

## **MEMORANDUM**

**TO:** Programs, Projects and Operations Subcommittee

**FROM:** Dick Sklenar

**SUBJECT:** Contract for Professional Services with HGM Associates

**DATE:** December 30, 2003

Attached is a copy of the proposed scope of services and contract with HGM Associates for the proposed rural water system in Washington County. The total amount of fees for the design, construction observation, and geo technical investigation are \$349,843.12. Some of the tasks in the contract will be fully compensated, or partially, by the City of Blair. A construction cost estimate at this time for the water tower, distribution system, and appertances, is 3.2 million dollars.

**The staff recommends that the Subcommittee recommend to the Board of Directors that the General Manager be authorized to execute a professional services contract with HGM Associates for a maximum fee of \$349,843.12, subject to approval as to form by the District's legal counsel.**

STANDARD FORM OF AGREEMENT  
BETWEEN OWNER AND ENGINEER  
FOR  
PROFESSIONAL SERVICES

THIS IS AN AGREEMENT effective as of January 9, 2004 ("Effective Date")  
between the Papio-Missouri River Natural Resources District: PMRNRD, 8901 S. 154<sup>th</sup>  
Street, Omaha, NE 68138 ("OWNER") and HGM Associates Inc., 5022 S. 114<sup>th</sup> Street,  
Suite 200, Omaha, NE 68137 ("ENGINEER").

OWNER intends to retain ENGINEER for professional engineering services necessary  
for the final design and construction phase serves for a proposed rural water system in  
Washington County.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ ("Project").

OWNER and ENGINEER in consideration of their mutual covenant as set forth herein  
agrees as follows:

## ARTICLE 1 - SERVICES OF ENGINEER

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### 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

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### 2.01 General

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

## ARTICLE 3 - TIMES FOR RENDERING SERVICES

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### 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

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### 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 incurred by ENGINEER and ENGINEER's Consultants as set forth in Exhibit C.

### 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. *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.

E. *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.

F. *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 Designing to Construction Cost Limit~~

~~A. If a Construction Cost limit is established between OWNER and ENGINEER, such Construction Cost limit and a statement of ENGINEER's rights and responsibilities with respect thereto will be specifically set forth in Exhibit F, "Construction Cost Limit," to this Agreement.~~

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### 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 variations from the language indicated in Exhibit E, "Notice of Acceptability of Work," or of any other 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.~~

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~~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 B. 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.

#### 6.05 Insurance

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

~~B. OWNER shall procure and maintain insurance as set forth in Exhibit G, "Insurance." 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.~~

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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 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 for a period of 30 days from the date of notice prior to exercising their rights under Exhibit H or other provisions of this Agreement, or under law. In the absence of such an agreement, the parties may exercise their rights under law.

B. If and to the extent that OWNER and ENGINEER have agreed on a method and procedure for resolving disputes between them arising out of or relating to this Agreement, such dispute resolution method and procedure is set forth in Exhibit H, "Dispute Resolution."

#### 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 I, "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.

#### 6.16 Headings

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

### ARTICLE 7 - DEFINITIONS

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#### 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 \_\_\_\_\_ pages.

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

C. Exhibit C, "Payments to Engineer for Services and Reimbursable Expenses," consisting of \_\_\_\_\_ pages.

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

~~E. Exhibit E, "Notice of Acceptability of Work," consisting of \_\_\_\_\_ pages.~~

~~F. Exhibit F, "Construction Cost Limit," consisting of \_\_\_\_\_ pages.~~

G. Exhibit G, "Insurance," consisting of \_\_\_\_\_ pages.

~~H. Exhibit H, "Dispute Resolution," consisting of \_\_\_\_\_ pages.~~

~~I. Exhibit I, "Allocation of Risks," consisting of \_\_\_\_\_ pages.~~

J. Exhibit J, "Special Provisions," consisting of \_\_\_\_\_ pages.

### 8.02 Total Agreement

A. This Agreement (consisting of pages 1 to \_\_\_\_\_ 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:

\_\_\_\_\_

By: Steven G. Oltmans

Title: General Manager

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

Address for giving notice:

\_\_\_\_\_

Papio-Missouri River NRD

8901 S. 154<sup>th</sup> Street

Omaha, NE 68138

Designated Representative (paragraph 6.02.A):

Dick Sklenar

Title: Special Projects Coordinator

Phone Number: 402-444-6222

Facsimile Number: 402-895-6543

E-Mail Address: dsklenar@papionrd.org

ENGINEER:

\_\_\_\_\_

By: Robert A. Naumann

Title: Operations Manager

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

Address for giving notice:

\_\_\_\_\_

HGM Associates Inc.

