Documents as a result of such review processes.
12. Preparing additional Contract Documents for alternates requested by OWNER for the Work or a portion thereof.
13. Determining the acceptability of substitute materials and equipment proposed during the Contractor Negotiation.
14. NOT USED.
15. Providing any type of property surveys or related engineering services needed for the transfer of interests in real property; and providing other special field surveys.
16. Providing Construction Phase services beyond the Contract Times set forth in Exhibit C.
17. Providing assistance in resolving any Hazardous Environmental Condition in compliance with current Laws and Regulations.
18. Preparing and furnishing to OWNER Record Drawings showing appropriate record information based on Project annotated record documents received from Contractor.
19. NOT USED.
20. Preparing to serve or serving as a consultant or witness for OWNER in any litigation, arbitration or other dispute resolution process related to the Project.
21. Providing more extensive services required to enable ENGINEER to issue notices or certifications requested by OWNER under paragraph 6.01.G of the Agreement.
22. Other services performed or furnished by ENGINEER not otherwise provided for in this Agreement.

A2.02 *Required Additional Services*

A. ENGINEER shall perform or furnish, without requesting or receiving specific advance authorization from OWNER, the Additional Services of the types listed below. ENGINEER shall advise OWNER in writing promptly after starting any such Additional Services.

1. Services in connection with Work Change Directives and Change Orders to reflect changes requested by OWNER so as to make the compensation commensurate with the extent of the Additional Services rendered.
2. Services in making revisions to Drawings and Specifications occasioned by the acceptance of substitute materials or equipment other than "or-equal" items; and services after the award of the Construction Agreement in evaluating and determining the acceptability of a substitution which is found to be inappropriate for the Project or an excessive number of substitutions.
3. Services resulting from significant delays, changes, or price increases occurring as a direct or indirect result of materials, equipment, or energy shortages.
4. Additional or extended services during construction made necessary by (1) emergencies or acts of God endangering the Work, (2) an occurrence of a Hazardous Environmental Condition, (3) Work damaged by fire or other cause during construction, (4) a significant amount of defective, neglected, or delayed work by Contractor, (5) acceleration of the progress schedule involving services beyond normal working hours, or (6) default by Contractor.
5. Services in connection with any partial utilization of any part of the Work by OWNER prior to Substantial Completion.
6. Evaluating an unreasonable claim or an excessive number of claims submitted by Contractor or others in connection with the Work.

**EXHIBIT B  
OF  
STANDARD FORM OF AGREEMENT  
BETWEEN OWNER AND ENGINEER**

This is **EXHIBIT B**, consisting of 3 pages, referred to in and part of the **Agreement between OWNER and ENGINEER for Professional Services** dated \_\_\_\_\_, 2004.

Initial:  
OWNER \_\_\_\_\_  
ENGINEER \_\_\_\_\_

**OWNER's Responsibilities**

---

Article 2 of the Agreement is amended and supplemented to include the following agreement of the parties.

B2.01 In addition to other responsibilities of OWNER as set forth in this Agreement, OWNER shall:

A. Provide ENGINEER with all criteria and full information as to OWNER's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility, and expandability, and any budgetary limitations; and furnish copies of all design and construction standards which OWNER will require to be included in the Drawings and Specifications; and furnish copies of OWNER's standard forms, conditions, and related documents for ENGINEER to include in the Bidding Documents, when applicable.

B. Furnish to ENGINEER any other available information pertinent to the Project including reports and data relative to previous designs, or investigation at or adjacent to the Site.

C. Following ENGINEER's assessment of initially-available Project information and data and upon ENGINEER's request, furnish or otherwise make available such additional Project related information and data as is reasonably required to enable ENGINEER to complete its Basic and Additional Services. Such additional information or data would generally include the following:

1. Property descriptions.
2. Zoning, deed, and other land use restrictions.
3. Property, boundary, easement, right-of-way, and other special surveys or data, including establishing relevant reference points.
4. NOT USED.
5. Environmental assessments, audits, investigations and impact statements, and other relevant environmental or cultural studies as to the Project, the Site, and adjacent areas.
6. Data or consultations as required for the Project but not otherwise identified in the Agreement or the Exhibits thereto.

D. Give prompt written notice to ENGINEER whenever OWNER observes or otherwise becomes aware of a Hazardous Environmental Condition or of any other development that affects the scope or time of performance of ENGINEER's services, or any defect or nonconformance in ENGINEER's services or in the work of any Contractor.



E. Authorize ENGINEER to provide Additional Services as set forth in Part 2 of Exhibit A of the Agreement as required.

F. Arrange for safe access to and make all provisions for ENGINEER to enter upon public and private property as required for ENGINEER to perform services under the Agreement.

G. Examine all alternate solutions, studies, reports, sketches, Drawings, Specifications, proposals, and other documents presented by ENGINEER (including obtaining advice of an attorney, insurance counselor, and other advisors or consultants as OWNER deems appropriate with respect to such examination) and render in writing timely decisions pertaining thereto.

H. Provide reviews, approvals, and permits from all governmental authorities having jurisdiction to approve all phases of the Project designed or specified by ENGINEER and such reviews, approvals, and consents from others as may be necessary for completion of each phase of the Project.

I. Provide, as required for the Project:

1. Accounting, bond and financial advisory, independent cost estimating, and insurance counseling services.
2. Legal services with regard to issues pertaining to the Project as OWNER requires or deems appropriate, Contractor raises, or ENGINEER reasonably requests, including but not limited to any bidding or contract documents prepared or supplied to OWNER by ENGINEER.
3. Such auditing services as OWNER requires to ascertain how or for what purpose Contractor has used the moneys paid.
4. Placement and payment for advertisement for Bids in appropriate publications.

J. Advise ENGINEER of the identity and scope of services of any independent consultants employed by OWNER to perform or furnish services in regard to the Project, including, but not limited to, cost estimating, project peer review, value engineering, and constructibility review.

K. Furnish to ENGINEER data as to OWNER's anticipated costs for services to be provided by others for OWNER so that ENGINEER may make the necessary calculations to develop and periodically adjust ENGINEER's opinion of Total Project Costs.

L. If OWNER designates a construction manager or an individual or entity other than, or in addition to, ENGINEER to represent OWNER at the Site, define and set forth as an attachment to this Exhibit B the duties, responsibilities, and limitations of authority of such other party and the relation thereof to the duties, responsibilities, and authority of ENGINEER.

