



**Programs, Projects & Operations  
Subcommittee Meeting  
March 8, 2005  
6:00 p.m.  
Agenda**

**Programs, Projects & Operations:**

John Conley, Chairman  
Rich Tesar, Vice-Chairman  
Fred Conley  
Rick Kolowski  
Joe Neary

**Alternate Members:** Dorothy Lanphier  
Jim Thompson

**Staff Liaison:** Gerry Bowen  
Martin Cleveland  
Ralph Puls \*  
Dick Sklenar  
Paul Woodward

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 on Washington County Rural Water #2 – Al Shoemaker, City of Blair; Chris Koenig, HGM Associates, and Dick Sklenar
  - a. City of Blair Request to Extend Distribution System
  - b. Consideration of HGM Associates Contract for Professional Services
6. Review and Recommendation on Lease Agreement for Amphitheater at Walnut Creek Recreation Area – Ken Molzer and Randy Lee
7. Review of Draft Papillion Creek Watershed Partnership Stage III Professional Services Contract with HDR Engineering – Laurie Carrette Zook, DHR Engineering and Paul Woodward
8. Review and Recommendation on Application for Federal Assistance through NRCS for Watershed Rehabilitation Assistance on Turtle Creek PL 566 Structure #2 and Papio Creek PL 566 Structure #W-3 and D-4 – Arlis Plummer and Lynn Heng, NRCS, and Martin Cleveland

9. Review and Recommendation on Western Douglas County Trails Project Interlocal Agreement – Steve Oltmans
10. Review and Recommendation on Bennington Trail Interlocal Agreement – Marlin Petermann
11. Review and Recommendation on Resolution to the Nebraska Department of Roads Transportation Enhancement Program for the Platte River Trail Phase 3; Platte River Trail Phase 1; and, Missouri River Trail Phase 1 – Jim Becic
12. Review and Recommendation on Interlocal Cooperation Agreement for the Bellevue Riverfront Development – Jim Becic
13. Review and Recommendation on Additional Services for West Papillion Creek and Tributaries Floodplain Remapping – Laurie Carrette Zook, HDR Engineering, and Paul Woodward
14. Review and Recommendation on Papio Creek Bank Stabilization Project Contract for Rock Riprap Installation – Martin Cleveland
15. Other Items of Interest
16. Adjourn

# MEMORANDUM

TO: Programs, Projects and Operations Subcommittee

FROM: Dick Sklenar

SUBJECT: City of Blair request for water main extension for Washington County Rural Water #2

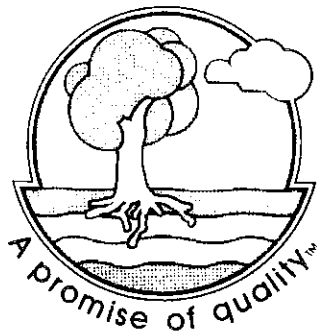
DATE: March 2, 2005

Attached is a letter for the City of Blair requesting that the District consider extending the distribution system for the Washington County Rural Water #2 Project. The city's primary reason for the request is to bolster their existing water pressure to their distribution system along HWY 75 (see attached map).

Much like our earlier arrangement with the City of Blair, the City is willing to loan the District funds to pay for at least one half of the total project cost. Economic analysis prepared by the District's consultants (HGM and Associates) is attached as well.

From the District's perspective, it will be necessary to survey residences along this route over the next four weeks. The extension becomes economically viable if an additional 20 consumers, in addition to the Shannon Estates residences, provide the District with an application and hookup fee.

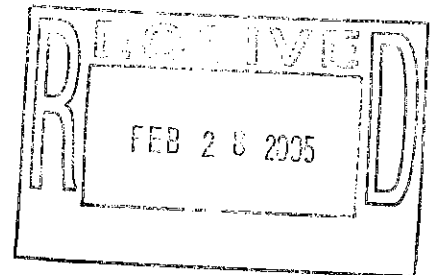
**It is recommended that Subcommittee recommend to the Board of Directors that the District investigate the feasibility of the City of Blair's request for extending the distribution system for the Washington County Rural Water #2 Project by conducting a survey of residences along the proposed route.**



# CITY OF BLAIR

February 25, 2005

Mr. Steve Oltmans  
Papio Missouri River Natural Resources Board  
8901 South 154<sup>th</sup> Street  
Omaha, NE 68138-3621



RE: Water Main Extension/Wash. County RW #2

Dear Mr. Oltmans;

The City of Blair would like to request that the Papio Missouri River Natural Resources District Board consider a water main extension on the currently designed Washington County Rural Water System # 2. The City is requesting that the P-MRNRD Board approve an extension of an eight-inch water main from the current ending point at 6527 County Road P35 to the North along County Road P35 to County Road P28, then East along County Road P28 to County Road P37, then North along County Road P37 to the intersection of Highway 75 and County Road P37 (see attached map).

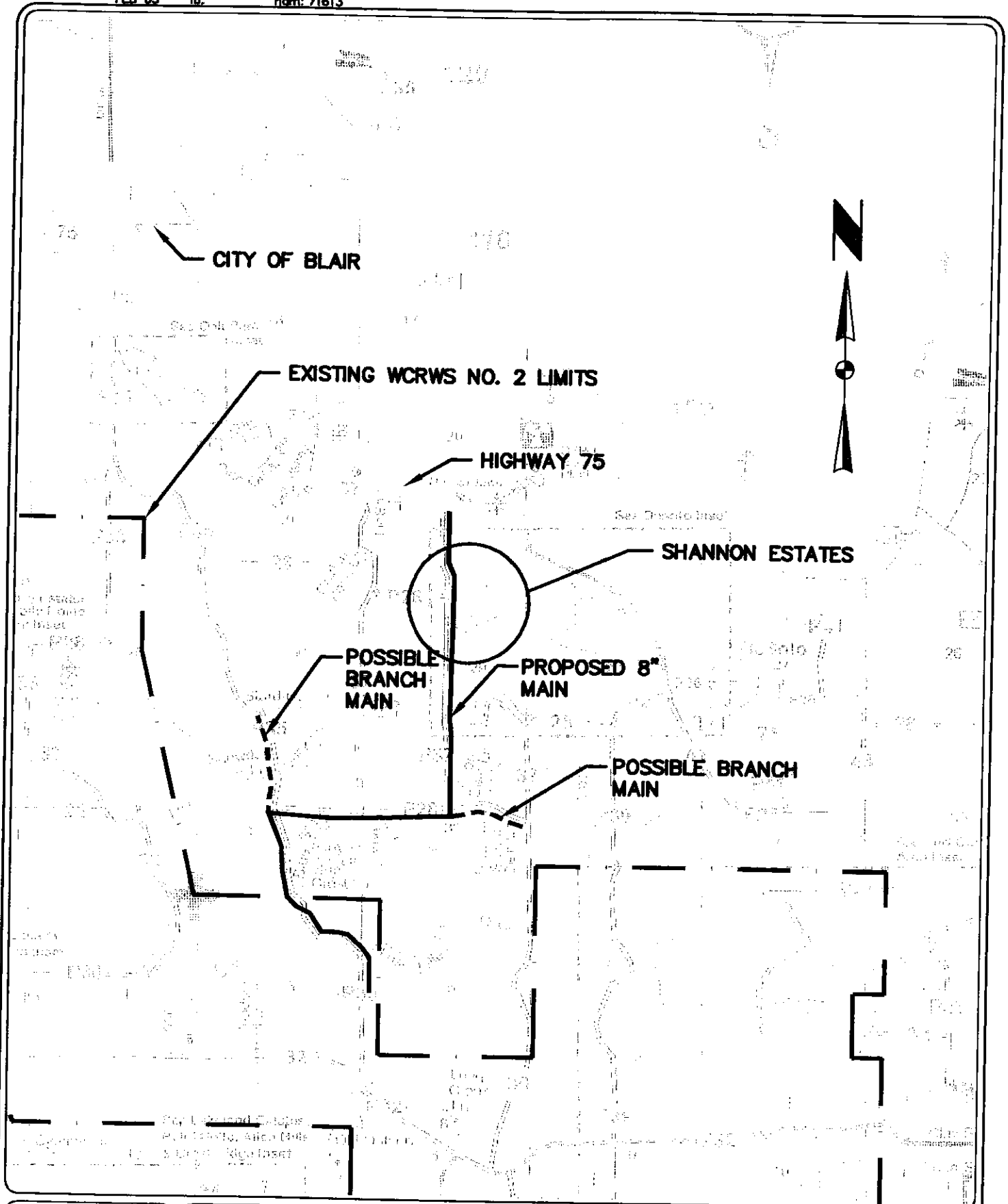
This water main extension is beneficial to the City of Blair by allowing us to loop our water mains on Highway 30 and Highway 75 both of which now are long dead end mains. The water main extension will also allow the city to provide additional water pressure and volume to our Highway 75 eight-inch water main. In exchange for this consideration, the City of Blair is willing to contribute ½ of the cost of the proposed water main extension as outlined above. The Blair City Council has approved this proposal at their February 22<sup>nd</sup> Council meeting. We are also agreeable to contributing ½ of the cost of the engineering studies required for the analysis of this proposed project.

We feel there is a benefit to the PMRNRD by being able to pickup additional customers for the rural water system which will help with the vitality of the system. One last item is this connection will give the PMNRD an additional connection to the City of Blair's water system for redundancy.

If there are any questions, please call me at 402-426-4191.

Sincerely,

Allen Schoemaker  
Director of Public Works



project no. 71613

date FEB 05

sheet 1 OF 1

project

**DISTRIBUTION SYSTEM**  
WASHINGTON CO. RURAL WATER SYSTEM

client

PAPIO-MISSOURI RIVER NATURAL RESOURCE DISTRICT

sheet

**COUNTY ROAD P37 EXTENSION**

PLG

drawn

CJK

designed

CJK

approved

**hgm**

ASSOCIATES INC.

ENGINEERING ARCHITECTURE SURVEYING  
council bluffs omaha

## **MEMORANDUM**

### **WASHINGTON COUNTY RURAL WATER SYSTEM NO. 2 Papio-Missouri River NRD**

To: Dick Sklenar, P-MRNRD  
Allen Schoemaker, City of Blair

From: Chris Koenig

Date: February 16, 2005

Subject: Highway 75 Connection Feasibility Analysis

The Papio-Missouri River Natural Resource District (P-MRNRD) and the City of Blair are considering a connection between the proposed Washington County Rural Water System (WCRWS) No. 2 and the City of Blair at Highway 75. This memorandum addresses the background of the problems within this area and fiscal feasibility of the proposed main.

#### Background

The proposed Highway 75 connection is being considered to address a pressure problem within the City of Blair water distribution system. An 8-inch water main extends from the intersection of Highway 75 and Wilbur Street southeast along Highway 75 to the OPPD Fort Calhoun Power Station. The City took over ownership of the main from OPPD. Several users are connected to the 8-inch main between Wilbur Street and the power plant. A recent study by Kirkham Michael Consulting Engineers found the existing main does not provide adequate capacity for fire flow. The main is approximately 15,500 feet in length and does not have a secondary feed.

One subdivision served by the existing 8-inch main is Shannon Estates located south of Highway 75 on County Road P37. A booster pump, located approximately 400 feet south of the Highway, pulls water from the 8-inch main and supplies the water to the subdivision. The main from the Highway to the subdivision is 6-inch. The subdivision operates the water system and pays their water bill to the City. The subdivision has continually added new residences and is now considered a water system by the Nebraska Department of Health and Human Services. The State has notified Shannon Estates that they are required to hire a certified water operator and increase the level of water quality testing and reporting for the system.

## **MEMORANDUM**

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The P-MRNRD is in the process of constructing WCRWS No. 2 south of Blair. Water will be purchased from the City of Blair and delivered from the southwest corner of the City along Highway 133 to a water tower. The tower is located at the corner of Highway 133 and County Road P26. The proposed distribution system will extend south and east from the tower site. The distribution system will include a 12-inch main located on County Road 32.

See the attached location plan drawing.

### Assumptions

The following assumptions were made for the development of the feasibility analysis:

1. Contractor. The work will be performed as a change order to the contract with BRB Contractors and their unit prices apply. Additional prices will be required for some items.
2. Shannon Estates. The P-MRNRD will assume ownership of the water system including receipt of water bills and operation. The residents of Shannon Estates are required to vote for this transfer. A connection fee will not be assessed to the existing residents served by the Shannon Estates water system.
3. Pump Station. WCRWS No. 2 operates at a substantially higher water pressure than the existing main on Highway 75. The City of Blair will assume ownership of the pump station. The pump station will be converted to a pressure reducing vault (PRV) and meter pit. The City will pay for the cost of conversion of the pump station to a PRV and meter vault.
4. Routing. The water main will be located along the route shown on the location plan.
5. 6-inch Main. The existing 6-inch transmission main between Shannon Estates and Highway 75 will be replaced with an 8-inch main. The higher operating pressure of the proposed rural water system necessitates a pipe capable of a higher operating pressure. In addition, the existing 6-inch pipe does not have the required capacity. The new main will be located in the road right-of-way or in the easement for the existing 6-inch main.
6. Cost Breakdown. The P-MRNRD and the City of Blair will equally participate in the cost of the proposed water main up to the PRV/meter pit. The City of Blair will be responsible for the cost of the new water main from the PRV/meter pit to Highway 75.

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7. Additional Users. The P-MRNRD will contact the existing residents along the proposed route about connecting to the main. With the exception of the existing Shannon Estates customers, new users will be required to pay the current connection fee of \$3,500.
8. O&M Costs. The operation and maintenance (O&M) cost of the proposed system is estimated to be \$15.00 per month per user.
9. Water Purchase Cost. The City of Blair water rates are based on the P-MRNRD Washington County Rural Water Study, dated February 26, 2003.
10. Financing. The interest rate for financing the system is estimated at 5% for a 20-year period.
11. Connection Fee. The Inter-local agreement between the P-MRNRD, the City of Blair, and Washington County allows a portion of the connection fee to be directed to the City and County. The remainder of the connection fee, \$2,000.00, is used to offset the actual connection cost.

### Feasibility Analysis

The proposed water main will serve the existing 16 homes in Shannon Estates. In addition, 32 homes are located immediately adjacent to the route of the proposed main. Fourteen additional homes could be served by extending a water main a short distance on County Road P35 and County Road P28. Some of the homeowners in these areas applied for inclusion in the initial water system but were not served due to the general lack of interest in the area.

### 8-inch Transmission Main from WCRWS No. 2 to PRV/Meter Vault

16 Shannon Estate Customers  
Plus 20 Rural Customers

Estimated Project Cost	\$307,248.02
Less Connection Fee	- 40,000.00
Less City of Blair Portion	- <u>141,761.73</u>
Total Amount Financed	\$125,486.29
Annual Principal and Interest	\$ 10,069.02
Annual O&M	6,480.00
Annual Water Purchase	<u>3,335.87</u>



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Total Annual Cost	\$ 19,884.89
Total Annual Income	\$ 20,023.20
Net Yearly Revenue	\$ 138.31

**3-Inch Branch Mains**

**11 Rural Customers**

Estimated Project Cost	\$ 60,404.40
Less Connection Fee	<u>- 22,000.00</u>
Total Amount Financed	\$ 38,404.40
Annual Principal and Interest	\$ 3,081.57
Annual O&M	1,980.00
Annual Water Purchase	<u>1,019.29</u>
Total Annual Cost	\$ 6,080.20
Total Annual Income	\$ 6,118.20
Net Yearly Revenue	\$ 37.34

The detailed cost breakdowns are attached.

Summary

The extension of the 8-inch main to Highway 75 is financially viable provided 20 additional users are connected along the main route. The total cost for the City of Blair is estimated to be \$141,761.73.

The branch lines are viable provided a minimum of 11 users apply for service. The analysis was based on a 3-inch water main, which will be adequate to serve the area. We recommend increasing the main size on both county roads to a minimum of 6-inch. Both routes will likely result in future extensions to serve an expanded service area. The cost for increasing the size of the mains from 3-inch to 6-inch is estimated to be \$18,135.60.

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Implementation

The extension of the 8-inch main will require:

1. A favorable vote by the residents of Shannon Estates.
2. Approval by the P-MRNRD Board.
3. Approval by the City of Blair City Council.
4. Receipt of a minimum number of water service applications along the route.

The feasibility analysis is based on BRB completing the work as a change order to their current contract. We anticipate BRB will begin installing the pipe as soon as the weather allows, likely early March. The change order for the extension should be executed during April to allow the contractor to schedule his crew and order the pipe.

A meeting will be held with the residents of Shannon Estates on February 23, 2005 to present the information and allow for a vote. If the vote is in favor of connecting to the rural system, we recommend the P-MRNRD proceed immediately with obtaining the required approvals and contacting the property owners along the proposed route. We recommend the deadline for the submitting applications be set as March 25, 2005. This will allow the P-MRNRD Board and the City time to decide on the extension.