5022 S. 114<sup>th</sup> Street, Suite 200

Omaha, NE 68137-2330

Designated Representative (paragraph 6.02A):

Chris J. Koenig

Title: Project Manager

Phone Number: 402-346-7559

Facsimile Number: 402-346-0224

E-Mail Address: ckoenig@hgmonline.com

**SUGGESTED FORMAT**  
(for use with 1910-1, 1996 Edition)

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

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

**OWNER's Responsibilities**

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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. Explorations and tests of subsurface conditions at or contiguous to the Site, drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site, or hydrographic surveys, with appropriate professional interpretation thereof.
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, Contractor raises, or ENGINEER reasonably requests.
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-bid conference, bid opening, pre-construction conferences, construction progress and other job related meetings, and Substantial Completion and final payment inspections.

O. Provide the services of an independent testing laboratory to perform all inspections, tests, and approvals of Samples, materials, and equipment required by the Contract Documents, or to evaluate the performance of materials, equipment, and facilities of OWNER, prior to their incorporation into the Work with appropriate professional interpretation thereof.

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. Perform or provide the following additional services:



This is **EXHIBIT G**, consisting of 1 page, referred to in and part of the **Agreement between OWNER and ENGINEER for Professional Services** dated January 8, 2004.

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

## **Insurance**

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

### **G6.05 Insurance**

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

1. By ENGINEER:

- |  |           |             |
|--|-----------|-------------|
| a. Workers Compensation  | Statutory |             |
| b. Employers Liability:  |           |             |
| 1) Each Accident   |           | \$500,000   |
| 2) Disease, Policy Limit:  |           | \$500,000   |
| 3) Disease, Each Employee:   |           | \$500,000   |
| c. General Liability:  |           |             |
| 1) Each Occurrence (Bodily Injury and Property Damage):                      |           | \$1,000,000 |
| 2) General Aggregate:  |           | \$2,000,000 |
| d. Excess or Umbrella Liability:   |           |             |
| 1) Each Occurrence:  |           | \$3,000,000 |
| 2) General Liability:  |           | \$3,000,000 |
| e. Automobile Liability:   |           |             |
| 1) Combined Single Limit: (Bodily Injury and Property Damage): Each Accident |           | \$1,000,000 |
| f. Other:  |           |             |
| 1) Professional Liability Insurance:   |           | \$1,000,000 |

This is **EXHIBIT J**, consisting of 1 page, referred to in and part of the Agreement between **OWNER** and **ENGINEER** for Professional Services dated January 8, 2004.

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

### **Special Provisions**

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Paragraphs of the Agreement are amended to include the following agreements of the parties:

- ☐ Paragraph 1.01 shall be amended as follows:

A. ENGINEER shall provide the Basic Services set forth herein and in Exhibit A, attached hereto and incorporated herein by reference.

- ☐ Paragraph 3.01 shall be amended to provide a new subparagraph 3.01 D., as follows:

D. The Engineer's services under this Agreement shall be performed in accordance with the time schedule provided in the document entitled "Design Schedule," attached hereto as Exhibit E and incorporated herein by reference.

- ☐ Paragraph 8.01 shall be amended to provide a new sub-paragraph E, providing as follows:

E. Exhibit E, "Design Schedule," consisting of one page.

- ☐ Paragraph 4.01 shall be amended as follows:

**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 this Agreement an amount equal to ENGINEER'S hourly salary base rates shown on Exhibit C, attached hereto and incorporated herein by reference, times a factor of \_\_\_\_\_, plus reimbursable expenses for all basic services performed or furnished by principals and employees engaged directly on the Project, plus 1.0 times ENGINEER Consultants' billings to ENGINEER for Consultants' basic services and expenses incurred on the Project, provided, however, the total payments by OWNER to engineer for Basic Services shall not in any case exceed a total of \$\_\_\_\_\_ for Basic Services, reimbursable expenses and Consultants' billings incurred on the Project under this Agreement.