M. If more than one prime contract is to be awarded for the Work designed or specified by ENGINEER, designate a person or entity to have authority and responsibility for coordinating the activities among the various prime Contractors, and define and set forth the duties, responsibilities, and limitations of authority of such individual or entity and the relation thereof to the duties, responsibilities, and authority of ENGINEER as an attachment to this Exhibit B that is to be mutually agreed upon and made a part of this Agreement before such services begin.

N. Attend the pre-construction conferences, construction progress and other job related meetings, and Substantial Completion and final payment inspections.

O. NOT USED.

P. Provide inspection or monitoring services by an individual or entity other than ENGINEER (and disclose the identity of such individual or entity to ENGINEER) as OWNER determines necessary to verify:



1. That Contractor is complying with any Laws and Regulations applicable to Contractor's performing and furnishing the Work.

2. That Contractor is taking all necessary precautions for safety of persons or property and complying with any special provisions of the Contract Documents applicable to safety.

Q. Provide ENGINEER with the findings and reports generated by the entities providing services pursuant to paragraphs B2.01.O and P.

R. NO T USED.

**EXHIBIT C  
OF  
STANDARD FORM OF AGREEMENT  
BETWEEN OWNER AND ENGINEER**

This is **EXHIBIT C**, consisting of 2 pages, referred to in  
and part of the **Agreement between OWNER and  
ENGINEER for Professional Services** dated \_\_\_\_\_  
\_\_\_\_\_, 2004.

Initial:

OWNER \_\_\_\_\_  
ENGINEER \_\_\_\_\_

**Payments to ENGINEER for Services and Reimbursable Expenses**

---

Article 4 of the Agreement is amended and supplemented to include the following agreement of the parties:

**ARTICLE 4 -- PAYMENTS TO THE ENGINEER**

**C4.01** *For Basic Services Having A Determined Scope -- Direct Labor Costs Times a Factor Method of Payment*

A. OWNER shall pay ENGINEER for Basic Services set forth in Exhibit A, as follows:

1. An amount equal to ENGINEER's Direct Labor Costs times a Factor of 3.025 for the services of ENGINEER's employees engaged on the Project, plus Reimbursable Expenses, estimated to be \$29,752, and ENGINEER's Consultant's charges, if any, estimated to be \$50,152. The total compensation under paragraph C4.01.A.1 is not to exceed the amount of \$426,311, unless authorized in writing by OWNER. The fee proposal for this Agreement is included as Attachment "C".

2. ENGINEER's Reimbursable Expenses Schedule, is attached to this Exhibit C as Appendix 1. A markup on 10% will be added to reimbursable expenses.

3. The total compensation for services under paragraph C4.01 is estimated to be \$426,311 based on the following assumed distribution of compensation:

- a. Preliminary and Final Design Phase \$236,956
- b. Construction Phase \$189,354

4. ENGINEER may alter the distribution of compensation between individual phases of the work noted herein to be consistent with services actually rendered, but shall not exceed the total compensation amount unless approved in writing by OWNER.

5. The total estimated compensation for ENGINEER'S services included in the breakdown by phases as noted in paragraph 4.01.A.3, incorporates all labor, overhead, profit, Reimbursable Expenses, and ENGINEER's Consultant's charges.

6. NOT USED.

7. The portion of the amounts billed for ENGINEER's services which are related to services rendered on a Direct Labor Costs times a Factor basis will be billed based on the applicable Direct Labor Costs for the cumulative hours charged to the Project by ENGINEER's principals and employees multiplied by the above-designated Factor, plus Reimbursable Expenses and ENGINEER's Consultant's charges incurred during the billing period.

8. The estimated total compensation is conditioned on Contract Times to complete the Work not exceeding 12 months. Should the Contract Times to complete the Work be extended beyond this period, total compensation to ENGINEER shall be appropriately adjusted.

9. Direct Labor Costs means salaries and wages paid to employees but does not include payroll related costs or benefits.

10. The Direct Labor Costs will be adjusted annually (as of January 1, 2005) to reflect equitable changes to the compensation payable to ENGINEER.

**APPENDIX 1  
EXHIBIT C  
OF  
STANDARD FORM OF AGREEMENT  
BETWEEN OWNER AND ENGINEER**

This is **Appendix 1 to EXHIBIT C**, consisting of 1 page, referred to in and part of the **Agreement between OWNER and ENGINEER for Professional Services** dated \_\_\_\_\_, 2004.

Initial:

OWNER \_\_\_\_\_  
ENGINEER \_\_\_\_\_

**Reimbursable Expenses Schedule**

---

Current agreements for engineering services stipulate that the Reimbursable Expenses are subject to review and adjustment per Exhibit C. Reimbursable expenses for services performed on the date of the Agreement are:

8"x11" or 11" x 17" Copies/Impression	\$0.10/page
Reproducible Copies (Mylar)	\$3.00/sq. ft.
Reproducible Copies (Paper)	\$0.15/sq. ft.
Mileage (auto)	\$0.365/mile
Field Truck Monthly Charge	\$500/month
Field Truck (Fuel)	at cost
Technology Fee	\$4.10/direct labor hour
Soil Sampling (Nuclear gage)	\$350/month
Cell Phone	at cost
Meals and Lodging	at cost

# APPENDIX 2, EXHIBIT C OF STANDARD FORM OF AGREEMENT BETWEEN OWNER AND ENGINEER

This is Appendix 2 to EXHIBIT C, consisting of 2 pages, referred to in and part of the Agreement between OWNER and ENGINEER for Professional Services dated \_\_\_\_\_, 2004.