Attachments

**3" Main Extensions on County Roads P35 and P28**

<b>No.</b>	<b>Description</b>	<b>Quantity</b>	<b>Units</b>	<b>Price</b>	<b>Total</b>
1.	3" PVC, CL 250	7,500	LF	\$ 2.94	\$ 22,050.00
2.	3" Valve	4	EA	\$ 480.00	\$ 1,920.00
3.	End of Line Cleanout	2	EA	\$ 640.00	\$ 1,280.00
4.	Side Cleanout	2	EA	\$ 850.00	\$ 1,700.00
5.	Road Crossing, No Encasement	1	EA	\$ 885.00	\$ 885.00
6.	Highway Service Crossing	1	EA	\$ 1,965.00	\$ 1,965.00
7.	Road Service Crossing, No Encasement	5	EA	\$ 865.00	\$ 4,325.00
8.	Driveway Crossing	6	EA	\$ 90.00	\$ 540.00
9.	Stream Crossing, 3"	1	EA	\$ 2,500.00	\$ 2,500.00
10.	Residential Meter Setting, 5/8"	11	EA	\$ 775.00	\$ 8,525.00
11.	Service Line, 1 1/2"	1100	LF	\$ 0.65	\$ 715.00
12.	Crushed Rock Surfacing, 3/4"	20	TON	\$ 31.00	\$ 620.00
13.	Fabric Silt Fence	50	LF	\$ 1.70	\$ 85.00
14.	Seeding	5	AC	\$ 730.00	\$ 3,650.00
<b>Subtotal</b>				<b>\$</b>	<b>50,760.00</b>
Contingency (5%)				\$	2,538.00
Legal (0.5%)				\$	253.80
Engineering (10%)				\$	5,076.00
Construction Interest (3.5%)				\$	1,776.60
<b>TOTAL ESTIMATED PROJECT COST</b>				<b>\$</b>	<b>60,404.40</b>

**Users on 8" Main**

<b>No.</b>	<b>Description</b>	<b>Quantity</b>	<b>Units</b>	<b>Price</b>	<b>Total</b>
1.	Highway Service Crossing	6	EA	\$ 1,965.00	\$ 11,790.00
2.	Road Service Crossing, No Encasement	7	EA	\$ 865.00	\$ 6,055.00
3.	Residential Meter Setting, 5/8"	32	EA	\$ 775.00	\$ 24,800.00
4.	Service Line, 1 1/2"	3200	LF	\$ 0.65	\$ 2,080.00
<b>Subtotal</b>				<b>\$</b>	<b>44,725.00</b>
Contingency (5%)				\$	2,236.25
Legal (0.5%)				\$	223.63
Engineering (10%)				\$	4,472.50
Construction Interest (3.5%)				\$	1,565.38
<b>TOTAL ESTIMATED PROJECT COST</b>				<b>\$</b>	<b>53,222.75</b>

**6" Main Extensions on County Roads P35 and P28**

No.	Description	Quantity	Units	Price	Total
1.	6" PVC, CL 250	5,200	LF	\$ 5.44	\$ 28,288.00
2.	3" PVC, CL 250	2,300	LF	\$ 2.94	\$ 6,762.00
3.	6" Valve	2	EA	\$ 650.00	\$ 1,300.00
4.	3" Valve	2	EA	\$ 480.00	\$ 960.00
5.	End of Line Cleanout	2	EA	\$ 640.00	\$ 1,280.00
6.	Side Cleanout	2	EA	\$ 850.00	\$ 1,700.00
7.	Road Crossing, No Encasement	1	EA	\$ 885.00	\$ 885.00
8.	Highway Service Crossing	2	EA	\$ 1,965.00	\$ 3,930.00
9.	Road Service Crossing, No Encasement	6	EA	\$ 865.00	\$ 5,190.00
10.	Driveway Crossing	6	EA	\$ 90.00	\$ 540.00
11.	Stream Crossing, 6"	1	EA	\$ 4,400.00	\$ 4,400.00
12.	Residential Meter Setting, 5/8"	14	EA	\$ 775.00	\$ 10,850.00
13.	Service Line, 1 1/2"	1400	LF	\$ 0.65	\$ 910.00
14.	Crushed Rock Surfacing, 3/4"	20	TON	\$ 31.00	\$ 620.00
15.	Fabric Silt Fence	50	LF	\$ 1.70	\$ 85.00
16.	Seeding	5	AC	\$ 730.00	\$ 3,650.00
<b>Subtotal</b>				<b>\$</b>	<b>71,350.00</b>
Contingency (5%)				\$	3,567.50
Legal (0.5%)				\$	356.75
Engineering (10%)				\$	7,135.00
Construction Interest (3.5%)				\$	2,497.25
<b>TOTAL ESTIMATED PROJECT COST</b>				<b>\$</b>	<b>84,906.50</b>

**3" Main Extensions on County Roads P35 and P28**

No.	Description	Quantity	Units	Price	Total
1.	3" PVC, CL 250	7,500	LF	\$ 2.94	\$ 22,050.00
2.	3" Valve	4	EA	\$ 480.00	\$ 1,920.00
3.	End of Line Cleanout	2	EA	\$ 640.00	\$ 1,280.00
4.	Side Cleanout	2	EA	\$ 850.00	\$ 1,700.00
5.	Road Crossing, No Encasement	1	EA	\$ 885.00	\$ 885.00
6.	Highway Service Crossing	2	EA	\$ 1,965.00	\$ 3,930.00
7.	Road Service Crossing, No Encasement	6	EA	\$ 865.00	\$ 5,190.00
8.	Driveway Crossing	6	EA	\$ 90.00	\$ 540.00
9.	Stream Crossing, 3"	1	EA	\$ 2,500.00	\$ 2,500.00
10.	Residential Meter Setting, 5/8"	14	EA	\$ 775.00	\$ 10,850.00
11.	Service Line, 1 1/2"	1400	LF	\$ 0.65	\$ 910.00
12.	Crushed Rock Surfacing, 3/4"	20	TON	\$ 31.00	\$ 620.00
13.	Fabric Silt Fence	50	LF	\$ 1.70	\$ 85.00
14.	Seeding	5	AC	\$ 730.00	\$ 3,650.00
<b>Subtotal</b>				<b>\$</b>	<b>56,110.00</b>
Contingency (5%)				\$	2,805.50
Legal (0.5%)				\$	280.55
Engineering (10%)				\$	5,611.00
Construction Interest (3.5%)				\$	1,963.85
<b>TOTAL ESTIMATED PROJECT COST</b>				<b>\$</b>	<b>66,770.90</b>

### Opinion of Probable Project Costs

Highway 75 Connection  
Washington County Rural Water System No. 2  
February 15, 2005

#### 8" Main from County Road P32 to Blair Meter/PRV

No.	Description	Quantity	Units	Price	Total
1.	8" PVC, C900	1,500	LF	\$ 11.25	\$ 16,875.00
2.	8" PVC, CL 250	14,400	LF	\$ 7.94	\$ 114,336.00
3.	8" PVC, CL 200	6,000	LF	\$ 6.89	\$ 41,340.00
4.	8" Valve	3	EA	\$ 950.00	\$ 2,850.00
5.	6" Valve	3	EA	\$ 650.00	\$ 1,950.00
6.	4" Valve	3	EA	\$ 500.00	\$ 1,500.00
7.	Highway Crossing, 12" Encasement	2	EA	\$ 5,440.00	\$ 10,880.00
8.	Road Crossing, No Encasement	6	EA	\$ 885.00	\$ 5,310.00
9.	Driveway Crossing	15	EA	\$ 90.00	\$ 1,350.00
10.	Manual Air Release	2	EA	\$ 600.00	\$ 1,200.00
11.	Stream Crossing, 8"	2	EA	\$ 4,050.00	\$ 8,100.00
12.	6" Hydrant Assembly	2	EA	\$ 2,800.00	\$ 5,600.00
13.	Crushed Rock Surfacing, 3/4"	110	TON	\$ 31.00	\$ 3,410.00
14.	Fabric Silt Fence	130	LF	\$ 1.70	\$ 221.00
15.	Seeding	10	AC	\$ 730.00	\$ 7,300.00
<b>Subtotal</b>				<b>\$</b>	<b>222,222.00</b>
Contingency (5%)				\$	11,111.10
Legal (0.5%)				\$	1,111.11
Engineering (10%)				\$	22,222.20
Construction Interest (3.5%)				\$	7,777.77
<b>TOTAL ESTIMATED PROJECT COST</b>				<b>\$</b>	<b>264,444.18</b>

#### 8" Main from Blair Meter/PRV to Hwy 75 Water Main

No.	Description	Quantity	Units	Price	Total
1.	8" PVC, C900	400	LF	\$ 11.25	\$ 4,500.00
2.	6" Valve	2	EA	\$ 650.00	\$ 1,300.00
3.	Fabric Silt Fence	20	LF	\$ 1.70	\$ 34.00
4.	Seeding	0.25	AC	\$ 730.00	\$ 182.50
5.	Control Piping	1	LS	\$ 2,000.00	\$ 2,000.00
<b>Subtotal</b>				<b>\$</b>	<b>8,016.50</b>
Contingency (5%)				\$	400.83
Legal (0.5%)				\$	40.08
Engineering (10%)				\$	801.65
Construction Interest (3.5%)				\$	280.58
<b>TOTAL ESTIMATED PROJECT COST</b>				<b>\$</b>	<b>9,539.64</b>

# Memorandum

To: Programs, Projects and Operations Subcommittee

Re: Amphitheater Lease Agreement

Date: Feb. 25, 2005

From: Randall C. Lee, Assistant Park Superintendent

Attached is the lease agreement with the Papillion Area Concert Band (PACB) for the approval to go ahead with phase 1 construction of the Amphitheater Facility. The agreement outlines the responsible parties for maintenance and upkeep for the Amphitheater facility. And ultimately outlines the time of the contract between the district and ultimately the City of Papillion.

The PACB has unencumbered funds on hand along with an agreement with the NRD, Sarpy County and the City of Papillion to provide \$235,000.00 towards the construction of the Amphitheater Facility.

A summary of construction cost is attached for your review and consideration. The project will be built in Phases with this initial construction containing the stage, roof structure, entrance roadway and handicap parking, and parking facility per the Districts agreement.

**It is the staff's recommendation that the subcommittee recommend to the Board that the General Manager be authorized to execute the Amphitheater Lease Agreement and that construction commence in accordance with the provisions of the original Agreement, subject to changes deemed necessary by the General Manager and approved as to form by District Legal Counsel.**



## WALNUT CREEK AMPHITHEATER



### Mechanical & Electrical Options

#### **Base Bid**

Amphitheater – Main Structure \$526,639

#### Structural

Includes foundations, concrete columns, resteel, masonry, GluLam beams, roof deck and shingles, and staining of roof structure.

#### Electrical

Includes OPPD Transformer Pad and Facility Fees, phone entrance conduit for future, 22 surface mounted light fixtures with manual dimming switches, six (6) metal halide security fixtures, eight (8) GFI receptacles with dimmers, one (1) weatherproof disconnect switch, five (5) "mic" floor boxes for sound system placed in stage slab.

Site Grading In-kind

#### **Option pricing to ADD to the Base Bid**

Site Lighting @ Upper Parking \$21,467

Per original plans and specifications – seven (7) fixtures.

Site Lighting @ Seating Area \$7,320

Per original plans and specifications – two (2) fixtures.

Front of Stage GFI's \$1,288

Add four (4) recessed GFI outlets at the front of stage area.

Facility Water Supply In-kind

6" water line to amphitheater will be stubbed into the Janitorial closet area and capped for future expansion.



## WALNUT CREEK AMPHITHEATER



### Parking Lot Options

#### **Base Bid**

Main Drive/Lot	\$33,987
- Includes curb & gutter and asphalt	
Storm Drain	In-kind
- Includes 1 area inlet in landscaped area, 2 area inlets in lieu of curb inlets in concrete, and stubbed south to the center of the island for future connection	
Gravel	\$23,193
- Includes gravel in entire parking lot and south access to the main road	
Parking Lot Curb & Gutter	\$7,560
- Includes 720 linear feet of curb & gutter to get from the main drive to the sidewalk in the island	
	_____
<b>Total</b>	<b>\$64,740</b>
*additional curb and gutter can be added at \$10.50 per linear foot	

#### **Option pricing to ADD to the Base Bid**

Parking lot Area 1	\$27,166
- Curb & gutter from the main drive to the sidewalk leaving the parking lot and asphalt to the sidewalk	
Parking lot Area 2	\$24,927
- Curb & gutter from the main drive to a point directly West of the sidewalk in the island and asphalt to the sidewalk	



**LEASE AGREEMENT**  
**BETWEEN**  
**THE PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT**  
**AND**  
**PAPILLION AREA CONCERT BAND**

**THIS LEASE** (hereinafter referred to as "this Lease") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_, by and between the **PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT** (hereinafter referred to as "the Lessor"), a governmental subdivision of the State of Nebraska, and **PAPILLION AREA CONCERT BAND** (hereinafter referred to as "the Lessee"), a Nebraska non-profit corporation, on the following terms, covenants and conditions:

1. The Lessor does hereby let to the Lessee and the Lessee does hereby lease from the Lessor the parcel of land (hereinafter referred to as the "Premises") consisting of that portion of the Walnut Creek Recreation Area (hereinafter referred to as "the Recreation Area") in Sarpy County, State of Nebraska described in the legal description attached hereto as Exhibit "1" and incorporated herein by this specific reference.

2. The Lessee agrees to use and occupy the Premises as a public outdoor amphitheater for musical and theatrical performances, and/or educational functions, and community activities related thereto, including without limitation the sale of refreshments and food in connection with such performances, and may charge reasonable attendance fees for such performances, and for no other purposes, for a term of fifty (50) years, commencing at 12:01 A.M. on \_\_\_\_\_, 20 \_\_, and terminating at 12:01 A.M. on \_\_\_\_\_, 20 \_\_, unless sooner terminated as hereinafter provided. Lessee shall have options to renew this lease for five (5) additional and consecutive ten (10) year terms upon the same terms and conditions as provided herein for the initial term if, prior to the expiration of the immediately preceding term, the Lessee delivers to the Lessor a written notice of Lessee's exercise of its option to renew for such additional ten-year term together with the written certificate of an architect licensed by the State of Nebraska certifying that (a) the

Premises and the Lessee's improvements thereto are in compliance with all applicable laws, ordinances, rules and regulations; (b) all necessary maintenance and repairs of the Lessee's improvements to the Premises have been performed; and (c) the Lessee's improvements to the Premises are structurally sound, in good condition, and safe for the uses which are permitted by this Lease.

3. Lessee agrees to pay, as annual rental for the Premises, the sum of one dollar (\$1.00), which shall be due and payable on the 1st day of July of each calendar year during the term of this Lease if the Lessor each year shall demand the same in writing thirty (30) days prior to such due date.

4. It is expressly understood that the only access to the Premises is the right of access enjoyed by other members of the public over and across other Recreation Area land owned by the Lessor, and that the Lessee's use of and access to the Premises shall be subject to reasonable rules and regulations adopted by the Lessor from time to time governing public use of the Recreation Area.

5. The Lessee shall provide and pay for its own gas, electricity and water for the Premises.

6. Lessee shall be responsible for its own cleaning and janitorial expenses and shall at all times maintain the Premises in a safe, clean, neat and sanitary condition. Within 12 hours after the conclusion of each and every performance or other public gathering on the Premises Lessee shall patrol the Premises and pick up and remove from the Premises all trash and litter; and patrol the adjacent portions of the Recreation Area and pick up and remove therefrom all trash and litter which results from or is traceable to a performance or other public gathering on the Premises. Lessor shall be responsible for snow removal, mowing, landscaping and general groundskeeping of the common areas of the Recreation Area, such actions to be performed by Lessor at such times and in such manner as the Lessor, in its sole discretion, determines necessary.

7. No part of the Premises shall be used for temporary or permanent human habitation. No personal property shall be stored in the Premises except in a locked storage

building constructed in the Premises for that purpose. No vehicles may be stored or parked in the Premises; provided, however, that vehicles may be parked overnight in the Premises while in the process of loading or unloading or during an extended performance on the Premises involving more than one day.

8. Lessee shall not be entitled to install any signs on the Premises other than those approved in writing by the Lessor. Lessee and Lessee's agents, employees and invitees shall fully comply with all Rules and Regulations of the Lessor governing the Recreation Area, as amended from time to time, which are made a part of this Lease as if fully set forth herein. Lessor shall have the right to amend such Rules and Regulations as Lessor deems necessary or desirable for the safety, care, cleanliness or proper operation of the Recreation Area and the Premises, and for the preservation of good order therein.

9. Lessee shall have the right to place partitions and fixtures and make improvements and other alterations in the interior of any buildings constructed by the Lessee in the Premises, at its own expense. Prior to commencing any such work, Lessee shall first obtain the written consent of Lessor for the proposed work. Any such improvements, additions or alterations installed or made by Lessee shall become part of the Premises and the property of Lessor.

10. Lessor shall not have any duty to maintain or repair any improvements in the Premises, and the Lessee shall have the sole risk of loss of such improvements from any cause whatsoever except as may be solely and proximately caused by the negligence of the NRD, its officers, agents or employees.

11. Lessee agrees to make all necessary repairs to the exterior walls, exterior doors, windows and corridors of any buildings constructed in the Premises and shall maintain such buildings' equipment and mechanical systems in good repair.

12. Lessee agrees that it will do all redecorating, remodeling, alteration and painting required by it during the term of the Lease at its own cost and expense.

13. Lessee agrees to pay for any repairs to the Premises made necessary by any negligence or carelessness of Lessee or any of its agents or employees or personnel. Similarly, Lessor agrees to pay for any repairs to the Premises made necessary by any negligence or carelessness of Lessor or any of its agents or employees or personnel.

14. Lessor shall not be liable or responsible for compensation for breakdowns or temporary interruptions in service, inconvenience, injury or loss of business suffered by the Lessee arising from any activities conducted by the Lessor for the purpose of construction, operation, maintenance or repair of the Recreation Area.

15. Lessor covenants that Lessor is the owner in fee simple of the Premises hereby demised; that Lessor has full right to lease the demised Premises for the term aforesaid; and that Lessee may peaceably and quietly have, hold and enjoy the Premises for the said term and all extensions thereof.

16. The Lessee shall not assign this lease nor let or sublet the Premises, or any part thereof, without the written consent of the Lessor, excepting only transfer, assignment or sublease to the City of Papillion for which this document shall constitute such written approval.

17. The Lessee shall keep in full force and effect during the entire term of the lease a policy of public liability and property damage insurance, with respect to the leased Premises and the business operated by the Lessee, in which the limits of public liability shall be not less than \$1,000,000.00 per person and \$2,000,000.00 per accident and in which the property damage liability limits shall be not less than \$1,000,000.00. The policy shall name the Lessor and the Lessee as named insureds and shall contain a provision that the insurer will not cancel or change the insurance without first giving written notice to the Lessor. The insurance shall be placed with a responsible insurance company acceptable to the Lessor and a copy of the policy or a certificate of insurance shall be delivered to the Lessor from time to time, as the Lessor may require.

18. The Lessee shall keep the Premises and conduct its activities therein in a manner which shall be in compliance with all laws, rules and regulations, orders and ordinances of the city, county, state and federal government and any department thereof, and will not suffer or permit the Premises to be used for any unlawful purpose. Lessee will protect the Lessor and save

it and the said Premises harmless from any and all fines and penalties that may result from or be due to any infractions of, or non-compliance with, the said laws, rules, regulations, orders and ordinances. Lessee agrees to keep the Premises in a safe condition and free of matter which may be dangerous to the public. Lessee will hold Lessor harmless for and on account of any damages or injury to any person or property arising from the use of the Premises by Lessee, or arising from the failure of Lessee to keep the Premises in good condition as herein provided.

19. All personal property in the leased Premises shall be at the risk of the Lessee. The Lessor shall not become liable to the Lessee or to any other persons for damage to personal property caused by water leakage, steam, sewerage, gas or odors; or caused by any boiler, plumbing, gas, water, steam, pipes or any fixtures, equipment or other appurtenances; or caused by water, snow or ice being upon or coming through any roof, sky-light, trap door or otherwise; or caused by the act or neglect of any other person, except as may be solely and proximately caused by the negligence of the NRD, its officers, agents or employees.