B. *For Additional Services.* Owner shall pay ENGINEER for Additional Services performed or furnished under this Agreement an amount equal to ENGINEER'S hourly salary base rates shown on Exhibit C, attached hereto and incorporated herein by reference, times a factor of \_\_\_\_\_, plus reimbursable expenses.

- ☐ Paragraph 4.02.A shall be amended as follows:

**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.

## **EXHIBIT A – SCOPE OF ENGINEERING SERVICES**

This is an exhibit attached to and made part of the agreement dated **January 9, 2004** between: Papio-Missouri River Natural Resources District – P-MRNRD (OWNER) and ***HGM Associates Inc. (HGM)*** (ENGINEER).

### **Project Description**

Professional engineering services for the final design and construction phase services for a proposed rural water system located in a portion of Washington County. The project includes approximately 26 miles of pipe, an elevated storage tank, one pump station, a connection to the existing Washington County Rural Water System No. 1 (WCRWS No. 1), and modifications to the existing WCRWS No. 1 pump station. Water will be supplied by the City of Blair. The point of connection will be adjacent to Nebraska Highway 133, south of the intersection of Highway 133 and US Highway 30. See attached exhibit for rural water system routing. A connection will be made to the existing WCRWS No. 1 to provide emergency service to the City of Blair. The proposed system will be designed to provide a minimum pressure of 50 psi at the individual meter locations. The final design will be in general conformance to the Washington County Rural Water Study dated February 26, 2003 and the Supplemental Report dated September 24, 2003.

### **Construction Contracts**

The project will be let as three construction contracts:

- Elevated storage tank
- Distribution system
- Modifications to the WCRWS No. 1 pump station and distribution system

The new pump station, master meter vault, and water main to the elevated storage tank to supply water from the City of Blair will be included in the distribution system construction contract as a separate project schedule. The new water main and connection to WCRWS No. 1 will be included in the distribution system construction contract as a separate project schedule.

### **Design and Bidding Services**

#### **General Management Items:**

The following tasks are applicable to all three construction contracts:

1. Conduct an initial project kick-off meeting with all the project participants to discuss and verify the service area limits, project requirements, goals, schedules, responsibilities, and obtain water service application information from the P-MRNRD including user locations and estimated water needs. The meeting will include the review of the routing drawing, sizing, and design parameters.

2. Provide contract documents for review at 50 and 90 percent completion points. Three sets of contract documents will be provided to the P-MRNRD, the City of Blair, and Washington County. The submittals will include two full and one half size set of plans and three sets of specifications.
3. Assist the P-MRNRD in the overall coordination with representatives from Washington County, the City of Blair, and the Nebraska Department of Roads, and other interested parties.
4. Attend P-MRNRD Subcommittee and Board meetings and City of Blair meetings, as requested, to present project information.
5. Provide an Opinion of Probable Project Cost for both 50 and 90 percent project submittals. Provide a breakdown of the project costs as assessed to the P-MRNRD, City of Blair, and Washington County.
6. Attend progress and review meetings with P-MRNRD, City of Blair, and Washington County at the P-MRNRD office. The *HGM* project manager will keep and distribute meeting notes.
7. Submit the plans and specifications for review by the Nebraska Department of Health and Human Services. The P-MRNRD will pay the associated review fee.
8. Prepare all applications including exhibits for Federal, State, and local permits for construction including county roads, highways, and streams. The P-MRNRD will pay all associated permit fees.
9. Provide for the advertisement of the notice to contractors. Provide copies of contract documents as requested to contractors and plan houses. Answer questions from bidders and issue clarifications as necessary. The cost for the advertisement will be paid directly by the P-MRNRD.
10. Conduct a pre-bid meeting for each construction contract. The pre-bid for the distribution system and elevated storage tank will be held in Blair, Nebraska. The pre-bid meeting for the WCRWS No. 1 modifications will be held at the WCRWS No. 1 pump station.
11. Attend bid openings, tabulate bids, and provide a recommendation to the P-MRNRD. Provide a breakdown of the project cost assessments for the P-MRNRD, City of Blair, and Washington County.