Initial: \_\_\_\_\_  
OWNER \_\_\_\_\_  
ENGINEER \_\_\_\_\_

## APPENDIX 2, EXHIBIT C PAPIO - MISSOURI RIVER NATURAL RESOURCES DISTRICT DAM SITE 13 - DESIGN AND CONSTRUCTION CONTRACT ADMINISTRATION SERVICES FEE ESTIMATE - PHASE I, DESIGN SERVICES

TASKS	Project Manager	Sr Engr/ Technical	Geotech Engineer	Mid-Level Technical	Junior-Level Technical	Tech Support	Field Rep.	Clerical	Total Hours	Total Labor Cost	Tech. Fee	Printing	Expenses			Subconsultants			Totals		
													Travel	Misc.	Total Expenses	Trielle Geotech	LPA	Rick Donovan	Total Sub	Total HDR Labor & Exp.	Est. Total Cost
<b>TASK SERIES 100 - PROJECT MANAGEMENT</b>																					
Task 100	40								8	\$5,560	\$216			\$550	\$766				\$0	\$6,332	\$6,332
Task 120		16							26	\$3,226	\$117			\$16	\$133				\$0	\$3,359	\$3,359
Subtask 20.1	16	16							32	\$4,042	\$180			\$50	\$261				\$0	\$4,303	\$4,303
Subtask 20.2	72	22							94	\$11,680	\$361				\$991				\$0	\$12,671	\$12,671
Estimated Task Hours Subtotal									114	\$13,634	\$514	\$0	\$86	\$550	\$1,161	\$0	\$0	\$0	\$0	\$14,944	\$14,944
Estimated Task Cost Subtotal																					
<b>TASK SERIES 200 - GEOTECHNICAL INVESTIGATION &amp; DESIGN</b>																					
Task 210																					
Subtask 210.1	4								8	\$1,096	\$36				\$52				\$197	\$1,293	\$1,293
Subtask 210.2		8							8	\$1,096	\$36				\$52				\$197	\$1,293	\$1,293
Subtask 210.3		16							16	\$2,382	\$72				\$104				\$374	\$2,756	\$2,756
Task 220		80							80	\$11,680	\$361				\$991				\$0	\$12,671	\$12,671
Task 230		80							80	\$11,680	\$361				\$991				\$0	\$12,671	\$12,671
Task 240		24							24	\$3,506	\$108				\$266				\$0	\$3,814	\$3,814
Task 250		40							40	\$5,560	\$216				\$372				\$0	\$6,178	\$6,178
Design Technical Memorandum																					
Estimated Task Hours Subtotal									8	\$8,352	\$276				\$1,222				\$0	\$9,578	\$9,578
Estimated Task Cost Subtotal																					
<b>TASK SERIES 300 - PRINCIPAL AND AUXILIARY SPILLWAY DESIGN</b>																					
Task 310																					
Subtask 310.1	2								2	\$1,520	\$81				\$81				\$0	\$1,601	\$1,601
Subtask 310.2	2								2	\$1,520	\$81				\$81				\$0	\$1,601	\$1,601
Task 320		16							16	\$2,382	\$72				\$104				\$0	\$2,486	\$2,486
Task 330		16							16	\$2,382	\$72				\$104				\$0	\$2,486	\$2,486
Task 340		2							2	\$2,184	\$108				\$108				\$0	\$2,292	\$2,292
Technical Memorandum																					
Estimated Task Hours Subtotal									2	\$3,804	\$126				\$108				\$0	\$4,012	\$4,012
Estimated Task Cost Subtotal																					
<b>TASK SERIES 400 - PERMITTING</b>																					
Task 410																					
Subtask 410.1	2								2	\$1,520	\$81				\$81				\$0	\$1,601	\$1,601
Subtask 410.2	2								2	\$1,520	\$81				\$81				\$0	\$1,601	\$1,601
Task 420		11							11	\$1,618	\$510				\$510				\$0	\$2,128	\$2,128
Task 430		2							2	\$1,717	\$81				\$81				\$0	\$1,798	\$1,798
Permit Application Preparation																					
Estimated Task Hours Subtotal									12	\$17,644	\$789				\$879				\$0	\$18,423	\$18,423
Estimated Task Cost Subtotal																					
<b>TASK SERIES 500 - RIGHT-OF-WAY DESIGN</b>																					
Task 510																					
Subtask 510.1	2								2	\$1,520	\$81				\$81				\$0	\$1,601	\$1,601
Subtask 510.2	2								2	\$1,520	\$81				\$81				\$0	\$1,601	\$1,601
Task 520		4							4	\$2,382	\$72				\$104				\$0	\$2,486	\$2,486
Subtask 520.1	4								4	\$2,382	\$72				\$104				\$0	\$2,486	\$2,486
Subtask 520.2	4								4	\$2,382	\$72				\$104				\$0	\$2,486	\$2,486
Task 530		12							12	\$1,618	\$510				\$510				\$0	\$2,128	\$2,128
Coordination with HDR																					
Estimated Task Hours Subtotal									14	\$24,657	\$1,146				\$1,242				\$0	\$25,899	\$25,899
Estimated Task Cost Subtotal																					
<b>TASK SERIES 600 - CONTRACT DOCUMENT PREPARATION</b>																					
Task 610																					
Subtask 610.1	20								20	\$6,030	\$216				\$257				\$0	\$6,287	\$6,287
Task 620		40							40	\$12,060	\$432				\$514				\$0	\$12,574	\$12,574
Subtask 620.1	40								40	\$12,060	\$432				\$514				\$0	\$12,574	\$12,574
Subtask 620.2	2								2	\$1,520	\$81				\$81				\$0	\$1,601	\$1,601
Task 630		40							40	\$12,060	\$432				\$514				\$0	\$12,574	\$12,574
Final Contract Document Design Development																					
Estimated Task Hours Subtotal									24	\$24,657	\$1,146				\$1,242				\$0	\$25,899	\$25,899
Estimated Task Cost Subtotal																					
<b>TASK SERIES 700 - PLAN REVIEW</b>																					
Task 710																					
Subtask 710.1	24								24	\$3,506	\$108				\$266				\$0	\$3,814	\$3,814
Plan Review																					
Estimated Task Hours Subtotal									4	\$5,012	\$162				\$162				\$0	\$5,174	\$5,174
Estimated Task Cost Subtotal																					
TOTAL HOURS	82	227							84	\$190,738	\$8,321	\$1,544	\$205	\$550	\$10,720	\$20,491	\$2,145	\$4,862	\$27,498	\$209,460	\$209,460
TOTAL COST																					

Reimbursable Expenses Markup

10%

**APPENDIX 2, EXHIBIT C**  
**PAPIO - MISSOURI RIVER NATURAL RESOURCES DISTRICT**  
**DAM SITE 13 - DESIGN AND CONSTRUCTION CONTRACT ADMINISTRATION SERVICES**  
**FEE ESTIMATE - PHASE II, CONSTRUCTION CONTRACT ADMINISTRATION**