20. The Lessor, its agents or representatives, shall have the right to enter the Premises at all reasonable times to examine or exhibit the same or for any other reasonable purpose but the Lessor shall not interrupt performances or other programs on the Premises without good cause. The Lessor shall make reasonable efforts to avoid scheduling other events at the Recreation Area that would be expected to create noise interference with Lessee's performances or programs on the Premises of which Lessor has been notified, or that would be expected to deplete all Recreation Area parking.

21. Should default be made by the Lessee in the payment of the rental herein reserved, or any part thereof, when and as herein provided, or should Lessee make default in the performing, fulfilling, keeping or observing of any of the Lessee's other covenants, conditions, provisions or agreements herein contained, or should a petition in bankruptcy be filed by the Lessee or should the Lessee be adjudged bankrupt or insolvent by any court or should a trustee or receiver in bankruptcy or a receiver of any property of the Lessee be appointed in any suit or proceeding by or against the Lessee or should the demised Premises become vacant or abandoned or should this lease by operation of law pass to any person other than the Lessee, or should the leasehold interest be levied on under execution, then and in any of such events the Lessor may, if

the Lessor so desires, without demand of any kind or notice to the Lessee or any other person, at once declare this lease terminated, and the Lessor may re-enter said Premises without any formal notice or demand and hold and enjoy the same thenceforth as if these presents had not been made, without prejudice, however, to any right of action or remedy of the Lessor in respect to any breach by the Lessee of any of the covenants herein contained. In case Lessor does not elect to take advantage of the right to terminate this lease conferred by the foregoing provision of this paragraph, the Lessor shall nevertheless have and Lessor is hereby expressly given the right to re-enter the said Premises, with or without legal process, should any of the events hereinbefore specified take place or occur, and to remove the Lessee's signs, and all property and effects of the Lessee or other occupants of said Premises, and if the Lessor so desires, to re-let the said Premises or any part thereof upon such terms, and to such person or persons and for such period or periods as may seem fit to the Lessor.

22. If the Lessee shall not remove all its property from said Premises within thirty (30) days after the Lessor shall become entitled to the possession of said Premises as herein agreed, the Lessor may, without notice, remove the same, or any of the same, in any manner that the Lessor may choose, and the Lessee will pay the Lessor, on demand, any and all expenses incurred in such removal, and also storage on said effects for any length of time during which the same shall be in the Lessor's possession or control, or if the Lessee shall at any time vacate or abandon said Premises, and leave any goods or chattels in, upon or about the Premises, for a period of ten days after such vacation or abandonment, or after the termination of this lease in any manner whatsoever, then the Lessor shall have the right to sell all or any part of said goods and chattels, at public or private sale, without giving any notice to the Lessee, or any notice of sale, all notices required by statute or otherwise being hereby expressly waived, and to apply the proceeds of such sale, first to the payment of all costs and expenses of conducting the sale or caring for or storing the goods and chattels; and, second, to apply the balance, if any, to any indebtedness due from the Lessee to the Lessor; and third, to deliver any additional surplus, on demand in writing, to the Lessee. It is further agreed that all the goods, chattels, fixtures and other personal property belonging to said Lessee, which are, or may be put into the said leased Premises during said term, whether exempt or not from sale under execution and attachment under the laws of the State of Nebraska, shall at all times be bound with a first lien in favor of

said Lessor, and shall be chargeable for all rent hereunder and the fulfillment of the other covenants and agreements herein contained, which said lien may be enforced in like manner as a chattel mortgage, or in any other manner afforded by law.

23. The Lessee at the termination of this lease, by lapse of time or otherwise, to forthwith leave, surrender and yield up the demised Premises in good and substantial order and repair. It is understood and agreed that this lease shall not extend beyond the term herein granted, and a holding over or continuance in the occupancy of the demised Premises shall not work an extension of the said lease, but in any and all such cases, the Lessee shall be a trespasser or a tenant at will at the option of the Lessor, subject to removal by the said Lessor by summary process and proceedings.

24. It is agreed that after the service of notice or the commencement of suit, or after final judgment for possession of the Premises, the Lessor may receive and collect any rent due without prejudice to, nor waiver of or effect upon the said notice, suit or judgment.

25. In the event of the failure of the Lessee to perform any of the covenants, agreements or conditions herein contained, the Lessor shall have the right, but shall not be obligated, to pay any sum of money or incur any expense which should have been paid or incurred by the Lessee for the performance of any such covenant, agreement or condition. The Lessee covenants that in case the Lessor, by reason of the failure of the Lessee to perform any of the covenants, agreements or conditions herein contained, shall be compelled to pay or shall pay any sum of money or shall be compelled to do or shall do any act which requires the payment of money, then the sum or sums so paid or required to be paid, together with interest, costs and damages, shall be added to the installment of rent next becoming due and shall be collectible as additional rent in the same manner and with the same remedies as if it had been originally reserved.

26. The failure of the Lessor to insist upon a strict performance of any of the covenants or conditions of this lease or to exercise any right or option herein conferred in any one or more instances, shall not be construed as a waiver or a relinquishment for the future of any such covenants, conditions, rights or options, but the same shall remain in full force and effect;

and the doing by the Lessor of any act or thing which Lessor is not obligated to do hereunder shall not be deemed to impose any obligation upon the Lessor to do any such act or thing in the future or in any way change or alter any of the provisions of this lease.

27. No surrender of the Premises for the remainder of the term herein shall be binding upon the Lessor unless accepted by the Lessor in writing. Without limiting the scope or effect of the last preceding sentence, it is agreed that the receipt or acceptance of the keys to the Premises by the Lessor shall not constitute an acceptance of a surrender of said Premises.

28. All rights and remedies of the Lessor under or in connection with this lease shall be cumulative and none shall be exclusive of any other rights or remedies allowed by law. No agreements shall be held as changing or in any manner modifying, adding to or detracting from any of the terms or conditions of this lease, unless such agreement shall be in writing, executed by both parties hereto.

29. All notices or other instruments required or authorized to be given or delivered pursuant to any provision of this lease shall be effectively given or delivered if mailed by registered or certified mail to Lessor at 8901 South 154th Street, Omaha, NE 68138-3621 and to Lessee by mailing to its Registered Agent, which at the time of execution of this lease is Ricardo ("Rick") Turner, President, Papillion Area Concert Band, 1011 East Aberdeen Drive, Papillion, NE 68046, or to such other address as the parties hereto may designate in writing given according to this paragraph.

30. The President of the Lessee and the General Manager of the Lessor are authorized to take such actions and make such determinations on behalf of their respective parties as are required or permitted for the respective parties by this Lease and as such officers in their discretion determine necessary.

31. The words "Lessor" and "Lessee" shall be taken to include and be binding upon the parties hereto and their respective, successors and assigns, and shall be taken in the plural sense, wherever the context requires, and all pronouns used herein and referring to said parties shall be construed accordingly, regardless of the number or gender thereof.



32. The Lease shall be governed by and construed in accordance with the Development Agreement between the parties hereto, entered into as of the \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_, a true and correct copy of which is attached hereto as Exhibit "2" and incorporated herein by this reference.

**IN WITNESS WHEREOF**, the parties hereto have executed this Lease as of the day and year first above written.

**PAPILLION AREA CONCERT BAND, a Nebraska  
non-profit corporation, Lessee**

By \_\_\_\_\_  
President

**Attest:**

\_\_\_\_\_  
Secretary

**PAPIO-MISSOURI RIVER NATURAL RESOURCES  
DISTRICT, Lessor**

By \_\_\_\_\_  
General Manager

Approved on \_\_\_\_\_, 2005  
**CITY OF PAPILLION, NEBRASKA**

By \_\_\_\_\_  
Mayor

# Memorandum

**To:** Programs, Projects and Operations Subcommittee  
**From:** Paul Woodward, Water Resources Engineer  
**Date:** March 1, 2005  
**Re:** Papillion Creek Watershed, Stage III Study Contract with HDR Engineering

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In June of 2003, the Board approved a Stage II contract with HDR Engineering on behalf of the Papillion Creek Watershed Partnership (PCWP). This contract included \$135,000 for ongoing services necessary to support the Partnership's NPDES permits as well as \$200,000 funded solely by the NRD for the Multi-Reservoir Analysis. In addition, an amendment of \$35,000 was approved by the Board in October 2003 for a needs assessment of stormwater management projects and costs.

HDR has completed the tasks outlined in Stage II as well as additional services in preparation of the recent Watershed by Design Public Forums. As such, funding under Stage II has been exhausted and a new contract is needed to proceed in the Watershed Master Planning process and continued NPDES support to the local communities. HDR and members of the Partnership worked together to prepare the scope of services, and below is a summary of each task and cost:

- Project management including attending Partnership meetings (\$89,402)
- NPDES Phase II Support including assistance for the remaining public forums and other public educational materials (\$65,731)
- Facilitate and provided technical input to workgroups formed to make decisions concerning the Watershed Master Plan policies and projects (\$92,843)
- Identify and catalog problem areas in the watershed including the collection of additional data (\$30,164)
- Analyze proposed policies or projects in a selected master plan pilot basin (\$71,252)

In conclusion, the total cost of Stage III services provided by HDR would be \$349,390 and the contract would be handled by P-MRNRD staff on behalf of the PCWP. Services would begin in March 2005 and conclude by December 2006. A copy of the proposed professional services contract with HDR, including a detailed scope, cost estimate, and schedule, is enclosed for your consideration.

**Management recommends that the Subcommittee recommend to the Board that the General Manager be authorized to execute a professional services contract on behalf of the Papillion Creek Watershed Partnership with HDR Engineering, Inc. for the Papillion Creek Watershed Stage III Study for a maximum fee of \$349,390, subject to changes deemed necessary by the General Manger and approved as to form by District Legal Council.**

This document has important legal consequences; consultation with an attorney is encouraged with respect to its completion or modification. This document should be adapted to the particular circumstances of the Assignment and the Controlling Law.

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

*Prepared by*

**ENGINEERS JOINT CONTRACT DOCUMENTS COMMITTEE**

*and*

*Issued and Published Jointly By*

[LOGOS]

PROFESSIONAL ENGINEERS IN PRIVATE PRACTICE  
*A Practice Division of the*  
NATIONAL SOCIETY OF PROFESSIONAL ENGINEERS

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AMERICAN CONSULTING ENGINEERS COUNCIL

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1015 15th Street, N.W., Washington, DC 20005

American Society of Civil Engineers  
1801 Alexander Bell Drive, Reston, VA 20191-4344

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

This is an Agreement effective as of \_\_\_\_\_, 2005 ("Effective Date") between Papio-Missouri River Natural Resources District ("OWNER") and HDR Engineering, Inc. ("ENGINEER").

OWNER retains ENGINEER to perform professional services, in connection with on-going services under the Papillion Creek Watershed Study ("Assignment").

OWNER and ENGINEER, in consideration of their mutual covenants as set forth herein, agree as follows:

**ARTICLE 1--ENGINEER'S SERVICES**

---

**1.01 Scope**

A. ENGINEER shall provide the services set forth in Exhibit SR-A.

B. Upon this Agreement becoming effective, ENGINEER is authorized to begin services as set forth in Exhibit SR-A.

C. If authorized in writing by OWNER, and agreed to by ENGINEER, services beyond the scope of this Agreement will be performed by ENGINEER for additional compensation.

**ARTICLE 2--OWNER'S RESPONSIBILITIES**

---

**2.01 General**

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

**ARTICLE 3--TIMES FOR RENDERING SERVICES**

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3.01 ENGINEER's services will be performed within the time period or by the date stated in Exhibit SR-A.

3.02 If ENGINEER's services are delayed or suspended in whole or in part by OWNER, ENGINEER shall be entitled to equitable adjustment of the time for performance and 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 of ENGINEER.**

A. OWNER shall pay ENGINEER for services rendered under this Agreement as follows:

~~(Delete inapplicable language.)~~

1. A Lump Sum amount of \$ \_\_\_\_\_.

~~2. Appropriate amounts are incorporated in the Lump Sum to account for labor, overhead, profit, Reimbursable Expenses, and ENGINEER's Consultants' charges, if any.~~

3. The portion of the Lump Sum amount billed for ENGINEER's services will be based upon ENGINEER's estimate of the proportion of the total services actually completed during the billing period to the Lump Sum.

{OR}

1. An amount equal to the cumulative hours charged to the Assignment by each class of ENGINEER's employees times Standard Hourly Rates for each applicable billing class for all services performed on the Assignment, plus Reimbursable Expenses, estimated to be \$ \_\_\_\_\_ and ENGINEER's Consultants' charges, if any, estimated to be \$ \_\_\_\_\_; The total compensation under paragraph 4.01.A.1 is estimated to be \$ \_\_\_\_\_.

2. ENGINEER's Reimbursable Expenses Schedule and Standard Hourly Rate Schedule are attached to this Agreement as Exhibits SR-C and SR-D, respectively.

3. The amounts billed for ENGINEER's services will be based on the cumulative hours charged to the Assignment during the billing period by each class of ENGINEER's employees times Standard Hourly Rates for each applicable billing class, plus Reimbursable Expenses and ENGINEER's Consultants' charges, if any, incurred during the billing period.

{OR}

1. An amount equal to ENGINEER's Direct Labor Costs times a Factor of 3.15 for the services of ENGINEER's employees engaged on the Assignment, plus Reimbursable Expenses, provided, however, the total due to ENGINEER for such services and for Reimbursable Expenses shall not exceed the amount of \$349,390, unless authorized in writing by OWNER. The fee proposal for this Agreement is included as Attachment "A", estimated to be \$ \_\_\_\_\_, and ENGINEER's Consultants' charges, if any, estimated to be \$ \_\_\_\_\_. The total compensation under paragraph 4.01.A.1 is estimated to be \$ \_\_\_\_\_.

2. ENGINEER's Reimbursable Expenses Schedule is attached to this Agreement as Exhibit SR-C.

3. The amounts billed for ENGINEER's services will be based on the applicable Direct Labor Costs charged to the Assignment by ENGINEER's employees during the billing period multiplied by the above-designated Factor, plus Reimbursable Expenses and ENGINEER's Consultants' charges, if any, incurred during the billing period.

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

5. The Direct Labor Costs Factor includes the cost of customary and statutory benefits including, but not limited to, social security contributions, unemployment, excise and payroll taxes, workers' compensation, health and retirement benefits, bonuses, sick leave, vacation, and holiday pay applicable thereto; the cost of general and administrative overhead, which includes salaries and wages of principals and employees engaged in business operations not directly chargeable to projects, plus indirect operating costs, including but not limited to, business taxes, legal expense, rent, utilities, office supplies, insurance, and other operating costs; plus operating margin or profit.

#### 4.02 Other Provisions Concerning Payment

##### ~~A. Estimated Compensation Amounts:~~

~~1. ENGINEER's estimate of the amounts that will become payable are only estimates for planning purposes, are not binding on the parties, and are not the minimum or maximum amounts payable to ENGINEER under the Agreement.~~

~~2. When estimated compensation amounts have been stated herein and it subsequently becomes apparent to ENGINEER that a compensation amount thus estimated will be exceeded, ENGINEER shall give OWNER written notice thereof. Promptly thereafter OWNER and ENGINEER shall review the matter of services remaining to be performed and compensation for such services. OWNER shall either agree to such compensation exceeding said estimated amount or OWNER and ENGINEER shall agree to a reduction in the remaining services to be rendered by~~

~~ENGINEER, so that total compensation for such services will not exceed said estimated amount when such services are completed.~~

~~A.B.~~ *Adjustments*

ENGINEER's compensation is conditioned on time to complete the Assignment not exceeding the time identified in Exhibit SR-A. Should the time to complete the Assignment be extended beyond this period due to reasons not the fault of and beyond the control of ENGINEER, the total compensation to ENGINEER shall be appropriately adjusted.

~~2. If used, the Standard Hourly Rates Schedule, Reimbursable Expenses Schedule, Direct Labor Costs and the Factor applied to Direct Labor Costs will be adjusted annually (as of \_\_\_\_\_) to reflect equitable changes to the compensation payable to ENGINEER.~~

~~B.C.~~ *Reimbursable Expenses.* Reimbursable Expenses means the actual expenses incurred by ENGINEER or ENGINEER's Consultants directly in connection with the Assignment, including the categories and items listed in Exhibit SR-C, plus 10% and if authorized in advance by OWNER, overtime work requiring higher than regular rates. 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.

~~C.D.~~ *For Additional Services.* OWNER shall pay ENGINEER for all services not included in the scope of this Agreement on the basis agreed to in writing by the parties at the time such services are authorized by OWNER.

## **ARTICLE 5--DESIGNATED REPRESENTATIVES**

---

### **5.01 Contemporaneous with the execution**

of this Agreement, ENGINEER and OWNER shall each designate specific individuals 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 Assignment on behalf of their respective party.

## **ARTICLE 6--CONTENT OF AGREEMENT**

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6.01 The following Exhibits are incorporated herein by reference:

A. Exhibit SR-A, "Further Description of Services, Responsibilities, Time, and Related Matters," consisting of 10 pages.

B. Exhibit SR-B, "Standard Terms and Conditions," consisting of 6 pages.

~~(Include one or both of the following if applicable.)~~

C. Exhibit SR-C, "Reimbursable Expenses Schedule," consisting of 1 page.

~~D. Attachment A - Fee Estimate, Stage III Services, "Papillion Creek Watershed Study" consisting of 1 page.~~

~~E. Attachment B - Schedule, Stage III Services, "Papillion Creek Watershed Study" consisting of 1 page.~~

~~D. Exhibit SR-D, "Standard Hourly Rates," consisting of \_\_\_\_\_ pages.~~

### **6.02 Total Agreement**

A. This Agreement (consisting of pages 1 to 4, inclusive, together with the Exhibits identified in paragraph 6.01) 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 5.01):

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 5.01):

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



SUGGESTED FORMAT (for use with 1910-19, 1996 Edition)

This is EXHIBIT SR-A, consisting of 10 pages, referred to in and part of the Agreement between OWNER and ENGINEER for Study and Report Phase Professional Services dated \_\_\_\_\_, 2005.