**Distribution System:**

12. Prepare base plan drawings of the service area. The base drawings will have an aerial background and will be 1" = 200'. Water applicants will be plotted on the drawings based on the application information. The base plan drawings will not include water main profiles.

13. Conduct the initial field reconnaissance to evaluate the routing of the proposed water main with a representative from the P-MRNRD. Meet with representatives of bulk user applicants to determine the connection point to existing system.
14. Show property ownership information from title searches as provided by the P-MRNRD including property lines, tract numbers, and property owners.
15. Provide five (5) copies of the water main layout drawings to the P-MRNRD for easement acquisition. Separate easement descriptions or exhibits for each tract will not be provided by the Engineer.
16. Prepare preliminary and final contract documents including plans, specifications, front end documents, and detailed drawings for the distribution system.
17. Receive easement information and plot on aerial drawings. Make minor water main routing adjustments based on easements received.
18. Perform final hydraulic calculation and evaluation of the system to verify final sizes of water mains. Elevations for users to be based on USGS quadrangle maps.
19. Assist with the evaluation of increasing the size of the water mains on selected branch lines within the distribution system. The evaluation will include the development of preliminary opinion of probable project costs for the main trunk line and arterial mains.
20. Evaluate new users or line extensions and provide a recommendation to the P-MRNRD on an as requested basis. The design of additional line extensions shall be included in this task. The work effort associated with this task shall be limited to \$30,000.00.
21. Attend a final field reconnaissance of the water main. Revise plans based on review comments.

**Elevated Storage Tank:**

22. Assist the P-MRNRD and the City of Blair with the selection of the elevated storage tank site. Once the site has been selected, provide the boundary survey and legal description for land acquisition.
23. Develop and establish the parameters for the elevated storage tank design and fabrication. The elevated storage tank supplier will be required to provide the detailed design of the tank including foundations and provide shop drawings for review after the bid opening. Perform the preliminary and final design of the elevated storage tank site including geotechnical investigation, topographic survey, access, and site design. Prepare the contract documents for the elevated storage tank including site plan, detailed drawings, and specifications. All aspects of the elevated storage tank design work will be coordinated with the City of

Blair, especially the hydraulics, telemetry, and painting requirements. Electrical service to the site will not be the responsibility of the ENGINEER.

**Modifications to WCRWS No. 1:**

24. Assist the P-MRNRD and the City of Blair with the selection of a new pump station site. Once the site has been selected, provide the boundary survey and legal description for land acquisition.
25. Perform the preliminary and final design of the new pump station including topographic survey, access, electrical design, and site design. Prepare the contract documents for this pump station including site plan, detailed drawings, and specifications. Electrical service to the site will not be the responsibility of the ENGINEER.
26. Perform the preliminary design of the modifications to the existing P-MRNRD pump station. The preliminary design will include an evaluation of the second pump station to feed the new elevated storage tank from WCRWS No. 1, alternatives to the second pump station, modifications of the existing pump station, and the modifications of the existing distribution system to address the higher main line pressures.
27. Prepare the contract documents for the modifications to the WCRWS No. 1 including plans, specifications, and detail drawings.

**Construction Phase Services**

The following tasks are applicable to all three construction contracts.

1. Prepare contract documents for execution. Provide contractors five copies of plans and specifications.
2. Conduct the preconstruction conference for each construction contract and provide meeting notes.
3. Review shop drawings.
4. Provide construction staking of the elevated storage tank site.
5. Provide resident project observation for the duration of construction of the distribution system, elevated storage tank, and modifications to WCRWS No. 1.

The following assumptions were made for the calculation of the resident observation time:

Distribution system construction and elevated storage tank construction: 20 weeks full time and 7 weeks part time resident observation. This is assuming the distribution system contract and the elevated storage tank contract will be let at

the same time and the elevated storage tank construction will overlap the distribution system construction approximately 13 weeks.

Modifications to WCRWS No. 1 construction: 3 weeks full time and 2 weeks part time.

6. Provide construction administration services including interpretation of contract documents, preparation of change orders, preparation of pay estimates, conduct on site weekly project meetings, distribute weekly project reports, and act as liaison with local and state permitting agencies.
7. Perform final inspections of constructed facilities and provide punch list to contractor.
8. Attend all system start ups.
9. Prepare record drawings of the improvements including the distribution system, new pump station, elevated storage tank, and modifications to WCRWS No. 1. Provide two printed sets and one electronic version to the P-MRNRD and to the City of Blair.