TASKS		LABOR										EXPENSES				SUBCONSULTANTS			TOTALS		
		Project Manager	Sr. Engr/ Technical	Geotech Engineer	Mid-Level Technical	Junior-Level Technical	Tech Support	Field Rep.	Clerical	Total Hours	Total Labor Cost	Tech. Fee	Printing	Travel	Misc.	Total Expenses	Thiele Geotech	LPA	Rick Donovan	Total Subr Labor & Exp.	Est Total Cost
TASK SERIES 100 – PROJECT MANAGEMENT																					
Task 110	46	20			20				16	104	\$12,646	\$469			\$500	\$1,019				\$13,665	
Task 120	24	16							16	56	\$8,518	\$253		\$90		\$333				\$8,951	
Estimated Task Hours Subtotal		72	36	0	20	0	0	0	32											\$0	
Estimated Task Cost Subtotal		\$9,202	\$5,724	\$0	\$2,424	\$0	\$0	\$0	\$1,814	160	\$19,164	\$722	\$0	\$80	\$550	\$1,352	\$0	\$0	\$0	\$20,516	
TASK SERIES 200 – CONTRACTOR NEGOTIATIONS ASSISTANCE																					
Task 210 Contractor Negotiations Assistance																					
Subtask 210.1 Meetings		4		16	8					4	\$636	\$18				\$18				\$0	
Subtask 210.2 Contract Document Clarification	2			16	8				26	\$2,861	\$117					\$117				\$0	
Subtask 210.3 Change Order Negotiations				16	8				2	42	\$3,924	\$169				\$169				\$0	
Estimated Task Hours Subtotal		2	4	0	32	16	0	16	2											\$0	
Estimated Task Cost Subtotal		\$246	\$836	\$0	\$3,878	\$1,737	\$0	\$1,205	\$112	72	\$7,421	\$225	\$0	\$0	\$0	\$325	\$0	\$0	\$0	\$7,746	
TASK SERIES 300 – CONSTRUCTION CONTRACT ADMINISTRATION SERVICES																					
Task 310 Construction Administration Services																					
Subtask 310.1 Pre-Construction Meeting	4			16	8			4	2	18	\$2,020	\$91			\$110	\$191				\$2,211	
Subtask 310.2 Survey Control and Verification Checks	2								2	8	\$236	\$9				\$16,500				\$16,509	
Subtask 310.3 Shop Drawing Review				24					12	40	\$4,225	\$180				\$180				\$4,405	
Subtask 310.4 Construction Meetings	1			16	8				10	40	\$4,225	\$180				\$180				\$4,405	
Subtask 310.5 Construction Observation	12	24			32			1120		1156	\$69,750	\$5,714		\$5,952	\$3,172	\$14,328	\$4,659		\$6,155	\$110,243	
Subtask 310.6 Change Order Negotiations (Included in Subtask 310.5)									4	20	\$2,020	\$91				\$0			\$0	\$0	
Subtask 310.7 Project Filing (Included in Subtask 310.5)					24				28	28	\$3,198	\$126				\$126				\$3,324	
Subtask 310.8 Project Documentation (Included in Subtask 310.5)									0	0	\$0	\$0				\$110			\$0	\$110	
Subtask 310.10 Payment Application Verification (Included in Subtask 310.5)									0	0	\$0	\$0				\$110			\$0	\$110	
Subtask 310.11 Substantial Completion Inspection (Included in Subtask 310.5)									0	0	\$0	\$0				\$0			\$0	\$0	
Subtask 310.12 Final Inspections	8			16					24	32	\$3,217	\$126				\$108			\$3,319	\$3,319	
Subtask 310.13 Record Drawings	4			12				30	4	50	\$4,327	\$228	\$1123			\$1,459			\$5,786	\$5,786	
Subtask 310.14 Permit Application Preparation					8				14	14	\$1,265	\$63				\$126			\$1,391	\$1,391	
Estimated Task Hours Subtotal		2	44	24	120	8	30	1124	24	1376	\$113,976	\$6,208	\$1123	\$5,952	\$3,612	\$16,892	\$16,500	\$1,496	\$22,655	\$150,870	
Estimated Task Cost Subtotal		\$246	\$5,896	\$3,506	\$14,544	\$666	\$2,010	\$84,637	\$1,761											\$163,524	
TASK SERIES 400 – OPERATION AND MAINTENANCE MANUAL AND EMERGENCY ACTION PLAN																					
Task 410 Operation and Maintenance Manual																					
Task 420 Emergency Action Plan	2			8	16				8	34	\$3,074	\$153			\$110	\$263				\$3,337	
Estimated Task Hours Subtotal		0	4	2	16	40	0	16		84	\$4,033	\$190				\$190				\$4,223	
Estimated Task Cost Subtotal		\$0	\$636	\$292	\$1,839	\$3,322	\$0	\$0	907	78	\$7,107	\$352	\$0	\$0	\$110	\$462	\$0	\$0	\$0	\$7,569	
TOTAL HOURS		76	88	26	188	84	30	1140	74	1886	\$147,668	\$7,604	\$8,123	\$6,032	\$4,272	\$19,032	\$16,500	\$1,496	\$22,655	\$168,354	
TOTAL COST		\$8,711	\$13,992	\$3,799	\$22,786	\$5,331	\$2,010	\$89,842	\$4,196											\$168,354	

**EXHIBIT D  
OF  
STANDARD FORM OF AGREEMENT  
BETWEEN OWNER AND ENGINEER**

This is **EXHIBIT D**, consisting of 4 pages, referred to in and part of the **Agreement between OWNER and ENGINEER for Professional Services** dated \_\_\_\_\_, 2004.

Initial:

OWNER \_\_\_\_\_

ENGINEER \_\_\_\_\_

**Duties, Responsibilities, and Limitations of Authority of Resident Project Representative**

Paragraph 1.01C of the Agreement is amended and supplemented to include the following agreement of the parties:

**D6.02**      *Resident Project Representative*

A. ENGINEER shall furnish a Resident Project Representative ("RPR"), assistants, and other field staff to assist ENGINEER in observing progress and quality of the Work. The RPR, assistants, and other field staff under this Exhibit D may provide full time representation or may provide representation to a lesser degree. Based on information obtained during such visits and such observations, ENGINEER will determine in general if Contractor's work is proceeding in accordance with the Contract Documents, and ENGINEER shall keep OWNER informed of the progress of the Work. ENGINEER shall not, during such visits or as a result of such observations of Contractor's work in progress, supervise, direct, or have control over Contractor's work, nor shall ENGINEER have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected by Contractor, for safety precautions and programs incident to Contractor's work, or for any failure of Contractor to comply with Laws and Regulations applicable to Contractor's furnishing and performing the Work. Accordingly, ENGINEER neither guarantees the performance of any Contractor nor assumes responsibility for any Contractor's failure to furnish and perform its work in accordance with the Contract Documents.