Initial:

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

**Further Description of Services, Responsibilities, Time, and Related Matters**

Specific articles of the Agreement are amended and supplemented to include the following agreement of the parties:

**A.1.01 ENGINEER's Services**

~~\_\_\_\_\_ A. \_\_\_\_\_ ENGINEER shall:~~

- ~~1. \_\_\_\_\_ Consult with OWNER to define and clarify OWNER's requirements for the Assignment and available data.~~
- ~~2. \_\_\_\_\_ Advise OWNER as to the necessity of OWNER providing data or services which are not part of ENGINEER's services, and assist OWNER in obtaining such data and services.~~
- ~~3. \_\_\_\_\_ Identify, consult with, and analyze requirements of governmental authorities having jurisdiction relevant to the Assignment.~~
- ~~4. \_\_\_\_\_ Identify and evaluate \_\_\_\_\_ alternate solutions available to OWNER and, after consultation with OWNER, recommend to OWNER those solutions which, in ENGINEER's judgment, meet OWNER's requirements.~~
- ~~5. \_\_\_\_\_ Prepare a report (the "Report") which will, as appropriate, contain schematic layouts, sketches and conceptual design criteria with appropriate exhibits to indicate the agreed to requirements, considerations involved, and those alternate solutions available to OWNER which ENGINEER recommends. This Report will be accompanied by ENGINEER's opinion of Total Project Costs for each solution which is so recommended with each component, including the following, separately itemized: opinion of probable Construction Cost, allowances for contingencies and for the estimated total costs of design, professional, and related services provided by ENGINEER and, on the basis of information furnished by OWNER, allowances for other items and services included within the definition of Total Project Costs.~~
- ~~6. \_\_\_\_\_ Perform or provide the following additional tasks or deliverables:~~
- ~~7. \_\_\_\_\_ Furnish \_\_\_\_\_ review copies of the Report to OWNER within \_\_\_\_\_ days of the Effective Dates of this Agreement and review it with OWNER.~~
- ~~8. \_\_\_\_\_ Revise the Report in response to OWNER's and other parties' comments, as appropriate, and furnish \_\_\_\_\_ final copies of the revised Report to the OWNER within \_\_\_\_\_ days after completion of reviewing it with OWNER.~~

**For Papio-Missouri River Natural Resources District  
For Development of a Watershed Management Plan  
Papillion Creek Watershed (Washington, Douglas and Sarpy Counties, NE)**



**ENGINEERING PROPOSAL – STAGE III SERVICES**

**BACKGROUND AND BASIS OF PROPOSAL**

The purpose of this Agreement is to provide on-going services for what is to be termed Stage III Services (Project) under the Papillion Creek Watershed Study. The intent of Stage III Services is to continue working toward the overall goal of preparing and implementing a Papillion Creek Watershed Management Plan for the Papio-Missouri River Natural Resources District (NRD), being the designated OWNER under the terms of the Agreement and being a member of the Papillion Creek Watershed Partnership (PCWP). It is anticipated that there will be additional stages of work subsequent to this Agreement that will continue in progressive development and implementation of the Plan. Other members of the PCWP also have a cost sharing, vested interest in the Project but are not parties to this Agreement. Therefore, the scope of the services described herein is intended, in part, to supplement prior work outlined in the original Agreement with the NRD, dated July 7, 2003 and Amendment No. 1 thereto, which constituted Stage II services, as well as earlier work described as Stage I services, which were covered under a separate agreement with the City of Omaha.

The PCWP members have decided that it would be beneficial to continue assistance from the ENGINEER for additional NPDES Phase II support in terms of public education and outreach and continuation of public forums that deal with the “Green, Clean, and Safe” Initiatives created during Stage II work; assistance in the formation and facilitation of new policy development and technical “workgroups” to consider the merits of various best management practices (BMPs) and related watershed management concepts; perform a cursory inventory of certain problem areas throughout the Watershed; examine in more detail various BMP and policy needs within a more focused “pilot basin” that can subsequently be used to guide overall master planning efforts throughout the remainder of the Watershed; and other related work as outlined in the task descriptions below.

**SCOPE OF SERVICES – STAGE III**

**TASK SERIES 100 – PROJECT MANAGEMENT**

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

**HDR Activities:** **Task 110 Internal Project Management.** Includes scheduling, administration, and coordination activities within the HDR Project team. Internal HDR Project team meetings will be conducted to discuss tasks, provide Project updates, review deliverables.

**Task 120 PCWP Meetings.** HDR will attend and provide input and general assistance for PCWP regular meetings and sub-committee meetings, including assistance in preparing an agenda prior to the meetings and reviewing meeting minutes. Follow-up Project progress meetings will be held with the NRD to coincide with scheduled PCWP meetings.

**Task Deliverables:** Provide monthly Project status reports (attached to HDR invoices); assistance in preparing meeting agenda and presentation items; provide written review comments for meeting minutes provided by the NRD; and provide miscellaneous meeting materials not otherwise specifically described by other Tasks herein.

**Key Understandings:** Assume HDR participation in twenty two (22) regular monthly PCWP meetings, plus two (2) PCWP sub-committee meetings for preparation planning for each of four (4) public forums. These assumptions will result in a maximum of thirty (30) PCWP meetings. In addition, it is assumed that separate brief contract management meetings with the NRD will be held on the same day immediately following PCWP meetings.

## **TASK SERIES 200 – NPDES PHASE II SUPPORT**

**Task Objectives:** Provide on-going assistance for the PCWP members having NPDES Phase II Stormwater Permits. The assistance will be limited to the minimum control measures and activities outlined below.

**HDR Activities:** **Task 210 Public Education and Outreach.** Work under this task will involve a continuation of hosting of the PCWP “PapiPartnership.org” website on the HDR server system consisting of:

- Uploading source files designed and furnished by the PCWP.
- Assistance in resolving page formatting and file linking problems that may occur from time to time.
- Routine file back-up and security measures consistent with HDR internal computer system policies.

### **Task 220 Public Participation and Involvement.**

**Subtask 220.1 Public Forums.** HDR will continue offering assistance in the preparation, presentation of materials, and follow-up documentation of results from public forums associated with the “Green, Clean, and Safe” Initiatives created during Stage II services. An introductory public forum and the forum for the “Green” Initiative have already been covered under Stage II services and are not included herein. Stage III services will include work associated with four (4) public forums as follows:

- “Clean” Initiative.
- “Safe” Initiative.
- A summary type public forum which recaps all three Initiatives.
- An additional public forum which will deal with the overall findings from the Stage III work.

**Subtask 220.2 Miscellaneous Presentations.** It is recognized that there may be follow-up requests for presentations of the materials presented in the public forums under Subtask 220.1 above. Such requests may be from individual city councils, county boards, or other governmental entities within the PCWP membership. Before responding to such requests, HDR will seek the approval from the NRD to do so via email or a written letter. Assume that four (4) such miscellaneous presentations will be made using presentation materials already developed for the public forums.

**Task 230 Other NPDES Assistance.** On an as-needed basis, assist the PCWP members in documentation of NPDES Phase II Stormwater Permit activities and BMPs as outlined in the respective permits in preparation for annual reporting to the Nebraska Department of Environmental Quality (NDEQ).

**Task Deliverables:** For website hosting, provide PCWP website updates within one week of receiving source files that have been generated by the PCWP.

For the various public forums, provide:

- Name tags for the PCWP members.
- Draft PowerPoint slides and hardcopy handouts for the PCWP members to review.
- Final PowerPoint slides in electronic format for the public forums.
- A maximum of two (2) professionally mounted foam boards containing public education materials for each public forum.
- Printed comment/question cards sufficient in number for the anticipated audiences to facilitate interactive participation.
- Audience survey forms as may be required to address issues.
- Formal responses to questions/comments and a summary of survey results obtained from the audience for printing and/or posting on the PCWP website.

**Key Understandings:** Task 210: Assume HDR services for website hosting to extend for the entire period depicted in the schedule in Attachment B hereto.

Task 220: Assume participation in a total of four (4) public forums as outlined above.

Task 220.2: Assume no new materials will be needed; that is, reuse the PowerPoint slides and hand-out materials developed for the regularly scheduled presentations.

Task 230: Assume a maximum level of involvement equivalent to the cost set forth in Attachment A hereto for such assistance. If assistance to PCWP members is found to be not necessary to the extent allocated, then the NRD may redirect the equivalent use of the balance of hours/cost available at its discretion for other Tasks herein.

## **TASK SERIES 300 – FACILITATED WORKGROUPS**

**Task Objectives:** Assist the PCWP in the formation and professional facilitation of two separate workgroups, a Policy Workgroup and a Technical Workgroup, whose purpose will be to further the concepts associated with the “Green, Clean, and Safe” Initiatives brought forth in the public forums and various PCWP meetings. Note from Attachment B – Schedule that there are concurrent activities involving this Task Series 300 – Facilitated Workgroups with that of Task Series 400 – Inventory Problem Areas and Task Series 500. – Master Plan Pilot Basin and Policy Development. There will be information exchanges for all three of these Task Series to and from the workgroups throughout the course of their involvement. Ultimately, the policies and technical findings from this Task Series 300, together with the identification of problem areas, will be rolled into the technical memorandum produced under Task Series 500. That is, the policies and technical findings that emerge out of the Task Series 300 effort will form the foundation for the strategies to be evaluated for a pilot basin; and, in turn, recommendations for applying the combined strategies developed under Task Series 500 to the general Watershed will also be covered in said technical memorandum.

- Policy Workgroup: Primarily charged with development and evaluation of various Watershed management policies, consideration of financial constraints that may be involved, and establishment of overall priorities

among issues. Examples of policies and issues that may be considered by the Policy Workgroup include:

- Preservation, restoration, and creation of open spaces along stream corridors under the “Green” Initiative and interfacing the same into master planning for parks and other public/private amenities.
- Achieving “no adverse impacts” with new development in conjunction with the “Clean” and “Safe” Initiatives in terms of no deterioration in water quality and no net increases in stream flow and stage under design storm conditions. Related considerations may include regional vs. local detention, relative impacts from low-density development, policies governing allowable pollutant loadings in cooperation with NDEQ efforts, and management of development in fringe areas along the various floodplains.
- Technical Workgroup: Primarily charged with the contributing to and evaluating the technical concepts that will be necessary to underpin the proposed implementation of various policy issues and general priorities provided by the Policy Workgroup. In other words, the Technical Workgroup will be expected to provide quality control type feedback that addresses the technical implications and feasibility of various policy concepts that have been proposed for further evaluation.

HDR will act as facilitator for workgroup meetings to the extent considered necessary by the NRD; will provide input on-going “seed” materials for both workgroups; and will communicate meeting outputs between the workgroups and the general PCWP membership.

**HDR Activities:**

**Task 310 Policy Workgroup.** It is assumed that the Policy Workgroup will generally consist of key decision makers on the level of mayors, city administrators, and public works directors or their designated aides; the general manager and/or assistant general manager of the NRD; plus representatives from county boards, legal counsels, financial advisors, planning departments, developers, etc. as deemed necessary that can collectively address various non-technical policies and issues that evolve out of the public forums, PCWP meetings, reaction from the media, etc. To that end, HDR proposes to furnish professional facilitation as follows:

- Assist in the formation of the Policy Workgroup by providing a suggested list of individuals to the PCWP members for their review.
- Summarize feedback gained from the various public forums and from regular PCWP meetings in the form of potential Watershed policies and issues to be initially brought forward to the Policy Workgroup for consideration.
- Prepare for, provide professional facilitation for, and summarize the outcomes for all Policy Workgroup meetings during the period covering Stage III services, generally assumed to be as follows:
  - An initial half-day joint workshop with the Technical Workgroup to quickly bring the both workgroups up to a good working knowledge of Watershed issues that will subsequently require policy type decision making and the setting of initial priorities. It is assumed that the initial joint workshop will occur by July 2005.
  - Policy Workgroup meetings on a quarterly basis thereafter, generally not lasting more than approximately two hours each in duration. It is assumed that there will be a maximum of three (3) such quarterly meetings.

- A final half-day joint workshop with the Technical Workgroup to summarize all recommendations and findings to date. It is assumed that the final joint workshop will occur by June 2006.

**Task 320 Technical Workgroup.** The Technical Workgroup may consist of selected technical representatives from the PCWP membership, NDEQ, the Nebraska Game and Parks Commission, the University of Nebraska, the Natural Resources Conservation Service, the U.S. Army Corps of Engineers, the U.S. Geological Survey, County Extension Services, the American Consulting Engineers Council, and other selected technical experts as may be necessary to provide technical input and evaluations for the priority issues identified by the Policy Workgroup. To that end, HDR proposes to furnish professional facilitation and technical expertise as follows:

- Assist in the formation of the Technical Workgroup by providing a suggested list of individuals to the PCWP members for their review.
- Provide technical input and liaison among the Policy and Technical Workgroups and the general PCWP membership. Summarize and present the policy guidance and related issues gained from the Policy Workgroup to the Technical Workgroup and vice versa.
- Prepare for, provide professional facilitation for, and summarize the outcomes for all Technical Workgroup meetings during the period covering Stage III services, generally assumed as follows:
  - An initial half-day joint workshop with the Policy Workgroup to quickly bring the both workgroups up to a good working knowledge of Watershed issues that will subsequently require technical evaluations of the various policies and priorities set forth by the Policy Workgroup. It is assumed that the initial joint workshop will occur by July 2005.
  - Technical Workgroup meetings on a quarterly basis thereafter, generally not lasting more than approximately four hours each in duration. It is assumed that there will be a maximum of three (3) such quarterly meetings.
  - A final half-day joint workshop with the Policy Workgroup to summarize all recommendations and findings to date. It is assumed that the final joint workshop will occur by June 2006.

**Task Deliverables:** HDR will provide:

- Recommendations for the formation of each workgroup.
- A summary of initial (“seed”) policy and technical recommendations for considerations by each of the two workgroups, plus on-going summary information from other concurrent activities. Information will be distributed in the form of PowerPoint slide presentations, slide handouts, and other executive summary type materials brought forward from concurrent Task Series 400 and 500. NRD to assist in printing sufficient quantities for the size of the workgroups involved.
- In preparation for the final joint meeting of the workgroups, HDR will summarize activities and conclusions to date, and this information and any final additions will be rolled forward to the technical memorandum under Task Series 500.
- Provide meeting agendas to guide the course of each meeting. NRD to assist in printing sufficient quantities for the size of the workgroups involved.

- Written minutes for each meeting that will be subsequently furnished to each workgroup, the general PCWP membership, and for posting on the PCWP website as may be deemed appropriate.

**Key Understandings:** The term “professional facilitation” shall mean that HDR will provide one or more individuals who possess the formal training, experience, and skills for leading large groups in an informed consent building process for the various issues at hand. The extent of work under this Task is dependent on the willingness and availability of candidate workgroup members to participate in workgroup meetings to the level assumed herein. If adjustments to the assumptions outlined herein become necessary due to changes in basic logistics, then HDR is certainly willing to adjust levels of effort accordingly to the equivalent extent of cost outlined in Attachment A hereto or as amended by the Owner.

## **TASK SERIES 400 – INVENTORY PROBLEM AREAS**

**Task Objectives:** On a Watershed-wide basis provide a preliminary, broad-based inventory of problem areas along stream corridors that do not currently meet the basic objectives of the “Green, Clean, and Safe” Initiatives. This is not intended to be a comprehensive effort with great detail, and it will not involve hydrologic, hydraulic or water quality modeling. Rather, the purpose is to provide a general listing and assessment of problem areas that will provide useful input to the workgroups in Task Series 300 above, as well as provide the foundation for more focused efforts under Task Series 500 below.

**HDR Activities:** **Task 410 Data Collection.** Obtain pertinent GIS mapping coverage to the extent available including:

- The most recent aerial photography and topography.
- Floodplain delineations.
- Current locations of Concentrated Animal Feeding Operations (CAFOs) and NPDES discharge permit holders within the Watershed from NDEQ.
- Operation and/or maintenance records from CAFOs and NPDES discharge permit holders, stream bank erosion areas, drainage structures, etc.
- Locations of wetlands, native prairies, Conservation Reserve Program (CRP) areas, and any other environmentally sensitive areas.
- Updated land use planning maps from the PCWP members and from Washington County.
- Pertinent soils maps.

As a part of the overall data gathering process, it is assumed that the NRD and HDR will co-host one (1) day of pre-scheduled time slots within that day in order for PCWP members and other parties to bring informational materials to the NRD office to discuss known problem areas within their respective jurisdictions.

**Task 420 Catalog Problem Areas.** This will involve the following activities:

- Review data collected under Task 410.
- To the extent that access is available, perform field reconnaissance and digital photography as may be needed to better characterize problem areas that have been tentatively identified. This effort is not intended to involve detailed measurements or formal engineering survey work.

- Catalog all problem area observations and photos as to approximate location and extent, type of problem, and categories of solutions that may be appropriate (such as flow interception/detention, various erosion and pollution BMPs that may be beneficial, grade stabilization, improvements in conveyance, channel preservation/restoration, removal of encroachments, etc.). This effort may involve creation of a basic database of observations if appropriate.
- Create GIS shape files that summarize data collected and problem area categories and approximate locations.

**Task Deliverables:** HDR will provide:

- A list of desired information from the PCWP members prior to the one-day meeting at NDEQ.
- An executive summary type technical memorandum in both hardcopy and electronic format that describes the data collected and provides a catalog of problem areas.
- Electronic copy of all GIS shape files used and created.

**Key Understandings:** It is assumed that Task 410 information will be available within three (3) weeks of the request made by HDR. It is the basic assumption herein that HDR will not need to perform manipulation of maps (aerial, land use, etc.) to produce a detailed end product as a deliverable under this Task Series. The purpose of the data gathering is solely to provide reference materials to HDR sufficient to catalog problem areas. It is assumed that field reconnaissance efforts and cost will not exceed that delineated under Attachment A hereto. It is also assumed that delays beyond the control of HDR will not occur, such that the completion of this Task Series can be as close as possible to the initial joint meeting between the workgroups under Task Series 300. One (1) copy each of the draft and final technical memorandum will be provided in paper and electronic format to the NRD. The NRD, in turn, may reproduce additional copies for the PCWP members and others at its discretion from the electronic copies furnished, provided that acknowledgment of the source of information is provided and that no modifications to the final technical memorandum are made without the expressed consent of HDR.

## **TASK SERIES 500 – MASTER PLAN PILOT BASIN AND POLICY DEVELOPMENT**

**Task Objectives:** The purpose of this Task Series is to collectively use the preliminary input and information gained from Task Series 300 and 400 above; select a “pilot basin” within the Watershed; and provide additional detail and evaluation of policies and candidate solutions for identified problem areas with respect to the “Green, Clean, and Safe” Initiatives, develop strategies that can be considered for application to other areas in the Watershed, and summarize all policies, technical findings, and related recommendations within a technical memorandum.

**HDR Activities:** **Task 510 Select Pilot Basin.** This effort will involve the following activities:

- Derive criteria for selection of candidate pilot basins (basin location relative to development potential and timing, target basin size, robustness of information available, overall appropriateness and ease of extrapolation of findings and policies to other Watershed areas, etc.).
- Recommend pilot basin selection by way of a brief technical memorandum to the PCWP membership.