#### **Additional Services**

The contract can be modified to include additional services related to the design and construction of the proposed rural water system at the same hourly rates indicated on Exhibit B.

7.	Department of Health Submittal		8		4	4	2	50.00	180.00	\$1,550.44
8.	Permits				4	4			0.00	\$423.68
9.	Advertise and Provide plans				4	4	4	300.00	180.00	\$1,038.64
10.	Prebid Meeting		8	6					0.00	1,299.68
11.	Bid Opening/Recommendation		8	4						\$1,322.88
24.	Pump Station Site Selection		8						180.00	\$4,246.88
25.	Contract Documents New	4	16	24	8		20	6	360.00	\$6,043.84
26.	Preliminary Design/Alternatives		24	20					720.00	\$4,415.84
27.	Contract Documents Existing	8	24	40	20	16			360.00	\$9,596.80
	Subtotal:	12	152	126	40	52	0	\$650.00	\$4,470.00	\$39,695.24
<b>CONSTRUCTION PHASE SERVICES - WCRWS NO. 1 MODIFICATIONS AND NEW PUMP STATION</b>										
1.	Contract Documents		2			2				\$289.38
2.	Preconstruction Conference		4	4			4	100.00	0.00	\$929.84
3.	Shop Drawing Review		4	8	16				360.00	\$1,930.16
5.	Resident Project Observation						225		0.00	\$11,340.00
6.	Construction Administration		8	16	16				0.00	\$3,106.96
7.	Final Inspection		8	16					0.00	\$2,083.68
10.	System Startup		14	16					410.00	\$2,705.64
11.	Record Drawings			4		8			0.00	\$1,112.16
	Subtotal:	38	66	32	237	0	5	\$100.00	\$770.00	\$23,497.82
<b>TOTAL WCRWS NO. 1 MODIFICATIONS AND NEW PUMP STATION:</b>										
								\$750.00	\$5,240.00	\$63,193.06
<b>TOTAL ENGINEERING CONTRACT:</b>										
								\$5,949.00	\$32,570.00	\$349,843.12
Note:	The multiplier includes the following items: Payroll Additives (41.76%) Indirect Costs (119.23%) Profit (12%)									





**PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT**

## WASHINGTON COUNTY RURAL WATER DISTRICT NO. 2

# FINAL DESIGN AND CONSTRUCTION ADMINISTRATION

December 22, 2003

	PRINCIPAL	PROJ	PROJ ENGR	DESIGN ENGR	ENGR. TECH	CONST OBS	SURV SURV CREW	STENO	DIRECT EXPENSES	MCINTYRE
Base Rate:	47.60	37.02	28.00	19.83	18.00	17.65	24.20	12.05		
Billable Rate with 2.8 Multiplier:	133.28	103.66	78.40	55.52	50.40	49.42	67.76	33.74		TOTAL

# DISTRIBUTION DESIGN

[illegible]

# CONSTRUCTION PHASE SERVICES - DISTRIBUTION

[illegible]

Exhibit A  
Project Schedule

Project Schedule - Final Design  
HGM Associates Inc.  
Washington County Rural Water  
2004

Task	January	February	March	April	May	June	July	August	September	October
Initial Project Meeting (1)	■									
Preliminary Drawings (5, 11, 12, 13, 14)	■	■								
Review Meetings (2, 4)		■	■	■	■	■	■	■		
Hydraulics (17, 18, 19)	■	■					■			
Booster Station Prel. Design (23)	■	■								
Booster Station Design (24, 25, 26)		■	■	■	■					
Tank & Site Design (21, 22)		■	■	■	■					
Easements (16)		■	■	■	■					
Final Documents (5, 15, 20)						■	■	■		
Permits (7, 8)								■	■	
Advertise (9)								■	■	
Bid Openings (10)									■	■
Coordination Assistance (3)										

( ) Indicates Exhibit "A" Task Number

**MEMORANDUM TO THE PROGRAMS, PROJECTS AND OPERATIONS  
SUBCOMMITTEE:**

**SUBJECT:** Proposed OPPD Transmission Line along Little Papio Channel/Keystone Trail Project (Pine Street to Union Pacific Railroad)