B. Through such additional observations of Contractor's work in progress and field checks of materials and equipment by the RPR and assistants, ENGINEER shall endeavor to provide further protection for OWNER against defects and deficiencies in the Work. However, ENGINEER shall not, during such visits or as a result of such observations of Contractor's work in progress, supervise, direct, or have control over the Contractor's Work nor shall ENGINEER have authority over or responsibility for the means, methods, techniques, sequences, or procedures selected by Contractor, for safety precautions and programs incident to the Contractor's work in progress, for any failure of Contractor to comply with Laws and Regulations applicable to Contractor's performing and furnishing the Work, or responsibility of construction for Contractor's failure to furnish and perform the Work in accordance with the Contract Documents. In addition, the specific limitations set forth in section A.1.05 of Exhibit A of the Agreement are applicable.

C. The duties and responsibilities of the RPR are limited to those of ENGINEER in the Agreement with the OWNER and in the Contract Documents, and are further limited and described as follows:

1. *General:* RPR is ENGINEER's agent at the Site, will act as directed by and under the supervision of ENGINEER, and will confer with ENGINEER regarding RPR's actions. RPR's dealings in matters pertaining to the Contractor's work in progress shall in general be with ENGINEER and Contractor, keeping OWNER advised as necessary. RPR's dealings with subcontractors shall only be through or with the full knowledge and approval of Contractor. RPR shall generally communicate with OWNER with the knowledge of and under the direction of ENGINEER.
2. *Schedules:* Review the progress schedule, schedule of Shop Drawing and Sample submittals, and schedule of values prepared by Contractor and consult with ENGINEER concerning acceptability.



3. *Conferences and Meetings:* Attend meetings with Contractor, such as preconstruction conferences, progress meetings, job conferences and other project-related meetings, and prepare and circulate copies of minutes thereof.
4. *Liaison:*
  - a. Serve as ENGINEER's liaison with Contractor, working principally through Contractor's superintendent and assist in understanding the intent of the Contract Documents.
  - b. Assist ENGINEER in serving as OWNER's liaison with Contractor when Contractor's operations affect OWNER's on-Site operations.
  - c. Assist in obtaining from OWNER additional details or information, when required for proper execution of the Work.
5. *Interpretation of Contract Documents:* Report to ENGINEER when clarifications and interpretations of the Contract Documents are needed and transmit to Contractor clarifications and interpretations as issued by ENGINEER.
6. *Shop Drawings and Samples:*
  - a. Record date of receipt of Samples and approved Shop Drawings.
  - b. Receive Samples which are furnished at the Site by Contractor, and notify ENGINEER of availability of Samples for examination.
  - c. Advise ENGINEER and Contractor of the commencement of any portion of the Work requiring a Shop Drawing or Sample submittal for which RPR believes that the submittal has not been approved by ENGINEER.
  - d. Shop drawing and sample reviews and approvals or other action will not extend to means, methods, techniques, sequences or procedures of construction or to safety precautions and programs incident thereto. ENGINEER has an obligation to meet any Contractor's submittal schedule that has earlier been acceptable to ENGINEER.
7. *Modifications:* Consider and evaluate Contractor's suggestions for modifications in Drawings or Specifications and report with RPR's recommendations to ENGINEER. Transmit to Contractor in writing decisions as issued by ENGINEER.
8. *Review of Work and Rejection of Defective Work:*
  - a. Conduct on-Site observations of Contractor's work in progress to assist ENGINEER in determining if the Work is in general proceeding in accordance with the Contract Documents.
  - b. Report to ENGINEER whenever RPR believes that any part of Contractor's work in progress will not produce a completed Project that conforms generally to the Contract Documents or will prejudice the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents, or has been damaged, or does not meet the requirements of any inspection, test or approval required to be made; and advise ENGINEER of that part of work in progress that RPR believes should be corrected or rejected or should be uncovered for observation, or requires special testing, inspection or approval.
  - c. ENGINEER will have the authority to reject work while it is in progress if, on the basis of such observations, ENGINEER believes that such work will not produce a completed Project that conforms generally to the Contract Documents or that it will prejudice the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents. However, neither ENGINEER's authority to reject work nor ENGINEER's decision to exercise or not exercise such authority shall give rise to a duty or responsibility of the ENGINEER to

Contractors, Subcontractors, material and equipment suppliers, their agents or employees, or any other persons or entities performing any of the Work, including but not limited to any duty or responsibility for Contractor's safety precautions and programs incident to the Work.

9. *Inspections, Tests, and System Startups:*

- a. Consult with ENGINEER in advance of scheduled major inspections, tests, and systems startups of important phases of the Work.
- b. Verify that tests, equipment, and systems start-ups and operating and maintenance training are conducted in the presence of appropriate OWNER's personnel, and that Contractor maintains adequate records thereof.
- c. Observe, record, and report to ENGINEER appropriate details relative to the test procedures and systems startups.
- d. Accompany visiting inspectors representing public or other agencies having jurisdiction over the Project, record the results of these inspections, and report to ENGINEER.

10. *Records:*

- a. Maintain at the Site orderly files for correspondence, reports of job conferences, reproductions of original Contract Documents including all Change Orders, Field Orders, Work Change Directives, Addenda, additional Drawings issued subsequent to the execution of the Contract, ENGINEER's clarifications and interpretations of the Contract Documents, progress reports, Shop Drawing and Sample submittals received from and delivered to Contractor, and other Project related documents.
- b. Prepare a daily report or keep a diary or log book, recording Contractor's hours on the Site, weather conditions, data relative to questions of Change Orders, Field Orders, Work Change Directives, or changed conditions, Site visitors, daily activities, decisions, observations in general, and specific observations in more detail as in the case of observing test procedures; and send copies to ENGINEER.
- c. Record names, addresses and telephone numbers of all Contractors, subcontractors, and major suppliers of materials and equipment.
- d. Maintain records for use in preparing Project documentation.
- e. Upon completion of the Work, furnish original set of all RPR Project documentation to ENGINEER.

11. *Reports:*

- a. Furnish to ENGINEER periodic reports as required of progress of the Work and of Contractor's compliance with the progress schedule and schedule of Shop Drawing and Sample submittals.
- b. Draft and recommend to ENGINEER proposed Change Orders, Work Change Directives, and Field Orders. Obtain backup material from Contractor.
- c. Furnish to ENGINEER and OWNER copies of all inspection, test, and system startup reports.
- d. Report immediately to ENGINEER the occurrence of any Site accidents, any Hazardous Environmental Conditions, emergencies, or acts of God endangering the Work, and property damaged by fire or other causes.