**Task 520 Additional Data Collection and Evaluation.** This Task is intended to provide additional inventory of problem areas within the selected pilot basin with a similar intent and content as Task Series 300 above, but with additional detail and focus. General activities under this Task will include:

- Collect additional GIS mapping coverage, operation and maintenance records, land use information, pollutant load information, etc. for problem areas.
- Conduct additional field reconnaissance.
- Evaluate hydrologic model for appropriateness. Modifications to the existing hydrologic model will be limited to accommodate sub-drainage areas of not less than one (1) square mile in size within the pilot basin. The purpose of updating the hydrologic model will be to evaluate the relative impacts to the hydrograph characteristics from various projected land uses and conceptual alternatives to assist in non-monetary ranking described in Task 520 below. No hydraulic modeling is contemplated in that regard.

**Task 520 Master Plan Pilot Basin.** This Task is intended to develop recommended policies, preliminary BMP projects, and concept-level cost estimates in keeping with the “Green, Clean, and Safe” Initiatives as follows:

- Develop recommended policies listed under the Objectives for Task 300 specific to the pilot basin (but keeping broader Watershed-wide perspectives in mind).
- Develop basic alternatives for mitigation or elimination of identified problems within the pilot basin and other related amenities and enhancements.
- Provide concept-level ranking of alternatives using monetary and non-monetary factors. Seek input from the workgroups and PCWP members as to criteria for ranking.
- Develop basic strategies for extrapolating the findings to other appropriate areas of the Watershed.
- Prepare a technical memorandum of findings and recommendations.
- Present an overview of the technical memorandum to the workgroups and the PCWP membership under the communications components of the other Task Series above.

**Task Deliverables:** HDR will provide:

- A technical memorandum in both hardcopy and electronic format, including policies and technical findings developed under Task Series 300 – Facilitated Workgroups; data collected and the catalog of problem areas from both Task Series 400 – Inventory Problem Areas and this Task Series 500; and the policy and technical refinements developed under the pilot basin work with the end goal of providing recommendations for how such pilot basin strategies may be extrapolated for use throughout the appropriate areas for the overall Watershed.
- Electronic copy of any additional GIS shape files used and created.

**Key Understandings:** It is assumed that hydrologic modeling will be limited to that described under Task 520 above and that no hydraulic modeling will be required. It is assumed that much of the work under this Task Series will need to be concurrent with Task Series 300 activities with the workgroups, with progress and completion geared to provide meaningful input, as well as to provide the foundation for the

concluding technical memorandum. It shall be understood that the progression of work is highly dependent on the timely availability of information and feedback from the various stakeholders; therefore, there are an undefined number of contingencies involved that HDR will do its best to manage. The level of effort under this Task Series will be limited to the time involvement and cost assumptions within Attachment A hereto, unless otherwise amended or re-allocated by the NRD. One (1) copy each of the draft and final technical memorandum will be provided in paper and electronic format to the NRD. The NRD, in turn, may reproduce additional copies for the PCWP members and others at its discretion from the electronic copies furnished, provided that acknowledgment of the source of information is provided and that no modifications to the final technical memorandum are made without the expressed consent of HDR.

#### **A.2.01 OWNER's Responsibilities**

A. OWNER shall do the following in a timely manner, so as not to delay the services of ENGINEER:

1. Provide all criteria and full information as to OWNER's requirements for the Assignment.
2. Furnish to ENGINEER all existing studies, reports and other available data pertinent to the Assignment, obtain or authorize ENGINEER to obtain or provide additional reports and data as required, and furnish to ENGINEER services of others as required for the performance of ENGINEER's services.

B. ENGINEER shall be entitled to use and rely upon all such information and services provided by OWNER or others in performing ENGINEER's services under this Agreement.

C. OWNER shall bear all costs incident to compliance with its responsibilities pursuant to this paragraph A.2.01.

#### **A.3.01 Times for Rendering Services**

A. The time period for the performance of ENGINEER's services shall be 22 months ~~with milestones as depicted on the schedule found in Attachment "B" established as follows:~~  
{State milestones}

B. ENGINEER's services under this Agreement will be considered complete when all deliverables set forth in Exhibit SR-A are submitted to OWNER.

#### **A.4.02 Other**

E. OWNER has established the following budgets:

{Fill in budget amount for ENGINEER's services for the Assignment}  
~~\_\_\_\_\_ {Fill in any budgetary requirements or considerations of OWNER, such as cost of a contemplated facility to be constructed}~~

Project fee is not to exceed three hundred forty nine thousand three hundred ninety dollars (\$349,390).

**ATTACHMENT "A" - FEE ESTIMATE  
STAGE III SERVICES  
PAPILLION CREEK WATERSHED STUDY**

TASKS		LABOR							EXPENSES							Est. Total Cost	
		Project Manager	Sr. Engr./ Technical	Project Engineer	Engineer/ Planner	Tech Support	Clerical	Total Hours	Total Labor Cost	Computer Technology Fee	Printing & Reprod.	Travel	Misc. Expenses	Admin. Fee	Total Expenses		
TASK 100 - PROJECT MANAGEMENT																	
Task 110	Internal Project Management	96		68			30	194	\$26,430	\$795				\$0	\$795	\$27,225	
Task 120	PCWP Meetings (22 regular meetings + 8 sub-committee meetings)	188		188	40			416	\$59,004	\$1,876	\$146	\$263	\$770	\$118	\$3,173	\$62,177	
Estimated Task Hours Subtotal		284	0	256	40	0	30	610									
Estimated Task Cost Subtotal		\$43,168	\$0	\$36,096	\$3,920	\$0	\$2,250		\$85,434	\$2,672	\$146	\$263	\$770	\$118	\$3,968	\$89,402	
TASK 200 - NPDES PHASE II SUPPORT																	
Task 210	Public Education and Outreach (website hosting)			6		33		39	\$4,509	\$160				\$0	\$160	\$4,669	
Task 220	Public Participation/Involvement																
Subtask 220.1	Public Forums (4 presentations)	104		176	32	48	8	368	\$48,296	\$1,660	\$1,269	\$81	\$120	\$147	\$3,277	\$51,573	
Subtask 220.2	Misc. Presentations (4 presentations)	12		4	4			20	\$2,760	\$90		\$41		\$4	\$135	\$2,915	
Task 230	Other NPDES Assistance	8		24	8	8	4	52	\$6,340	\$235				\$0	\$235	\$6,575	
Estimated Task Hours Subtotal		124	0	210	44	89	12	479									
Estimated Task Cost Subtotal		\$18,848	\$0	\$29,610	\$4,312	\$7,298	\$900		\$61,925	\$2,144	\$1,269	\$122	\$120	\$151	\$3,806	\$65,731	
TASK 300 - FACILITATED WORKGROUPS																	
Task 310	Policy Working Group	66	72	98	40	28	10	314	\$42,984	\$1,416	\$500	\$41		\$54	\$2,011	\$44,995	
Task 320	Technical Work Group	72	78	104	40	28	10	332	\$45,756	\$1,497	\$500	\$41		\$54	\$2,092	\$47,848	
Estimated Task Hours Subtotal		138	150	202	80	56	20	646									
Estimated Task Cost Subtotal		\$20,976	\$25,350	\$28,482	\$7,840	\$4,592	\$1,500		\$88,740	\$2,913	\$1,000	\$81	\$0	\$108	\$4,103	\$92,843	
TASK 400 - INVENTORY PROBLEM AREAS																	
Task 410	Data Collection	12		40	40	24	2	118	\$13,502	\$532	\$200	\$122	\$105	\$43	\$1,001	\$14,503	
Task 420	Catalog Problem Areas	16		24	40	60	4	144	\$14,956	\$649	\$50			\$5	\$704	\$15,660	
Estimated Task Hours Subtotal		28	0	64	80	84	6	262									
Estimated Task Cost Subtotal		\$4,256	\$0	\$9,024	\$7,840	\$6,888	\$450		\$28,458	\$1,182	\$250	\$122	\$105	\$48	\$1,706	\$30,164	
TASK 500 - MASTER PLAN PILOT BASIN AND POLICY DEVELOPMENT																	
Task 510	Select Pilot Basin	2		16	24	8		50	\$5,568	\$226				\$0	\$226	\$5,794	
Task 520	Additional Data Collection and Evaluation	8		48	48	80	8	192	\$19,848	\$866	\$50	\$81	\$53	\$18	\$1,068	\$20,916	
Task 530	Master Plan Pilot Basin	40		100	120	120	8	388	\$42,380	\$1,750	\$375			\$38	\$2,162	\$44,542	
Estimated Task Hours Subtotal		50	0	164	192	208	16	630									
Estimated Task Cost Subtotal		\$7,600	\$0	\$23,124	\$18,816	\$17,056	\$1,200		\$67,796	\$2,841	\$425	\$81	\$53	\$56	\$3,456	\$71,252	
Estimated Total Hours		624	150	896	436	437	84	2,627									
Estimated Total Cost		\$94,848	\$25,350	\$126,196	\$42,728	\$35,834	\$6,300		\$332,353	\$11,752	\$3,090	\$668	\$1,048	\$481	\$17,038	\$349,391	
															Estimated Total Stage III Cost, Rounded		\$349,390

[1] Reimbursable expenses (except computer technology fee) include a 10% administrative fee.

**ATTACHMENT "B" - SCHEDULE  
STAGE III SERVICES  
PAPILLION CREEK WATERSHED STUDY**

Task Description		2005												2006											
		Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov		
TASK 100 - PROJECT MANAGEMENT																									
Task 110	Internal Project Management																								
Task 120	PCWP Meetings	PCWP (3)	PCWP (3)	PCWP	PCWP	PCWP (3)	PCWP	PCWP	PCWP	PCWP	PCWP	PCWP	PCWP	PCWP	PCWP	PCWP	PCWP	PCWP	PCWP	PCWP	PCWP	PCWP (3)	PCWP		
TASK 200 - NPDES PHASE II SUPPORT																									
Task 210	Public Education and Outreach (website hosting)																								
Task 220	Public Participation/Involvement																								
Sub-Task 220	Public Forums	Forum	Forum			Forum																Forum			
Sub-Task 220	Miscellaneous Presentations		Misc			Misc	Misc																Misc		
Task 230	Other NPDES Assistance																								
TASK 300 - FACILITATED WORKGROUPS																									
Task 310	Policy Working Group						Joint			Policy			Policy			Policy				Joint					
Task 320	Technical Work Group									Tech			Tech			Tech									
TASK 400 - INVENTORY PROBLEM AREAS																									
Task 410	Data Collection																								
Task 420	Catalog Problem Areas						TM																		
TASK 500 - MASTER PLAN PILOT BASIN AND POLICY DEVELOPMENT																									
Task 510	Select Pilot Basin																								
Task 520	Additional Data Collection and Evaluation																								
Task 530	Master Plan Pilot Basin																				TM (draft)	TM (final)			

**LEGEND**

	Project activities in progress.
PCWP	PCWP Meeting - includes regular monthly meetings and assumes two sub-committee meetings in preparation for each public forum
Forum	Public Forums "Clean" Initiative on 2/17/2005, "Safe" Initiative on 3/21/2005, Wrap Up of Initiatives on 6/16/2005, and final public forum assumed in 10/2006
Misc	Miscellaneous presentations (city council meetings, county board meetings, etc. (timing on schedule shown for illustration purposes only).
Policy	Policy Workgroup Meeting; assume 2 hours in duration.
Tech	Technical Workgroup Meeting; assume 4 hours in duration.
Joint	Joint Policy and Technical Workgroups Meeting; assume 4 hours in duration
TM	Technical Memorandum

**SUGGESTED FORMAT**

(for use with 1910-19, 1996 Edition)

This is EXHIBIT **SR-B**, consisting of 6 pages, referred to in and part of the Agreement between **OWNER** and **ENGINEER** for Study and Report Phase Professional Services dated \_\_\_\_\_, 2005.

Initial:

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

**Standard Terms and Conditions**

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Article 6 of the Agreement is amended and supplemented to include the following agreement of the parties:

**B.6.01.B Standard Terms and Conditions**

1. Standard of Care

The standard of care for all professional 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.

2. Independent Contractor

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. Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either OWNER or ENGINEER. ENGINEER's services under this Agreement are being performed solely for OWNER's benefit, and no other entity shall have any claim against ENGINEER because of this Agreement or the performance or nonperformance of services hereunder. OWNER agrees to include a provision in all contracts with contractors and other entities involved in this project to carry out the intent of this paragraph.

3. Payments to ENGINEER

Invoices will be prepared in accordance with ENGINEER's standard invoicing practices and will be submitted to OWNER by ENGINEER monthly, unless otherwise agreed. 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.

4. Insurance

~~ENGINEER will maintain insurance coverage for Workers' Compensation, General Liability, and Automobile Liability and will provide certificates of insurance to OWNER upon request.~~

ENGINEER agrees to procure and maintain, at its expense Worker's Compensation insurance as required by statutes; Employer's Liability of \$250,000; Automobile Liability insurance of \$1,000,000 Combine single limit for bodily injury and property damage overall all vehicles, including hired vehicles, owned and non-owned vehicles; Commercial General Liability insurance of \$1,000,000 combined single limit for personal injury and property damage; and Professional Liability insurance of \$1,000,000 per claim for protection against claims arising out of the performance of services under this Agreement caused by negligent acts, errors, or omission for which ENGINEER is legally liable. ENGINEER agrees to indemnify OWNER for the claims covered by ENGINEER's insurance

The ENGINEER shall purchase, and maintain until the expiration of two years after completion of the Project policies of insurance with the following minimum requirements:

- a) Workmens Compensation and Employers Liability
  - i) Workers' Compensation: statutory minimum
  - ii) Longshore and Harbor Workers' Compensation Act endorsement and Admiralty Law endorsements (required if the work involves maritime operations).
  - iii) Employer's Liability: \$100,000.00 per accident.
- b) Professional malpractice
  - i) \$1,000,000.00 each claim
  - ii) \$2,000,000.00 aggregate
- c) Commercial General Liability – ISO Occurrence Form
  - i) \$1,000,000.00 each occurrence
  - ii) \$2,000,000.00 general aggregate
  - iii) \$2,000,000.00 products – completed operations aggregate
  - iv) \$1,000,000.00 personal & advertising injury
  - v) \$300,000.00 fire damage
  - vi) \$5,000.00 medical expense
- d) Business Auto Liability - Owned, Non-Owned & Hired vehicles \$1,000,000.00 combined single limit
- e) General Provisions:
  - i) All policies shall provide 30 days written notice to the OWNER prior to termination or material change by endorsement in the coverage provided.
  - ii) The OWNER reserves the right to approve the ENGINEER'S insurers.
  - iii) Workers Compensation and Commercial General Liability policies shall be endorsed to provide Waiver of Subrogation in favor of the OWNER.
  - iv) The Commercial General Liability policy shall be endorsed to include the OWNER as Additional Insured (form CG 20 10) and shall be endorsed to have any annual aggregate apply on a per-project basis.

Prior to commencement of the Project and from time to time thereafter at the OWNER's reasonable request, the ENGINEER shall submit certificates in form acceptable to the OWNER evidencing that all such insurance policies are in effect.

5. Indemnification and Allocation of Risk

a. To the fullest extent permitted by law, ENGINEER shall indemnify and hold harmless OWNER, OWNER's officers, directors, partners, and employees from and against costs, losses, and damages (including but not limited to reasonable fees and charges of engineers, architects, attorneys, and other professionals, and reasonable 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 consultants in the performance of ENGINEER's services under this Agreement.

b. To the fullest extent permitted by law, OWNER shall indemnify and hold harmless ENGINEER, ENGINEER's officers, directors, partners, employees, and consultants from and against costs, losses, and damages (including but not limited to reasonable fees and charges of engineers, architects, attorneys, and other professionals, and reasonable 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 consultants with respect to this Agreement.

c. To the fullest extent permitted by law, ENGINEER's total liability to OWNER and anyone claiming by, through, or under OWNER for any injuries, losses, damages and expenses 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.

d. In addition to the indemnity provided under paragraph B.6.01.B.5.b. of this Exhibit, and to the fullest extent permitted by law, OWNER shall indemnify and hold harmless ENGINEER and ENGINEER's officers, directors, partners, employees, and consultants from and against injuries, losses, damages and expenses (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other disputes resolution costs) caused by, arising out of, or resulting from Hazardous Environmental Condition, provided that (i) any such injuries, losses, damages and expenses are attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property, including the loss of use resulting therefrom, and (ii) nothing in this paragraph B.6.01.B.5.d shall obligate OWNER to indemnify any individual or entity to the extent of that individual or entity's own negligence or willful misconduct.

e. ~~The indemnification provision of paragraph B.6.01.B.5.a. is subject to and limited by the provisions agreed to by OWNER and ENGINEER in paragraph B.6.01.B.6, "Limit of Liability," of this Agreement.~~

6. ~~LIMIT OF LIABILITY~~

~~TO THE FULLEST EXTENT PERMITTED BY LAW, THE TOTAL LIABILITY, IN THE AGGREGATE, OF ENGINEER AND ENGINEER'S OFFICERS, DIRECTORS, PARTNERS, EMPLOYEES, AGENTS, AND CONSULTANTS, OR ANY OF THEM TO OWNER AND ANYONE CLAIMING BY, THROUGH, OR UNDER OWNER, FOR ANY AND ALL INJURIES, LOSSES, DAMAGES AND EXPENSES, WHATSOEVER ARISING OUT OF, RESULTING FROM, OR IN ANY WAY RELATED TO THIS 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, AND CONSULTANTS, OR ANY OF THEM, SHALL NOT EXCEED THE TOTAL AMOUNT OF \$ \_\_\_\_\_.~~

67. Dispute Resolution

a. OWNER and ENGINEER agree that they shall first submit any and all unsettled claims, counterclaims, disputes, and other matters in question between them arising out of or relating to this Agreement or the breach thereof ("disputes") to mediation.

b. If a party alleges a dispute or controversy with the other party arising out of or relating to the performance of services under this Agreement, then either party shall have the right to request mediation within 20 days after the claiming party has provided the other party with written notice describing the dispute and the claiming party's position with reference to the resolution of the dispute.

c. Except as otherwise agreed, mediation will proceed pursuant to the Construction Industry Mediation Rules of the American Arbitration Association in effect on the Effective Date of the Agreement. A mediator will be appointed within 30 days of receipt of a written request. The mediator will endeavor to complete the mediation within 30 days thereafter.

d. No performance obligation under or related to this Agreement shall be interrupted or delayed during any mediation proceeding except upon written agreement of both parties.

e. The mediator shall not be a witness in any legal proceedings related to this Agreement.

78. Termination of Contract

Either party may at any time, upon seven days prior written notice to the other party, terminate this Agreement. Upon such termination, OWNER shall pay to ENGINEER all amounts owing to ENGINEER under this Agreement, for all work performed up to the effective date of termination, plus reasonable termination costs.