**DATE:** December 30, 2003

**BY:** Martin P. Cleveland

At the December 11, 2003 Board of Directors meeting a proposed right-of-way (ROW) agreement with OPPD was tabled by the Board for one month. Staff was directed to continue working with OPPD and Douglas County on the proposed agreement and to bring the topic back for discussion at the January 6, 2004 Programs, Projects and Operations Subcommittee. OPPD, Douglas County and NRD staffs are still working on agreement revisions, in particular the following sections: 1. Responsibility for damages (paragraph 9), 2. Criteria for future relocations (paragraph 11) and 3. Indemnification (paragraph 13) and don't expect to reach a resolution by January 9, 2004. If the three entities staffs come to concurrence on the agreement language, a revised agreement will be brought back to the Subcommittee for consideration at a future meeting.

It is Management's recommendation that the Subcommittee recommend to the Board that the proposed license agreement with OPPD for a Transmission Line on District ROW along the Little Papio Channel/Keystone Trail Project (Pine Street to the Union Pacific Railroad) be tabled until the February 10, 2004 Subcommittee Meeting.

Enclosure

CC: Janelle Mavis, Corps of Engineers  
Kent Holm, Douglas County

Lp93 File: 532 Reach: 7-5

**Cleveland, Martin**

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**From:** Cleveland, Martin  
**Sent:** Monday, December 29, 2003 9:39 AM  
**To:** 'Kent Holm'  
**Cc:** Oltmans, Steve; Petermann, Marlin; Larry Hagan (lhagan@oppd.com)  
**Subject:** RE: License on Keystone trail property

Kent:

The topic must be on the Jan. 6, 2004 PPO Subcommittee agenda as it was tabled for 30 days. As a result of the OPPD agreement not being sorted out yet we will recommend to our Subcommittee that the topic be tabled until the Feb. 10 PPO Meeting. We don't expect any NRD Board action on agreement until Feb. There is no need for OPPD or Douglas County to attend the Jan. 6, 2004 meeting.

Martin

-----Original Message-----

**From:** Kent Holm [mailto:kholm@co.douglas.ne.us]  
**Sent:** Monday, December 29, 2003 7:40 AM  
**To:** Cleveland, Martin; Petermann, Marlin; Oltmans, Steve; Teer, Pat  
**Cc:** PAUL.PETERS@MINDSPRING.COM  
**Subject:** RE: License on Keystone trail property

All:

If the NRD is pulling this from their January agenda, then I will not put it on the County Board's agenda in January.  
Kent

-----Original Message-----

**From:** Cleveland, Martin [mailto:mcleveland@papionrd.org]  
**Sent:** Saturday, December 27, 2003 10:04 AM  
**To:** Petermann, Marlin; Oltmans, Steve; Teer, Pat  
**Cc:** kholm@co.douglas.ne.us; PAUL.PETERS@MINDSPRING.COM  
**Subject:** FW: License on Keystone trail property

Marlin/Steve:

Based on Larry's email I think we need to pull the OPPD License off the January PPO agenda. Please confirm that this is OK or not, so I can inform the others (Larry+).  
Martin

-----Original Message-----

**From:** HAGAN, LARRY J [mailto:lhagan@oppd.com]  
**Sent:** Friday, December 26, 2003 2:09 PM  
**To:** Cleveland, Martin; kholm@co.douglas.ne.us  
**Cc:** TROUTMAN, LAWRENCE K; paul.peters@mindspring.com; BR-Legal Shiffermiller  
**Subject:** License on Keystone trail property

Martin,

I have spoken with my management here at OPPD and we want to pull the request for a grant of license from your agenda, or at least the January meeting. With the holidays and a lot of our staff on vacation, we don't feel that we can get the information that you're requesting in time to make a presentation. I will get back to you in January about future meetings.

Besides, we have received the revised version of the agreement and ask our consul to look at it. We quite honestly believe that the same three issues that we were concerned about originally are still there which we are not net comfortable with. (1.The indemnity, 2. Responsibility of damages and 3. Criteria for future relocations of the line). When you get back from vacation, I will give you a call to discus this matter.

Larry Hagan

12/29/2003