12. *Payment Requests:* Review Applications for Payment with Contractor for compliance with the established procedure for their submission and forward with recommendations to ENGINEER, noting

particularly the relationship of the payment requested to the schedule of values, Work completed, and materials and equipment delivered at the Site but not incorporated in the Work.

13. *Certificates, Operation and Maintenance Manuals:* During the course of the Work, verify that materials and equipment certificates, operation and maintenance manuals and other data required by the Specifications to be assembled and furnished by Contractor are applicable to the items actually installed and in accordance with the Contract Documents, and have these documents delivered to ENGINEER for review and forwarding to OWNER prior to payment for that part of the Work.

14. *Completion:*

- a. Before ENGINEER issues a Certificate of Substantial Completion, submit to Contractor a list of observed items requiring completion or correction.
- b. Observe whether Contractor has arranged for inspections required by Laws and Regulations, including but not limited to those to be performed by public agencies having jurisdiction over the Work.
- c. Participate in a final inspection in the company of ENGINEER, OWNER, and Contractor and prepare a final list of items to be completed or corrected.
- d. Observe whether all items on final list have been completed or corrected and make recommendations to ENGINEER concerning acceptance and issuance of the Notice of Acceptability of the Work.

D. Resident Project Representative shall not:

1. Authorize any deviation from the Contract Documents or substitution of materials or equipment (including "or-equal" items).
2. Exceed limitations of ENGINEER's authority as set forth in the Agreement or the Contract Documents.
3. Undertake any of the responsibilities of Contractor, subcontractors, suppliers, or Contractor's superintendent.
4. Advise on, issue directions relative to or assume control over any aspect of the means, methods, techniques, sequences or procedures of Contractor's work unless such advice or directions are specifically required by the Contract Documents.
5. Advise on, issue directions regarding, or assume control over safety precautions and programs in connection with the activities or operations of OWNER or Contractor.
6. Participate in specialized field or laboratory tests or inspections conducted off-site by others except as specifically authorized by ENGINEER.
7. Accept Shop Drawing or Sample submittals from anyone other than Contractor.
8. Authorize OWNER to occupy the Project in whole or in part.

**EXHIBIT G  
OF  
STANDARD FORM OF AGREEMENT  
BETWEEN OWNER AND ENGINEER**

This is **EXHIBIT G**, consisting of 1 page, referred to in and part of the **Agreement between OWNER and ENGINEER for Professional Services** dated \_\_\_\_\_, 2004.

Initial:

OWNER \_\_\_\_\_  
ENGINEER \_\_\_\_\_

**Insurance**

Paragraph 6.05 of the Agreement is amended and supplemented to include the following agreement of the parties.

*G6.05 Insurance*

A. The types and limits of liability for the insurance required by paragraph 6.05.A and 6.05.B of the Agreement are as follows:

1. By ENGINEER:

The ENGINEER shall procure and maintain the following types and limits of insurance for the duration of the Work:

<u>Type of Insurance</u>	<u>Limits of Liability</u>
Worker's Compensation	Statutory
Employer's Liability	\$250,000
Commercial General Liability--Personal Injury/Property Damage	\$1,000,000 combined single limit per occurrence
Automobile Liability--Bodily Injury and Property Damage	\$1,000,000 combined single limit per occurrence - Hired car, owned and non-owned autos
Professional Liability	\$1,000,000 per claim

The commercial general liability insurance required above will include contractual liability coverage, and the commercial general liability and automobile liability insurance policies shall name Owner as an additional insured.

Upon request, a signed Certificate or Certificates of Insurance shall be furnished to Owner before any services are performed or furnished by Architect under this Agreement. Such Certificate or Certificates of Insurance shall provide for thirty (30) days written notice to Owner prior to cancellation or material modification of any insurance referred to therein.

**EXHIBIT H  
OF  
STANDARD FORM OF AGREEMENT  
BETWEEN OWNER AND ENGINEER**

This is **EXHIBIT H**, consisting of 1 page, referred to in and part of the **Agreement between OWNER and ENGINEER for Professional Services** dated \_\_\_\_\_, 2004.

Initial:

OWNER \_\_\_\_\_  
ENGINEER \_\_\_\_\_

**Allocation of Risks**

Paragraph 6.11 of the Agreement is amended and supplemented to include the following agreement of the parties:

**H6.11.B Limitation of ENGINEER's Liability**

1. *ENGINEER's Liability Limited to Amount of Insurance Proceeds.* ENGINEER shall procure and maintain insurance as required by and set forth in Exhibit G to this Agreement. Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, the total liability, in the aggregate, of ENGINEER and ENGINEER's officers, directors, partners, employees, agents, and ENGINEER's Consultants, and any of them, to OWNER and anyone claiming by, through, or under OWNER for any and all claims, losses, costs, or damages whatsoever arising out of, resulting from or in any way related to the Project or the Agreement from any cause or causes, including but not limited to the negligence, professional errors or omissions, strict liability or breach of contract, or warranty express or implied, of ENGINEER or ENGINEER's officers, directors, partners, employees, agents, or ENGINEER's Consultants, or any of them (hereafter "OWNER's Claims"), shall not exceed the total insurance proceeds paid on behalf of or to ENGINEER by ENGINEER's insurers in settlement or satisfaction of OWNER's Claims under the terms and conditions of ENGINEER's insurance policies applicable thereto (excluding fees, costs and expenses of investigation, claims adjustment, defense, and appeal). If no such insurance coverage is provided with respect to OWNER's Claims, then the total liability, in the aggregate, of ENGINEER and ENGINEER's officers, directors, partners, employees, agents, and ENGINEER's Consultants, and any of them to OWNER and anyone claiming by, through, or under OWNER for any and all such uninsured OWNER's claims shall not exceed \$ 1,000,000 (one million dollars).

2. *Exclusion of Special, Incidental, Indirect and Consequential Damages.* To the fullest extent permitted by law, and notwithstanding any other provision in the Agreement, ENGINEER and ENGINEER's officers, directors, partners, employees, agents, and ENGINEER's Consultants shall not be liable to OWNER or anyone claiming by, through, or under OWNER for any special, incidental, indirect, or consequential damages whatsoever arising out of, resulting from, or in any way related to the Project or the Agreement from any cause or causes, including but not limited to any such damages caused by the negligence, professional errors or omissions, strict liability or breach of contract, or warranty express or implied of ENGINEER or ENGINEER's officers, directors, partners, employees, agents, or ENGINEER's Consultants, or any of them.