89. Access

OWNER shall arrange for safe access to and make all provisions for ENGINEER and ENGINEER's Consultants to enter upon public and private property as required for ENGINEER to perform services under this Agreement.

940. Hazardous Environmental Conditions

It is acknowledged by both parties that ENGINEER's scope of services does not include any services related to a "Hazardous Environmental Condition," i.e. the presence at the site of asbestos, PCBs, 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 Assignment. 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 Assignment 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. 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.

1044. Patents

ENGINEER shall not conduct patent searches in connection with its services under this Agreement and assumes no responsibility for any patent or copyright infringement arising therefrom. Nothing in this Agreement shall be construed as a warranty or representation that anything made, used, or sold arising out of the services performed under this Agreement will be free from infringement of patents or copyrights.



1142.        Ownership and Reuse of Documents

All documents prepared or furnished by ENGINEER pursuant to this Agreement are instruments of service, and ENGINEER shall retain an ownership and property interest therein. Reuse of any such documents by OWNER shall be at OWNER's sole risk; and OWNER agrees to indemnify, and hold ENGINEER harmless from all claims, damages, and expenses including attorney's fees arising out of such reuse of documents by OWNER or by others acting through OWNER.

1243.        Use of Electronic Media

~~a. 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.~~

b. 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 Assignment.

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

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.

1344.        Opinions of Probable Construction Cost

a. Construction Cost is the cost to OWNER to construct proposed facilities. 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 OWNER's contemplated project, or the cost of other services to be provided by others to OWNER pursuant to of this Agreement. Construction Cost is one of the items comprising Total Project Costs.

b. 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.

1445.        Opinions of Total Project Costs

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

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

15~~16~~ Force Majeure

ENGINEER shall not be liable for any loss or damage due to failure or delay in rendering any service called for under this Agreement resulting from any cause beyond ENGINEER's reasonable control.

16~~17~~. Assignment

Neither party shall assign its rights, interests or obligations under this Agreement without the express written consent of the other party.

17~~18~~. Binding Effect

This Agreement shall bind, and the benefits thereof shall inure to the respective parties hereto, their legal representatives, executors, administrators, successors, and assigns.

18~~19~~. Severability and Waiver of Provisions

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. 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.

19~~20~~. Survival

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

20~~21~~. Headings

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

21~~22~~. Controlling Law

This Agreement is to be governed by the law of the State of Nebraska in which the ENGINEER's principal office is located.

22~~23~~. Notices

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.

SUGGESTED FORMAT  
(for use with 1910-19, 1996 Edition)

This is **EXHIBIT SR-C**, consisting of 1 page, referred to in and  
part of the **Agreement between OWNER and ENGINEER**  
**for Study and Report Phase Professional Services** dated  
\_\_\_\_\_, 2005.

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

**Reimbursable Expenses Schedule**

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Reimbursable Expenses are subject to annual review and adjustment. Reimbursable expense rates in effect on the date of the Agreement are:

8-1/2"x11" Copies/black & white	<u>\$0.06/page</u>
8-1/2"x11" Copies/color	<u>\$0.75/page</u>
11"x17" Copies/color	<u>\$1.50/page</u>
CD's, labels, and jewel cases	<u>\$1.50 each</u>
Presentation Boards (plot and mount)	<u>\$150.00 each</u>
Report Binders with Custom Index Tabs	<u>\$15.00 each</u>
Mileage (auto)	<u>\$0.405/mile</u>
Technology Fee	<u>\$4.10/direct labor hour</u>
GPS Unit	<u>cost</u>
Film and film processing	<u>cost</u>
Faeximile	<u>_____ /page</u>
8"x11" Copies/Impression	<u>_____ /page</u>
Blue Print Copies	<u>_____ /sq.ft.</u>
Reproducible Copies (Mylar)	<u>_____ /sq.ft.</u>
Reproducible Copies (Paper)	<u>_____ /sq.ft.</u>
Mileage (auto)	<u>_____ /mile</u>
Field Truck Daily Charge	<u>_____ /day</u>
Mileage (Field Truck)	<u>_____ /mile</u>
Field Survey Equipment	<u>_____ /day</u>
Computer CPU Charge	<u>_____ /hour</u>
Personal Computer Charge	<u>_____ /hour</u>
CAD Charge	<u>_____ /hour</u>
CAE Terminal Charge	<u>_____ /hour</u>
VCR and Monitor Charge	<u>_____ /day, \$/week, or \$ _____ /month</u>
Video Camcorder	<u>_____ /day, plus \$ _____ /tape</u>
Electrical Meters Charge	<u>_____ /week, or \$ _____ /month</u>
Flow Meter Charge	<u>_____ /week, or \$ _____ /month</u>
Rain Gauge	<u>_____ /week, or \$ _____ /month</u>
Sampler Charge	<u>_____ /week, or \$ _____ /month</u>
Dissolved Oxygen Tester Charge	<u>_____ /week</u>
Fluorometer	<u>_____ /week</u>
Laboratory Pilot Testing Charge	<u>_____ /week, or \$ _____ /month</u>
Soil Gas Kit	<u>_____ /day</u>
Submersible Pump	<u>_____ /day</u>
Water Level Meter	<u>_____ /day, or \$ _____ /month</u>
Soil Sampling	<u>_____ /sample</u>
Groundwater Sampling	<u>_____ /sample</u>

Health and Safety Level D	_____	/day
Health and Safety Level C	_____	/day
Electronic Media Charge	_____	/hour
Long Distance Phone Calls	cost	
Meals and Lodging	cost	

SUGGESTED FORMAT  
(for use with 1910-19, 1996 Edition)

This is ~~EXHIBIT SR-D~~, consisting of \_\_\_\_\_ pages, referred to  
in and part of the ~~Agreement between OWNER and~~  
~~ENGINEER for Study and Report Phase Professional~~  
~~Services~~ dated \_\_\_\_\_, \_\_\_\_\_.

Initial:

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

**Standard Hourly Rates Schedule**

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Standard Hourly Rates are subject to annual review and adjustment. Hourly rates for services in effect on the date of the Agreement are:

Billing Class 9	Senior Associate	\$ _____/hour
Billing Class 8	Staff Manager	\$ _____/hour
Billing Class 7	Professional VI	\$ _____/hour
Billing Class 6	Professional V	\$ _____/hour
Billing Class 5	Professional IV	\$ _____/hour
Billing Class 4	Professional III	\$ _____/hour
Billing Class 3	Professional II	\$ _____/hour
Billing Class 2	Technician II	\$ _____/hour
Billing Class 1	Technician I	\$ _____/hour
Principal		\$ _____/hour
Support Staff		\$ _____/hour

# MEMORANDUM

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

**SUBJECT:** Papio Creek Watershed PL 566 Structure #W-3, D-4 and Turtle Creek Watershed PL566 Structure #2 Rehabilitation Assistance

**DATE:** March 1, 2005

**BY:** Martin P. Cleveland, P.E., Construction Engineer

Approximately four years ago, the USDA – Natural Resources Conservation Service (NRCS) initiated a dam rehabilitation assistance program to address the needs of aging dams throughout the United States, in particular those dams built through their Public Law (PL) 566 Program. The PL 566 Program has been designing/building dams for about 65 years.

The District owns/operates 70 dams, 50 of which were built via the PL 566 Program. The District's PL 566 dams built in the period from 1962 to 1997. Approximately two years ago, the District initiated dam rehabilitation with NRCS on Papillion Creek Watershed PL566 Structures S-27, S-31 and S-32. We expect to receive a planning report in April 2005.

The NRCS has now identified 3 additional District dams (W-3, D-4 and Turtle Creek #2) that are eligible for the rehabilitation funding, primarily as the result of the proximity of residential units and major area roads downstream of these dams. If these dams would fail (breach) it could lead to potential damage to structures, roads and loss of human life.

The referenced three dams are shown on attached maps. Some information about these dams is as follows:

- Papio #W-3: Conservation pool size=5.92 acres  
Conservation pool storage=44 acre-ft.  
Dam height=31 ft.; Dam length=900 ft.  
Location: Section 27, T18N, R11E, Washington County  
Principal Spillway: 24" Metal Pipe  
Date Built: 1983  
Estimated Rehabilitation Costs: \$170,000 (\$123,500 Federal; \$66,500 NRD)
- Papio #D-4: Conservation Pool size=30.27 acres  
Conservation pool storage=52.6  
Dam height=27 ft.; Dam length=900 ft.  
Location: Section 9, T16N, R12E, Douglas County  
Principal Spillway: 48" Metal Pipe  
Date Built: 1986  
Estimated Rehabilitation Costs: \$770,000 (\$500,500 Federal; \$269,500 NRD)

- Turtle Creek #2: Conservation pool size=11.65 acres  
Conservation pool storage=20.11 acre-ft.  
Dam height=30 ft.; Dam length=600 ft.  
Location: Section 22, T13N, R11E, Sarpy County  
Principal Spillway: 42" Metal Pipe  
Date Built: 1962  
Estimated Rehabilitation Costs: \$770,000 (\$500,500 Federal; \$269,500 NRD)

Attached are the proposed Applications for Federal Assistance and Memorandums of Understanding (MOU) to the NRCS for the three dam sites. Federal funding for the project will be up to 65 percent of the total costs of the rehabilitation project, but will not exceed 100 percent of the actual construction costs incurred in the rehabilitation. NRD would be responsible for all land rights and permits. NRCS is responsible for 100 percent of all planning costs. At this stage of the project the estimated rehabilitation costs are very rough, as the specific design is unknown. Rehabilitation work is subject to available funding of both NRCS and NRD. It is anticipated that the dam's principal spillway and possibly auxiliary spillway will be replaced/modified as part of this project. This program appears to be of great value in financially assisting with reducing potential liability that the NRD has with these three dams and extending the life of these dams.

**Management recommends that the Subcommittee recommend to the Board that the General Manager be authorized to execute applications for Federal Assistance and Memorandums of Understanding for rehabilitation of Papio Creek Watershed Dam Sites #W-3, D-4 and Turtle Creek Watershed #2.**

PAPILLION CREEK WATERSHED  
COMPLETED PL566 SITES

BLAIR

26

28

123

KENNARD

232

30

31

25

P25

P230

W-2

W-3

W-4

W-6

W-26

W-15

W-18

W-20

W-76

D-76

D-20

D-4

D-17

D-18

D-15

D-38

S-4

S-6

S-21

S-35

S-32

S-31

S-27

Dutch Hall Rd.

Bennington

Military Ave.

Sachs Palmer

Big Papillion Creek

Dam Site 16

Fort St.

Maple St.

144th St.

132nd St.

680

84th St.

Little Papillion Creek

680

West Branch

West Dodge St.

Lake Candlewood

CITY OF OMAHA

Dodge St.

Pacific St.

Center St.

Dam Site 18

204th St.

182nd St.

180th St.

156th St.

156th St.

Q St.

MILLARD

Harrison St.

South Branch

Giles Rd.

Dam Site 20

120th St.

112th St.

144th St.

Schram Rd.

GRETNA

1-80

1-80

L St.

RALSTON

LA VISTA

84th

Cornhusker Rd.

36th

75

West Branch

62nd

Moore

Copenhart

25th

Schneckloth Rd.

WASHINGTON COUNTY

DOUGLAS COUNTY

DOUGLAS COUNTY

SARPY COUNTY

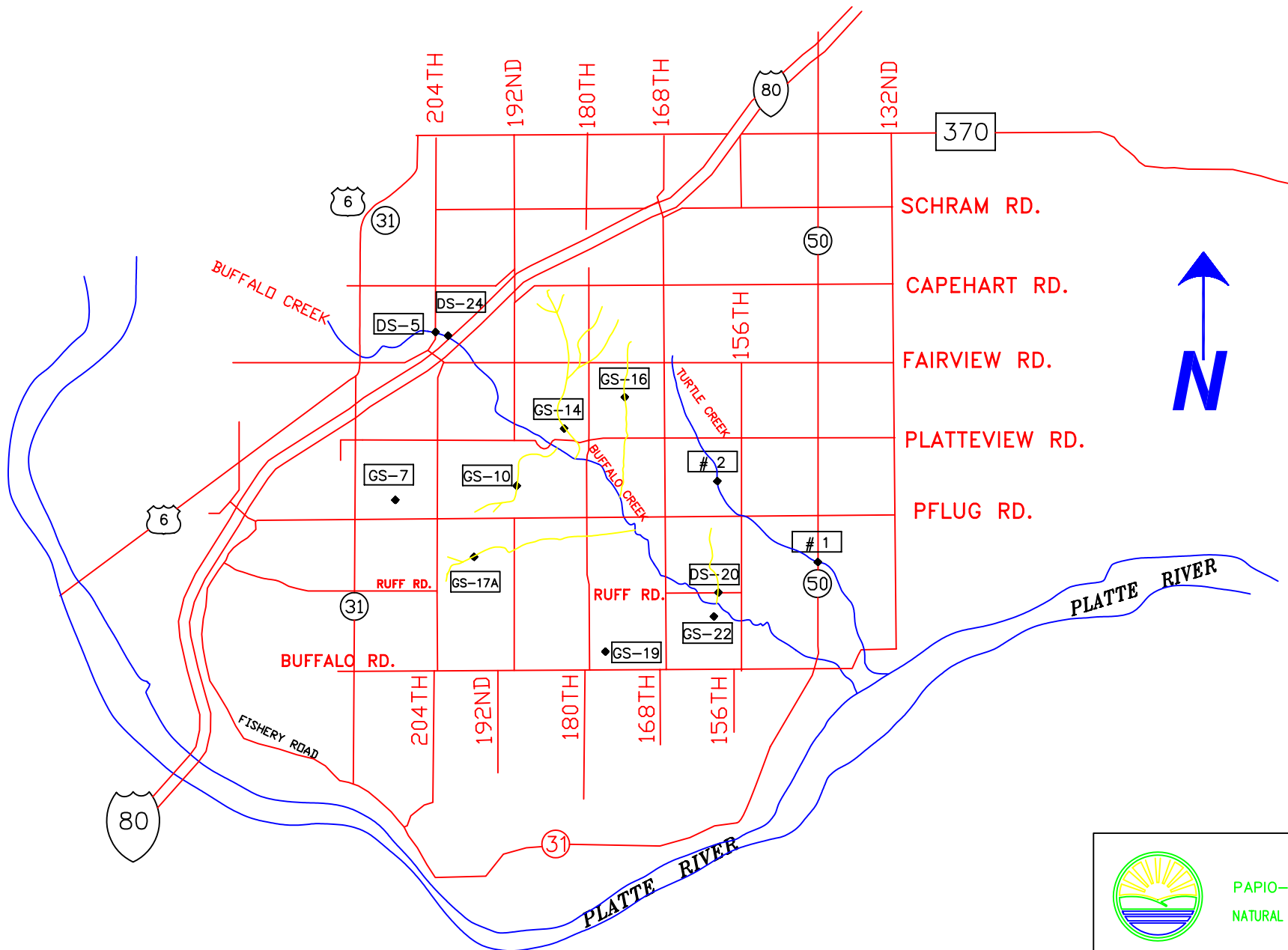
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PAPIO-MISSOURI RIVER  
NATURAL RESOURCES DISTRICT





# BUFFALO CREEK & TURTLE CREEK COMPLETED GRADE STABILIZATION STRUCTURES



PAPIO-MISSOURI RIVER  
NATURAL RESOURCES DISTRICT

DATE: 11/12/97

FILE NAME:K:\DWG\MNBUFF

# APPLICATION FOR FEDERAL ASSISTANCE

Version 7/03

<b>1. TYPE OF SUBMISSION:</b> Application		<b>2. DATE SUBMITTED</b> March 11, 2005		<b>Applicant Identifier</b> N/A	
<input type="checkbox"/> Construction		<input type="checkbox"/> Construction		<b>3. DATE RECEIVED BY STATE</b> State Application Identifier N/A	
<input checked="" type="checkbox"/> Non-Construction		<input type="checkbox"/> Non-Construction		<b>4. DATE RECEIVED BY FEDERAL AGENCY</b> Federal Identifier N/A	
<b>5. APPLICANT INFORMATION</b>					
Legal Name: Papio-Missouri River NRD			Organizational Unit: Department: Engineering		
Organizational DUNS: 078035185			Division: Dams		
Address: Street: 8901 S 154th Street			Name and telephone number of person to be contacted on matters involving this application (give area code)		
City: Omaha			Prefix: Mr.		First Name: Steven
County: Sarpy			Middle Name G.		
State: NE			Last Name Oltmans		
Zip Code 68138			Suffix:		
Country: USA			Email: soltmans@papiornrd.org		
<b>6. EMPLOYER IDENTIFICATION NUMBER (EIN):</b> 47-0542469			Phone Number (give area code) 402-444-6222		Fax Number (give area code) 402-895-6543
<b>8. TYPE OF APPLICATION:</b> <input checked="" type="checkbox"/> New <input type="checkbox"/> Continuation <input type="checkbox"/> Revision If Revision, enter appropriate letter(s) in box(es) (See back of form for description of letters.) Other (specify) <input type="checkbox"/> <input type="checkbox"/>			<b>7. TYPE OF APPLICANT:</b> (See back of form for Application Types) Other (specify) Special District		
<b>10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER:</b> TITLE (Name of Program): Watershed Protection & Flood Prevention Small Watershed Rehabilitation			<b>9. NAME OF FEDERAL AGENCY:</b> USDA NRCS		
<b>12. AREAS AFFECTED BY PROJECT</b> (Cities, Counties, States, etc.): Washington County			<b>11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:</b> Rehabilitate Papio Creek Watershed (PL566) Site W-3 from low hazard to high hazard class due to urbanization		
<b>13. PROPOSED PROJECT</b> Start Date: 10/06 Ending Date: 10/07			<b>14. CONGRESSIONAL DISTRICTS OF:</b> a. Applicant NE #2 (Terry) b. Project NE #1 (Fortanberry)		
<b>15. ESTIMATED FUNDING:</b>			<b>16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?</b>		
a. Federal	\$	123,500 *	a. Yes. <input type="checkbox"/> THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON		
b. Applicant	\$	66,500	DATE:		
c. State	\$		b. No. <input type="checkbox"/> PROGRAM IS NOT COVERED BY E. O. 12372		
d. Local	\$		<input checked="" type="checkbox"/> OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW		
e. Other	\$		<b>17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?</b>		
f. Program Income	\$		<input type="checkbox"/> Yes If "Yes" attach an explanation. <input checked="" type="checkbox"/> No		
g. TOTAL	\$	170,000 *			
<b>18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.</b>					
<b>a. Authorized Representative</b>					
Prefix MR.		First Name Steven		Middle Name G.	
Last Name Oltmans		Suffix			
b. Title General Manager		c. Telephone Number (give area code) 402-444-6222			
d. Signature of Authorized Representative		e. Date Signed			

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\* Does not include possible sediment  
removal or land rights acquisition

Standard Form 424 (Rev.9-2003)  
Prescribed by OMB Circular A-102

# APPLICATION FOR FEDERAL ASSISTANCE

Version 7/03

<b>1. TYPE OF SUBMISSION:</b> Application <input type="checkbox"/> Construction <input checked="" type="checkbox"/> Non-Construction		<b>2. DATE SUBMITTED</b> March 11, 2005		<b>Applicant Identifier</b> N/A	
<b>Pre-application</b> <input type="checkbox"/> Construction <input type="checkbox"/> Non-Construction		<b>3. DATE RECEIVED BY STATE</b>		<b>State Application Identifier</b> N/A	
		<b>4. DATE RECEIVED BY FEDERAL AGENCY</b>		<b>Federal Identifier</b> N/A	
<b>5. APPLICANT INFORMATION</b>					
<b>Legal Name:</b> Papio-Missouri River NRD			<b>Organizational Unit:</b> Department: Engineering		
<b>Organizational DUNS:</b> 078035185			<b>Division:</b> Dams		
<b>Address:</b> Street: 8901 S 154th Street			<b>Name and telephone number of person to be contacted on matters involving this application (give area code)</b>		
<b>City:</b> Omaha			<b>Prefix:</b> Mr.		<b>First Name:</b> Steven
<b>County:</b> Sarpy			<b>Middle Name</b> G.		
<b>State:</b> NE			<b>Last Name</b> Oltmans		
<b>Zip Code</b> 68138			<b>Suffix:</b>		
<b>Country:</b>			<b>Email:</b> soltmans@papiornrd.org		
<b>6. EMPLOYER IDENTIFICATION NUMBER (EIN):</b> 47-0542469			<b>Phone Number (give area code)</b> 402-444-6222		<b>Fax Number (give area code)</b> 402-895-6543
<b>8. TYPE OF APPLICATION:</b> <input checked="" type="checkbox"/> New <input type="checkbox"/> Continuation <input type="checkbox"/> Revision If Revision, enter appropriate letter(s) in box(es) (See back of form for description of letters.) Other (specify) <input type="checkbox"/> <input type="checkbox"/>			<b>7. TYPE OF APPLICANT:</b> (See back of form for Application Types) Other (specify) Special District		
<b>10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER:</b> TITLE (Name of Program): Watershed Protection & Flood Prevention Small Watershed Rehabilitation			<b>9. NAME OF FEDERAL AGENCY:</b> USDA NRCS		
<b>12. AREAS AFFECTED BY PROJECT</b> (Cities, Counties, States, etc.): Douglas County			<b>11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:</b> Rehabilitate Papio Creek Watershed (PL566) Site D-4 from low hazard to high hazard class due to urbanization		
<b>13. PROPOSED PROJECT</b> Start Date: 10/06 Ending Date: 10/07			<b>14. CONGRESSIONAL DISTRICTS OF:</b> a. Applicant NE #2 (Terry) b. Project NE #2 (Terry)		
<b>15. ESTIMATED FUNDING:</b>			<b>16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?</b>		
a. Federal	\$	500,500**	a. Yes. <input type="checkbox"/> THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON		
b. Applicant	\$	269,500	DATE:		
c. State	\$		b. No. <input type="checkbox"/> PROGRAM IS NOT COVERED BY E. O. 12372		
d. Local	\$		<input checked="" type="checkbox"/> OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW		
e. Other	\$		<b>17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?</b>		
f. Program Income	\$		<input type="checkbox"/> Yes If "Yes" attach an explanation. <input checked="" type="checkbox"/> No		
g. TOTAL	\$	770,000**			
<b>18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.</b>					
<b>a. Authorized Representative</b>					
<b>Prefix</b> MR.		<b>First Name</b> Steven		<b>Middle Name</b> G.	
<b>Last Name</b> Oltmans		<b>Suffix</b>			
<b>b. Title</b> General Manager				<b>c. Telephone Number (give area code)</b> 402-444-6222	
<b>d. Signature of Authorized Representative</b>				<b>e. Date Signed</b>	

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\*\*Does not include possible sediment  
removal or land rights acquisition

Standard Form 424 (Rev.9-2003)  
Prescribed by OMB Circular A-102

# APPLICATION FOR FEDERAL ASSISTANCE

Version 7/03

<b>1. TYPE OF SUBMISSION:</b> Application		<b>2. DATE SUBMITTED</b> March 11, 2005	<b>Applicant Identifier</b> N/A	
<input checked="" type="checkbox"/> <b>Construction</b>	<input type="checkbox"/> <b>Pre-application</b>	<b>3. DATE RECEIVED BY STATE</b>	State Application Identifier N/A	
<input checked="" type="checkbox"/> <b>Non-Construction</b>	<input type="checkbox"/> <b>Construction</b>	<b>4. DATE RECEIVED BY FEDERAL AGENCY</b>	Federal Identifier N/A	
<b>5. APPLICANT INFORMATION</b>				
Legal Name: Papio-Missouri River NRD		<b>Organizational Unit:</b> Department: Engineering		
Organizational DUNS: 078035185		Division: Dams		
<b>Address:</b> Street: 8901 S 154th Street		<b>Name and telephone number of person to be contacted on matters involving this application (give area code)</b> Prefix: Mr. First Name: Steven		
City: Omaha		Middle Name G.		
County: Sarpy		Last Name Oltmans		
State: NE	Zip Code 68138	Suffix:		
Country: USA		Email: soilmans@papiornrd.org		
<b>6. EMPLOYER IDENTIFICATION NUMBER (EIN):</b> 47-0542469		Phone Number (give area code) 402-444-6222		Fax Number (give area code) 402-895-6543
<b>8. TYPE OF APPLICATION:</b> <input checked="" type="checkbox"/> <b>New</b> <input type="checkbox"/> <b>Continuation</b> <input type="checkbox"/> <b>Revision</b> If Revision, enter appropriate letter(s) in box(es) (See back of form for description of letters.) Other (specify) <input type="checkbox"/> <input type="checkbox"/>		<b>7. TYPE OF APPLICANT:</b> (See back of form for Application Types) Other (specify) Special District		
<b>10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER:</b> TITLE (Name of Program): Watershed Protection & Flood Prevention Small Watershed Rehabilitation		<b>9. NAME OF FEDERAL AGENCY:</b> USDA NRCS		
<b>12. AREAS AFFECTED BY PROJECT</b> (Cities, Counties, States, etc.): Sarpy County		<b>11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:</b> Rehabilitate Turtle Creek Watershed (PL566) Site #2 from low hazard to high hazard class due to urbanization		
<b>13. PROPOSED PROJECT</b> Start Date: 10/06 Ending Date: 10/07		<b>14. CONGRESSIONAL DISTRICTS OF:</b> a. Applicant NE #2 (Terry) b. Project NE #2 (Terry)		
<b>15. ESTIMATED FUNDING:</b>		<b>16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?</b>		
a. Federal	\$ 500,500.00 *	a. Yes. <input type="checkbox"/> THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON DATE:		
b. Applicant	\$ 269,500.00	b. No. <input type="checkbox"/> PROGRAM IS NOT COVERED BY E. O. 12372		
c. State	\$ .00	<input checked="" type="checkbox"/> OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW		
d. Local	\$ .00	<b>17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?</b>		
e. Other	\$ .00	<input type="checkbox"/> Yes If "Yes" attach an explanation. <input checked="" type="checkbox"/> No		
f. Program Income	\$ .00			
g. TOTAL	\$ 770,000.00 *			
<b>18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.</b>				
<b>a. Authorized Representative</b>				
Prefix MR.	First Name Steven	Middle Name G.		
Last Name Oltmans		Suffix		
b. Title General Manager		c. Telephone Number (give area code) 402-444-6222		
d. Signature of Authorized Representative		e. Date Signed		

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\* Does not include possible sediment  
removal or land rights acquisition

Standard Form 424 (Rev.9-2003)  
Prescribed by OMB Circular A-102

**MEMORANDUM OF UNDERSTANDING (MOU)**  
**Between the**  
**NATURAL RESOURCES CONSERVATION SERVICE (NRCS)**  
**UNITED STATES DEPARTMENT OF AGRICULTURE (USDA)**  
**and**  
**THE PAPIO-MISSOURI RIVER**  
**NATURAL RESOURCES DISTRICT**  
**Sponsor for**  
**Papillion Creek, Dam No. W-3**

This MOU is between the USDA, NRCS, and the Papio-Missouri River Natural Resources District, Sponsoring Local Organization for this project, hereinafter referred to as Sponsor.

**AUTHORITIES, STATUTES, LAWS**

The authority of NRCS to enter into this MOU is Section 14 of The Watershed Protection and Flood Prevention Act, 16 U.S.C. 1012, as added by Section 313 of Public Law 106-472. This section authorizes NRCS to provide technical assistance (TA) and financial assistance (FA) to local project Sponsors for rehabilitation of aging dams constructed under the Watershed Protection and Flood Prevention Act (Public Law 83-566), the Flood Control Act of 1944 (Public Law 78-534), the Pilot Watershed Program, and the Resource Conservation and Development (RC&D) Program.

**STATEMENT OF PURPOSE**

Previously the NRCS provided TA and/or FA to the Sponsor for works of improvement known as dam no. W-3 in the Papio Creek Project. This project was originally authorized and installed under the Watershed Protection and Flood Prevention Act. NRCS has determined that this dam is eligible for rehabilitation under the authorities cited above.

According to the project plan and Operation and Maintenance (O&M) agreement for this project, the Sponsor is responsible for the O&M of this dam to assure it will function as designed and constructed. The Sponsor has an interest in extending the service life of the dam and meeting applicable safety and performance standards. The Sponsor recognizes that the process of rehabilitating a dam takes significant advance preparation, and would like to initiate work on specific areas of planning and design of a rehabilitation project.

NRCS has the authority to assist the Sponsor with rehabilitation of the dam identified above. Planning and design work will be done with NRCS funding and will not be considered a portion of the total cost for cost share purposes. Although, NRCS resources cannot be committed to this project at this time. However, NRCS concurs with the Sponsor initiating work on specific areas of planning and design of the rehabilitation project.

Federal funds for a particular rehabilitation project will be equal to 65 percent of the total costs of the rehabilitation project, but will not exceed 100 percent of the actual construction costs incurred in the rehabilitation. Also, the Sponsor will be responsible for acquisition of

all land rights and permits. The value of non-Federal in-kind contributions can be credited to the Sponsor's 35 percent share of the total cost of the rehabilitation project.

### **GOAL**

The primary goal of this MOU is to establish a framework under which the Sponsor may proceed with work on specific aspects of the proposed rehabilitation project.

This MOU establishes a basis for cooperation between the parties to define acceptable in-kind contributions for this project. Therefore, the parties pledge to work together with the mutual goal of rehabilitation of this project within the current limits of their respective authorities and available funding.

### **SCOPE OF MOU**

The Sponsor may provide all or a portion of the Sponsor's 35 percent share of the total cost of the rehabilitation project by providing an in-kind contribution of services and land rights acquisition. NRCS and Sponsor agree that the following services and in-kind contributions will be considered for credit to the Sponsor's share of the total rehabilitation cost of this project:

- |   |   |
|---|---|
| • <b>Land rights acquisition</b>                          | <b>To be determined in planning process</b> |
| • <b>Land Surveys*</b>                                    | <b>To be determined in planning process</b> |
| • <b>Staff time &amp; costs for information gathering</b> | <b>NRCS and NRD will estimate</b>           |
| • <b>Staff time &amp; costs for public notification</b>   | <b>NRCS and NRD will estimate</b>           |

\*Land surveys done by and costs incurred by Nebraska Department of Natural Resources. This cost is considered part of the local 35% cost share.

***The Sponsor shall provide NRCS with documentation of the actual costs incurred for the services and land rights acquisition for determination of final credit values.***

## **LIMITATIONS**

- The in-kind credit values shown above will be the maximum to be considered for the above stated services and land rights (unless later amended and agreed to by both parties).
- The technical quality of the services provided must be concurred in by NRCS prior to in-kind credit being given.
- Only services and land rights acquisition provided by the Sponsor after November 9, 2000 (date of enactment of PL-106-472) will be credited.
- The value of in-kind credit values will be determined as set forth in the NRCS National Contract Grants and Agreements Manual, Sections 510.64 through 510.67.
- The in-kind credit values will not exceed 35 percent of the total costs of the rehabilitation project described above. The Sponsor will receive no cash reimbursement or credit for in-kind contributions that exceed this amount.
- No credit for in-kind contributions will be given for Sponsor's actions normally needed for carrying out their previously assigned responsibilities for this project.
- This MOU is not a fund-obligating document.
- There is no guarantee that funds will be appropriated by Congress for the dam rehabilitation project described in this MOU.
- There is no guarantee that, if funds are appropriated by Congress, the dam rehabilitation project described in this MOU will receive priority for completion by NRCS.
- There is no guarantee that, if the dam rehabilitation project described in this MOU is selected as a NRCS priority rehabilitation project, the alternatives currently considered by the Sponsor will be the NRCS recommended or the final alternative selected by the Sponsor.
- Determination of the final amounts to be credited shall be at the sole discretion of NRCS.
- All actions taken and costs incurred by the Sponsor prior to the time of approval of the rehabilitation plan will be entirely at its own risk. There is no guarantee, implied or otherwise, that any services or land rights provided by the sponsor will be credited as an in-kind contribution.

### **CIVIL RIGHTS**

The parties will be in compliance with the nondiscrimination provisions contained in Titles VI and VII of the Civil Rights Act of 1964, as amended, the Civil Rights Restoration Act of 1987 (Public Law 100-259) and other nondiscrimination statutes, namely, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, Americans with Disabilities Act of 1990, and in accordance with regulations of the Secretary of Agriculture (7CFR-15, Subparts A & B) which provide that no person in the United States shall, on the grounds of race, color, national origin, age, sex, religion, marital status, or disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance from USDA or any agency thereof.

### **TERMINATION**

This MOU can be modified to terminated at any time by mutual consent of both parties or can be terminated by either party giving 60 days written notice to the other party.

### **USDA – NATURAL RESOURCES CONSERVATION SERVICE**

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

Title: State Conservationist

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

### **PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT**

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

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

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



**MEMORANDUM OF UNDERSTANDING (MOU)**  
**Between the**  
**NATURAL RESOURCES CONSERVATION SERVICE (NRCS)**  
**UNITED STATES DEPARTMENT OF AGRICULTURE (USDA)**  
**and**  
**THE PAPIO-MISSOURI RIVER**  
**NATURAL RESOURCES DISTRICT**  
**Sponsor for**  
**Papillion Creek, Dam No. D-4**

This MOU is between the USDA, NRCS, and the Papio-Missouri River Natural Resources District, Sponsoring Local Organization for this project, hereinafter referred to as Sponsor.

**AUTHORITIES, STATUTES, LAWS**

The authority of NRCS to enter into this MOU is Section 14 of The Watershed Protection and Flood Prevention Act, 16 U.S.C. 1012, as added by Section 313 of Public Law 106-472. This section authorizes NRCS to provide technical assistance (TA) and financial assistance (FA) to local project Sponsors for rehabilitation of aging dams constructed under the Watershed Protection and Flood Prevention Act (Public Law 83-566), the Flood Control Act of 1944 (Public Law 78-534), the Pilot Watershed Program, and the Resource Conservation and Development (RC&D) Program.

**STATEMENT OF PURPOSE**

Previously the NRCS provided TA and/or FA to the Sponsor for works of improvement known as dam no. D-4 in the Papio Creek Project. This project was originally authorized and installed under the Watershed Protection and Flood Prevention Act. NRCS has determined that this dam is eligible for rehabilitation under the authorities cited above.

According to the project plan and Operation and Maintenance (O&M) agreement for this project, the Sponsor is responsible for the O&M of this dam to assure it will function as designed and constructed. The Sponsor has an interest in extending the service life of the dam and meeting applicable safety and performance standards. The Sponsor recognizes that the process of rehabilitating a dam takes significant advance preparation, and would like to initiate work on specific areas of planning and design of a rehabilitation project.

NRCS has the authority to assist the Sponsor with rehabilitation of the dam identified above. Planning and design work will be done with NRCS funding and will not be considered a portion of the total cost for cost share purposes. Although, NRCS resources cannot be committed to this project at this time. However, NRCS concurs with the Sponsor initiating work on specific areas of planning and design of the rehabilitation project.

Federal funds for a particular rehabilitation project will be equal to 65 percent of the total costs of the rehabilitation project, but will not exceed 100 percent of the actual construction costs incurred in the rehabilitation. Also, the Sponsor will be responsible for acquisition of

all land rights and permits. The value of non-Federal in-kind contributions can be credited to the Sponsor's 35 percent share of the total cost of the rehabilitation project.

### **GOAL**

The primary goal of this MOU is to establish a framework under which the Sponsor may proceed with work on specific aspects of the proposed rehabilitation project.

This MOU establishes a basis for cooperation between the parties to define acceptable in-kind contributions for this project. Therefore, the parties pledge to work together with the mutual goal of rehabilitation of this project within the current limits of their respective authorities and available funding.

### **SCOPE OF MOU**

The Sponsor may provide all or a portion of the Sponsor's 35 percent share of the total cost of the rehabilitation project by providing an in-kind contribution of services and land rights acquisition. NRCS and Sponsor agree that the following services and in-kind contributions will be considered for credit to the Sponsor's share of the total rehabilitation cost of this project:

- |   |   |
|---|---|
| • <b>Land rights acquisition</b>                          | <b>To be determined in planning process</b> |
| • <b>Land Surveys*</b>                                    | <b>To be determined in planning process</b> |
| • <b>Staff time &amp; costs for information gathering</b> | <b>NRCS and NRD will estimate</b>           |
| • <b>Staff time &amp; costs for public notification</b>   | <b>NRCS and NRD will estimate</b>           |

\*Land surveys done by and costs incurred by Nebraska Department of Natural Resources. This cost is considered part of the local 35% cost share.