# MEMORANDUM

**To:** Joint Programs, Projects & Operations and Finance, Expenditures and Legal Subcommittee Meeting.

**Re:** Interlocal Cooperation Act Agreement with City of Blair.

**Date:** 1 December, 2004

**Updated:** December 7, 2004

**From:** Jim Becic

The City of Blair is requesting that the Papio-Missouri River Natural Resources District (District) enter into an Interlocal Cooperation Act Agreement to cost-share the development of a Recreational Master Plan for the development of recreational and public uses at the California Bend Fish and Wildlife Restoration project. Total cost is estimated not to exceed \$13,000.

The site is an approximately 210 acre area, adjacent to and north of the City of Blair (Optimist Park) and the habitat restoration was jointly completed with funding from the Corps of Engineers, the Nebraska Environmental Trust and the District. The District owns the majority of the site in fee, with several acres remaining as permanent easements.

The City of Blair will be the lead agency for the development of this Master Plan and if approved, it will take approximately six months to complete.

**It is the staff recommendation that the Joint Programs, Projects & Operations and Finance, Expenditures and Legal Subcommittees recommend to the Board to approve this Interlocal Cooperation Agreement with the City of Blair to develop a Recreational Master Plan for the California Bend Fish and Wildlife Restoration Project in Washington County, Nebraska. It is further recommended that the estimated \$13,000.00 cost to develop this Master Plan be shared equally (50% City of Blair – 50% District) with an amount not to exceed \$6500.00 of District cost and that the General Manager be authorized to sign the Agreement with modifications approved as to form by District legal counsel.**

\*\*\*\*\*

RESOLUTION NO. 2004 - 50

COUNCILMEMBER ABBOTT INTRODUCED THE FOLLOWING RESOLUTION:

WHEREAS, an Inter-Local Cooperation Agreement between the City of Blair, Nebraska, and the Papio Missouri River Natural Resources District Board of Directors, both political subdivisions of the State of Nebraska, has been presented to the City Council providing terms and provisions concerning the development of a recreational master plan hereinafter referred to as "MP", a copy of which Agreement is attached hereto, marked Exhibit "A" and by this reference made a part hereof, and

WHEREAS, the terms and conditions thereof are acceptable to the municipality.

NOW, THEREFORE, BE IT RESOLVED that said Agreement referred to hereinabove is hereby adopted and accepted by the City of Blair and the Mayor and City Clerk are hereby authorized and directed to execute same on behalf of the municipality.

COUNCILMEMBER STEWART MOVED THAT THE RESOLUTION BE ADOPTED AS READ, WHICH SAID MOTION WAS SECONDED BY COUNCILMEMBER WOLFF. UPON ROLL CALL, COUNCILMEMBERS STEWART, SCHEVE, ABBOTT, SHOTWELL, FANOELE, WOLFF AND BIFFAR VOTING "AYE", AND COUNCILMEMBERS NONE VOTING "NAY", THE MAYOR DECLARED THE FOREGOING RESOLUTION PASSED AND ADOPTED THIS 23RD DAY OF NOVEMBER, 2004.

CITY OF BLAIR, NEBRASKA

BY   
JAMES E. REALPH, MAYOR

ATTEST:

  
BRENDA R. WHEELER, CITY CLERK

(SEAL)



STATE OF NEBRASKA     )  
                                      ):ss:  
WASHINGTON COUNTY    )

BRENDA R. WHEELER hereby certifies that she is the duly appointed, qualified and acting City Clerk of the City of Blair, Nebraska, and that the above and foregoing Resolution was passed and adopted at a regular meeting of the Mayor and City Council of said city held on the 23rd day of November, 2004.

A handwritten signature in cursive script, reading "Brenda R. Wheeler", written in dark ink.

---

BRENDA R. WHEELER, CITY CLERK

## INTER-LOCAL COOPERATION AGREEMENT

Pursuant to Neb. Rev. Stat., Sec. 13-801 et. Seq. (1997, as amended), this Inter-Local Cooperation Agreement, hereinafter referred to as the Agreement, is entered into by the City of Blair, Nebraska, and the Papio Missouri River Natural Resources District Board of Directors, all political subdivisions of the State of Nebraska and hereinafter referred to as the Parties, on this 23 day of November, 2004.

The parties hereto agree as follows, to-wit:

1. PURPOSE:

The purpose of this Agreement is to contract for the joint development of a recreational master plan(hereinafter referred to as MP) to provide for the development of recreational and public uses at the California Bend Fish and Wildlife Restoration project located adjacent to the City of Blair, in Washington County. Said project to include, but not limited, to hiking, biking, and fishing.

2. SEPARATE LEGAL OR ADMINISTRATIVE ENTITY:

There shall be no separate legal or administrative entity created by this Inter-Local Cooperation Agreement. Administration of this agreement is delegated to the City Blair.

3. DURATION:

This Agreement shall continue until a MP has been completed, information received, and costs associated therewith paid, or until otherwise terminated as provided for hereinafter.

4. COST ALLOCATION:

The parties hereto agree to share equally for all costs associated with the MP referenced herein, with the cost not to exceed \$6500 per party without prior approval of the participating parties.

5. TERMINATION:

This Agreement shall remain in affect until a MP has been completed, information presented, and cost paid. Termination prior to that time shall require the mutual written consent of all parties or as provided in Paragraph 7 below.

6. ADMINISTRATION:

The City of Blair agrees to be the lead agency, and further agrees to be the contracting agency with the consultant to be hired to complete the MP. The City agrees to consult with the other parties prior to execution of any contract. The parties further agree to each appoint a representative to an advisory committee consisting of not more than seven(7) members, which shall also include a representative of Gateway Development Corporation, County Planning Dept., Blair Parks Board, one member at large appointed by the Mayor, and Blair Area Chamber.

7. RATIFICATION:

Each party agrees to consider the recommendation by the joint committee which shall include the following:

- a. Firm or individual who will conduct the study;
- b. Scope of the study; which shall include at least two public meetings to gain input from the public. One at the start of the project, and one after a final draft has been completed.
- c. Contractual terms; and
- d. Costs of study.
- e. The Committee and Consultant shall coordinate all proposed plans with NRD and other necessary agencies to ensure proposed plan is in conformance with any and all development restrictions that may be in place due to the intent and funding of the original California Bend Project.
- f. Upon approval of the MP by the committee, the committee shall submit a copy of the proposed plan to each governing board for acceptance prior to City making final payment for contract completion.

1. ADOPTION OF RESOLUTION:

Each party agrees to adopt this Agreement by Resolution and each shall file the same with the Clerk for the City of Blair, and the Papio Missouri River Natural Resources District Board Secretary.

DATED this 23 day of November, 2004.

CITY OF BLAIR, NEBRASKA

BY   
JAMES E. REALPH, MAYOR

ATTEST:

  
BRENDA R. WHEELER, CITY CLERK

PAPIO MISSOURI RIVER NATURAL RESOURCES DISTRICT  
BOARD OF DIRECTORS

BY \_\_\_\_\_

ATTEST:

\_\_\_\_\_

## MEMORANDUM

TO: Programs, Projects and Operations Subcommittee

FROM: Jerry Herbster, Park Superintendent

SUBJECT: Picnic Area A (Chalco Hills Recreation Area) Trail  
Reconstruction and NRC Patio Improvement

DATE: November 30, 2004

The Papio-Missouri River Natural Resources District received and opened bids on the Picnic Area A Trail Reconstruction (Chalco Hills Recreation Area) and the NRC Patio Improvement Projects on November 30, 2004 at 11:00 a.m. The project was advertised in local and state-wide publications on November 16 and 23, 2004.

There were 5 contractors who submitted bids. The apparent lowest and best bid was \$88,237.27 submitted by Navarro Enterprise. The bids were reviewed by the NRD staff and Sides & Associates. The engineering estimate for this project was \$95,531.27.

A letter from Russell Falconer (Sides & Associates), summarizing the bids received and the bid tabulation sheets are attached.

**It is staff's recommendation that the Subcommittee recommend to the Board that the General Manager be authorized to execute a construction contract with Navarro Enterprise for \$88,237.27 for the Picnic Area A Trail and Natural Resources Center Patio Improvement Project at Chalco Hills Recreation Area..**

1980



# SIDES & ASSOCIATES, INC.

SINCE

Engineers + Surveyors + Project Managers

December 1, 2004

Mr. Jerry Herbster  
Park Superintendent  
Papio-Missouri River – NRD  
8901 South 154<sup>th</sup> Street  
Omaha, NE 68138

RE: Chalco Hills Recreation Area  
Picnic Area A, Trail Reconstruction & NRC Patio Reconstruction  
Review of Bids Received November 30, 2004

Dear Jerry,

We have reviewed the bids as received on November 30, 2004 for the above referenced project and recommend that the lowest and best bid be awarded to Navarro Enterprise Construction, Inc. in the total bid amount of \$88,237.28

The following bids were received:

Navarro Enterprise Construction, Inc.	\$88,237.28
Dostals Construction Co.	\$96,634.97
Daedalus Construction	\$98,277.89
Tab Construction	\$98,834.05
M.E. Collins Contracting	\$115,944.90
Engineer's Estimate	\$100,368.93

If you have any questions or comments, please feel free to give me a call.

Sincerely,  
SIDES & ASSOCIATES, INC.

Russell W. Falconer, P.E.  
Project Engineer

Copy: file

TABULATION OF BIDS

Project: CHALCO HILLS RECREATION AREA  
Picnic Area A, Trail Reconstruction and  
Natural Resource Center Patio Reconstruction

BID TAB

Sides Associates, Inc.  
3207 North 90th Street  
Omaha, NE 68134

Item #	Description	Estimated Quantities	Engineers Opinion of Probable Constr. Cost		Navaro Enterprise		Daedalus Construction	
			Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price
1.	Remove Pavement	1,772.0 S.Y.	3.00	5,316.00	6.75	11,961.00	9.56	16,940.32
2.	Earthwork (Embankment)	1,103.0 C.Y.	10.50	11,581.50	3.50	3,860.50	6.30	6,948.90
3.	Subgrade Preparation	3,498.7 S.Y.	2.75	9,621.43	2.00	6,997.40	3.15	11,020.91
4.	Construct 5" Concrete Pavement	2,332.5 S.Y.	26.00	60,645.00	22.95	53,530.88	21.88	51,035.10
5.	Construct 18" Culvert Pipe	50.0 L.F.	30.00	1,500.00	15.00	750.00	36.05	1,802.50
6.	Construct 18" Flared End Section	6.0 EACH	250.00	1,500.00	90.00	540.00	177.70	1,066.20
7.	Imprinted Concrete Surfacing	157.0 S.Y.	65.00	10,205.00	67.50	10,597.50	60.28	9,463.96
<b>TOTAL BASE BID</b>				100,368.93		88,237.28		98,277.89

Date of Letting: November 30, 2004  
Time of Letting: 11:00 a.m.  
Location: Papio-Missouri NRD District Office



BID TAB

Sides Associates, Inc.  
3207 North 90th Street  
Omaha, NE 68134

Tab Construction		Dostals Construction Co.		M. E. Collins Contracting		AVERAGE UNIT PRICE	HIGH UNIT PRICE	LOW UNIT PRICE
Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price			
5.15	9,125.80	5.00	8,860.00	5.00	8,860.00	6.29	9.56	5.00
11.55	12,739.65	3.75	4,136.25	11.00	12,133.00	7.22	11.55	3.50
2.00	6,997.40	0.60	2,099.22	2.00	6,997.40	1.95	3.15	0.60
24.10	56,213.25	28.00	65,310.00	31.00	72,307.50	25.59	31.00	21.88
64.80	3,240.00	41.00	2,050.00	45.00	2,250.00	40.37	64.80	15.00
200.00	1,200.00	440.00	2,640.00	375.00	2,250.00	256.54	440.00	90.00
59.35	9,317.95	73.50	11,539.50	71.00	11,147.00	66.33	73.50	59.35
	98,834.05		96,634.97		115,944.90			

Date of Letting: November 30, 2004  
Time of Letting: 11:00 a.m.  
Location: Papio-Missouri NRD District Office

Memo(s) for the following agenda item(s) are posted under  
“Confidential” on the District’s website at [www.papionrd.org](http://www.papionrd.org).

Agenda Item #8      Review and Recommendation on Western  
Sarpy/Clear Creek – Sarpy County Riverside  
Cabins Purchase Agreement *[Executive Session, if  
needed]*