***The Sponsor shall provide NRCS with documentation of the actual costs incurred for the services and land rights acquisition for determination of final credit values.***

## **LIMITATIONS**

- The in-kind credit values shown above will be the maximum to be considered for the above stated services and land rights (unless later amended and agreed to by both parties).
- The technical quality of the services provided must be concurred in by NRCS prior to in-kind credit being given.
- Only services and land rights acquisition provided by the Sponsor after November 9, 2000 (date of enactment of PL-106-472) will be credited.
- The value of in-kind credit values will be determined as set forth in the NRCS National Contract Grants and Agreements Manual, Sections 510.64 through 510.67.
- The in-kind credit values will not exceed 35 percent of the total costs of the rehabilitation project described above. The Sponsor will receive no cash reimbursement or credit for in-kind contributions that exceed this amount.
- No credit for in-kind contributions will be given for Sponsor's actions normally needed for carrying out their previously assigned responsibilities for this project.
- This MOU is not a fund-obligating document.
- There is no guarantee that funds will be appropriated by Congress for the dam rehabilitation project described in this MOU.
- There is no guarantee that, if funds are appropriated by Congress, the dam rehabilitation project described in this MOU will receive priority for completion by NRCS.
- There is no guarantee that, if the dam rehabilitation project described in this MOU is selected as a NRCS priority rehabilitation project, the alternatives currently considered by the Sponsor will be the NRCS recommended or the final alternative selected by the Sponsor.
- Determination of the final amounts to be credited shall be at the sole discretion of NRCS.
- All actions taken and costs incurred by the Sponsor prior to the time of approval of the rehabilitation plan will be entirely at its own risk. There is no guarantee, implied or otherwise, that any services or land rights provided by the sponsor will be credited as an in-kind contribution.

### **CIVIL RIGHTS**

The parties will be in compliance with the nondiscrimination provisions contained in Titles VI and VII of the Civil Rights Act of 1964, as amended, the Civil Rights Restoration Act of 1987 (Public Law 100-259) and other nondiscrimination statutes, namely, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, Americans with Disabilities Act of 1990, and in accordance with regulations of the Secretary of Agriculture (7CFR-15, Subparts A & B) which provide that no person in the United States shall, on the grounds of race, color, national origin, age, sex, religion, marital status, or disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance from USDA or any agency thereof.

### **TERMINATION**

This MOU can be modified to terminated at any time by mutual consent of both parties or can be terminated by either party giving 60 days written notice to the other party.

### **USDA – NATURAL RESOURCES CONSERVATION SERVICE**

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

Title: State Conservationist

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

### **PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT**

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

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

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

**MEMORANDUM OF UNDERSTANDING (MOU)**  
**Between the**  
**NATURAL RESOURCES CONSERVATION SERVICE (NRCS)**  
**UNITED STATES DEPARTMENT OF AGRICULTURE (USDA)**  
**and**  
**THE PAPIO-MISSOURI RIVER**  
**NATURAL RESOURCES DISTRICT**  
**Sponsor for**  
**Turtle Creek, Dam No. 2**

This MOU is between the USDA, NRCS, and the Papio-Missouri River Natural Resources District, Sponsoring Local Organization for this project, hereinafter referred to as Sponsor.

**AUTHORITIES, STATUTES, LAWS**

The authority of NRCS to enter into this MOU is Section 14 of The Watershed Protection and Flood Prevention Act, 16 U.S.C. 1012, as added by Section 313 of Public Law 106-472. This section authorizes NRCS to provide technical assistance (TA) and financial assistance (FA) to local project Sponsors for rehabilitation of aging dams constructed under the Watershed Protection and Flood Prevention Act (Public Law 83-566), the Flood Control Act of 1944 (Public Law 78-534), the Pilot Watershed Program, and the Resource Conservation and Development (RC&D) Program.

**STATEMENT OF PURPOSE**

Previously the NRCS provided TA and/or FA to the Sponsor for works of improvement known as dam no. 2 in the Turtle Creek Project. This project was originally authorized and installed under the Watershed Protection and Flood Prevention Act. NRCS has determined that this dam is eligible for rehabilitation under the authorities cited above.

According to the project plan and Operation and Maintenance (O&M) agreement for this project, the Sponsor is responsible for the O&M of this dam to assure it will function as designed and constructed. The Sponsor has an interest in extending the service life of the dam and meeting applicable safety and performance standards. The Sponsor recognizes that the process of rehabilitating a dam takes significant advance preparation, and would like to initiate work on specific areas of planning and design of a rehabilitation project.

NRCS has the authority to assist the Sponsor with rehabilitation of the dam identified above. Planning and design work will be done with NRCS funding and will not be considered a portion of the total cost for cost share purposes. Although, NRCS resources cannot be committed to this project at this time. However, NRCS concurs with the Sponsor initiating work on specific areas of planning and design of the rehabilitation project.

Federal funds for a particular rehabilitation project will be equal to 65 percent of the total costs of the rehabilitation project, but will not exceed 100 percent of the actual construction costs incurred in the rehabilitation. Also, the Sponsor will be responsible for acquisition of

all land rights and permits. The value of non-Federal in-kind contributions can be credited to the Sponsor's 35 percent share of the total cost of the rehabilitation project.

### **GOAL**

The primary goal of this MOU is to establish a framework under which the Sponsor may proceed with work on specific aspects of the proposed rehabilitation project.

This MOU establishes a basis for cooperation between the parties to define acceptable in-kind contributions for this project. Therefore, the parties pledge to work together with the mutual goal of rehabilitation of this project within the current limits of their respective authorities and available funding.

### **SCOPE OF MOU**

The Sponsor may provide all or a portion of the Sponsor's 35 percent share of the total cost of the rehabilitation project by providing an in-kind contribution of services and land rights acquisition. NRCS and Sponsor agree that the following services and in-kind contributions will be considered for credit to the Sponsor's share of the total rehabilitation cost of this project:

- |   |   |
|---|---|
| • <b>Land rights acquisition</b>                          | <b>To be determined in planning process</b> |
| • <b>Land Surveys*</b>                                    | <b>To be determined in planning process</b> |
| • <b>Staff time &amp; costs for information gathering</b> | <b>NRCS and NRD will estimate</b>           |
| • <b>Staff time &amp; costs for public notification</b>   | <b>NRCS and NRD will estimate</b>           |

\*Land surveys done by and costs incurred by Nebraska Department of Natural Resources. This cost is considered part of the local 35% cost share.

***The Sponsor shall provide NRCS with documentation of the actual costs incurred for the services and land rights acquisition for determination of final credit values.***

## **LIMITATIONS**

- The in-kind credit values shown above will be the maximum to be considered for the above stated services and land rights (unless later amended and agreed to by both parties).
- The technical quality of the services provided must be concurred in by NRCS prior to in-kind credit being given.
- Only services and land rights acquisition provided by the Sponsor after November 9, 2000 (date of enactment of PL-106-472) will be credited.
- The value of in-kind credit values will be determined as set forth in the NRCS National Contract Grants and Agreements Manual, Sections 510.64 through 510.67.
- The in-kind credit values will not exceed 35 percent of the total costs of the rehabilitation project described above. The Sponsor will receive no cash reimbursement or credit for in-kind contributions that exceed this amount.
- No credit for in-kind contributions will be given for Sponsor's actions normally needed for carrying out their previously assigned responsibilities for this project.
- This MOU is not a fund-obligating document.
- There is no guarantee that funds will be appropriated by Congress for the dam rehabilitation project described in this MOU.
- There is no guarantee that, if funds are appropriated by Congress, the dam rehabilitation project described in this MOU will receive priority for completion by NRCS.
- There is no guarantee that, if the dam rehabilitation project described in this MOU is selected as a NRCS priority rehabilitation project, the alternatives currently considered by the Sponsor will be the NRCS recommended or the final alternative selected by the Sponsor.
- Determination of the final amounts to be credited shall be at the sole discretion of NRCS.
- All actions taken and costs incurred by the Sponsor prior to the time of approval of the rehabilitation plan will be entirely at its own risk. There is no guarantee, implied or otherwise, that any services or land rights provided by the sponsor will be credited as an in-kind contribution.

### **CIVIL RIGHTS**

The parties will be in compliance with the nondiscrimination provisions contained in Titles VI and VII of the Civil Rights Act of 1964, as amended, the Civil Rights Restoration Act of 1987 (Public Law 100-259) and other nondiscrimination statutes, namely, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, Americans with Disabilities Act of 1990, and in accordance with regulations of the Secretary of Agriculture (7CFR-15, Subparts A & B) which provide that no person in the United States shall, on the grounds of race, color, national origin, age, sex, religion, marital status, or disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance from USDA or any agency thereof.

### **TERMINATION**

This MOU can be modified to terminated at any time by mutual consent of both parties or can be terminated by either party giving 60 days written notice to the other party.

### **USDA – NATURAL RESOURCES CONSERVATION SERVICE**

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

Title: State Conservationist\_\_\_\_\_

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

### **PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT**

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

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

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



# Memorandum

To: Programs, Projects and Operations Subcommittee

Subject: Western Douglas County Trails Project – Interlocal Agreement

Date: February 23, 2005

From: Gerry Bowen

In March, 2004, the District adopted the Western Douglas County Trails Plan. The plan anticipated an interlocal agreement to implement the plan. The agreement involves the Cities of Elkhorn and Valley, the Village of Waterloo, Douglas County, and the District.

On February 22, 2005, representatives of Valley, Waterloo, and the District met to discuss the draft agreement. Slight modifications were agreed to at the meeting. The attached draft agreement reflects the changes made at the meeting. A sample trail project to connect Valley and Waterloo was presented at the meeting (attached). It was prepared according to provisions of the agreement.

In summary, the agreement calls for the District to be the “administrator” of the project, contract for all engineering services, contract for construction, and pay 40% of the local share (after application of grant funds) of the costs. Douglas County would reimburse the District 40% of the local share of the costs. The remaining local costs will be split among the communities (defined in the agreement as their extraterritorial jurisdiction [ETJ]) through which a particular trail segment passes. Operation and maintenance of a particular trail segment would be the responsibility of the communities in whose ETJ the trail is located.

In the event where the trail segment is in Douglas County’s jurisdiction, the NRD and County would share the construction costs equally, with the NRD being responsible for operation and maintenance.

In addition, the NRD would be responsible for the operation and maintenance of a pedestrian bridge anticipated to cross the Elkhorn River at Waterloo. The NRD would also be responsible for replacement of an anticipated trail under Highway 64 in Waterloo. The Village of Waterloo would perform routine maintenance activities (mowing, trash pick-up, sediment removal, etc), but were reluctant to assume responsibility should some catastrophic event wash out the trail.

**Management recommends that the Subcommittee recommend to the Board that the Western Douglas County Trails Project Interlocal Agreement between the District, Douglas County, the City of Elkhorn, City of Valley, and the Village of Waterloo be approved, subject to changes deemed necessary by the General Manager and accepted as top form by the District Legal Counsel.**

Western Douglas County Trails Project  
Example Calculation for Segment Between  
Valley and Waterloo

General Assumptions:

- 3.5 mile, concrete trail, 10 feet wide, 6" thick
- 5% maximum grade on trail and ramps
- Valley and Waterloo ETJs have common boundary
- 58% in Valley's ETJ
- 42% in Waterloo's ETJ
- Right-of-way costs are not eligible for TE Funds

**CONSTRUCTION:**

<b>Expense Item:</b>	<b>Example #1 Donated r-o-w</b>	<b>Example #2 Purchased r-o-w</b>
Concrete Trail (\$132,000/mile)	\$462,000	\$462,000
Site Preparation (\$80,000/mile) includes grading, culverts, Hwy 64 crossing, etc	\$280,000	\$280,000
Engineering	\$125,000	\$125,000
Right-of-way (7 acres@ \$5,000)		\$35,000
<b>Total Expenses</b>	<b>\$867,000</b>	<b>\$902,000</b>
<b>Revenue Item:</b>		
TE Funds (80%)	\$693,600	\$693,600
Douglas County (8%)	\$69,360	\$69,360
Papio-Missouri River NRD (8%)	\$69,360	\$69,360
City of Valley (2.32%)	\$20,110	\$20,110
Right-of-way costs (58%)		\$20,300
Village of Waterloo (1.68%)	\$14,570	\$14,570
Right-of-way costs (42%)		\$14,700
<b>Total Revenues</b>	<b>\$867,000</b>	<b>\$902,000</b>

**OPERATION AND MAINTENANCE (Annual):**

<b>Expenses:</b>	
Mowing, snow removal, & minor repairs @ \$200/week	\$6,000
Trash Pick-up (volunteer – “Adopt a Trail” program)	\$0
<b>Total Expenses</b>	<b>\$6,000</b>
<b>Revenues:</b>	
City of Valley (58%)	\$3,480
Village of Waterloo (42%)	\$2,520
<b>Total Revenues</b>	<b>\$6,000</b>

# WEST COUNTY TRAILS PLAN Trail Segments

February 2004

- (A) Tri-Community Core
- (B) Ginger Cove Trail
- (C) Valley City Trail
- (D) 300th Street Cutoff
- (E) Reichmuth Bikeway
- (F) 276th/270th Street Trail
- (G) Old Highway 8 Trail
- (H) Spruce/Ida Trail
- (I) 252nd Street Trail
- (J) Elk City Trail
- (K) 234th Street Loop
- (L) 216th Street Corridor
- (M) Highway 36
- (N) Two Rivers (264th Street) Trail
- (O) West Q Road Trail
- (P) Riverside Lakes Trail
- (Q) Venice Loop
- (R) Westshores Loop
- (S) Skyline Trail South
- (T) West Maple Trail
- (U) Rainwood Road
- (V) Bennington Link
- (W) Waterloo Trail
- (X) Elkhorn Trail System
- (Y) Omaha Metropolitan Trail System

(C) Canoe Access



**RDg**  
PLANNING • DESIGN



**INTERLOCAL COOPERATION ACT AGREEMENT**  
**AMONG**  
**PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT,**  
**THE COUNTY OF DOUGLAS, NEBRASKA,**  
**THE CITY OF ELKHORN, NEBRASKA**  
**THE CITY OF VALLEY, NEBRASKA**  
**AND**  
**THE VILLAGE OF WATERLOO, NEBRASKA**  
**FOR**  
**WESTERN DOUGLAS COUNTY TRAILS CONSTRUCTION, OPERATION**  
**AND MAINTENANCE**

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THIS AGREEMENT (“**THIS AGREEMENT**”) is made by and among the CITY OF VALLEY, Nebraska (“**VALLEY**”); the CITY OF ELKHORN, Nebraska (“**ELKHORN**”); the VILLAGE OF WATERLOO, Nebraska (“**WATERLOO**”); the COUNTY OF DOUGLAS, Nebraska (“**the COUNTY**”); and, the PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT (“**the NRD**”), (those entities hereinafter being referred to individually as “**a PARTY**” and collectively as “**the PARTIES**”).

**WHEREAS**, the PARTIES are governmental bodies organized under the laws of the State of Nebraska; and,

**WHEREAS**, each PARTY is situated in whole or part within the COUNTY; and,

**WHEREAS**, the PARTIES have completed a Trails Plan (the “**TRAILS PLAN**”) for the construction of bicycle and pedestrian trails in areas of the COUNTY outside of the extra-territorial jurisdiction of the City of Omaha, (the “**MASTER PLAN TRAILS**”),<sup>1</sup> including, without limitation, trails in portions of the COUNTY within the

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<sup>1</sup> “TRAILS PLAN” refers to the M. Shukert-authored plan already completed. The word “MASTER” is then [sic] used only in reference to plans yet to be developed. Also, the words, “TRAILS PLAN trails” refers to

corporate limits and extra-territorial limits of ELKHORN, VALLEY and WATERLOO; and,

**WHEREAS**, the PARTIES desire to establish a legal framework for constructing, operating and maintaining the TRAILS PLAN trails, set forth the terms under which the TRAILS PLAN trails will be designed, constructed, operated, maintained, repaired, replaced and regulated, and specify the rights, duties and obligations of the PARTIES in connection therewith.

**NOW, THEREFORE**, in consideration of the foregoing recitals and the mutual covenants hereinafter expressed, the PARTIES agree as follows:

**1. AUTHORITY.** THIS AGREEMENT is made pursuant to authority provided in the Nebraska Interlocal Cooperation Act (Neb. Rev. Stat. §13-801, R.R.S., 1943, et seq.), without a separate entity being created, and, whenever possible, THIS AGREEMENT shall be construed in conformity therewith.

**2. ADMINISTRATOR.** The PARTIES hereby designate the NRD as the administrator of THIS AGREEMENT (“**the ADMINISTRATOR**”), which shall serve at the pleasure of the majority of the PARTIES and shall perform duties hereinafter described in THIS AGREEMENT that are requested by a majority of the PARTIES.

**3. GENERAL BENEFIT.** The PARTIES do hereby find that constructing, operating and maintaining the TRAILS PLAN trails will be of general benefit to all of the PARTIES, with only an incidental special benefit, and that such activities should be undertaken without any separate entity being created.

**4. THE ENGINEERS.** After the effective date of THIS AGREEMENT, and after the ADMINISTRATOR has verified that 80% federal grants are available for construction of TRAILS PLAN trails; the ADMINISTRATOR shall retain engineering

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all of the proposed trails set forth in the TRAILS PLAN. “MASTER WORK PLAN trails” then only refer to those trails that will be part of the MASTER WORK PLAN and ANNUAL WORK PLAN(s).

consultants (hereinafter referred to as “**the ENGINEERS**”) pursuant to a base written engineering contract (“**the ENGINEERING CONTRACT**”) approved by the other PARTIES (such approval to not be withheld or delayed unreasonably), to prepare a master work plan (“**the MASTER WORK PLAN**”) for the staged construction of the TRAILS PLAN trails over a 6-year time period, to prepare plans and specifications and contract documents for the TRAILS PLAN trails, and to administer construction thereof.

**5. MASTER WORK PLAN.** Of the proposed trails identified in the TRAILS PLAN, the MASTER WORK PLAN shall identify each year’s staged construction over a 6-year time period and shall include cost estimates for each year’s construction. The MASTER WORK PLAN shall be subjected to a public hearing and will require approval by the governing body of each PARTY. Since the TRAILS PLAN trails will connect with the present Metropolitan Omaha Trails System, reasonable efforts will be made to include a representative designated by the City of Omaha in meetings on the development of the MASTER WORK PLAN.

**6. ANNUAL WORK PLANS.** Each calendar year, with the assistance of the ENGINEERS being obtained by the ADMINISTRATOR entering into an annual addendum to the ENGINEERING CONTRACT, the PARTIES through their authorized representatives shall confer and confirm the segment(s) of the MASTER WORK PLAN trails (“**TRAIL SEGMENTS**”) that will be constructed for such calendar year, as initially defined in the MASTER WORK PLAN, and, subsequently, the ADMINISTRATOR shall direct the ENGINEERS to prepare a workplan (“**ANNUAL WORK PLAN**”) for construction of the TRAIL SEGMENTS for such calendar year. Upon the ENGINEERS’ completion of the ANNUAL WORK PLANS, and after approval of the same by the ADMINISTRATOR, the ANNUAL WORK PLANS shall be submitted to the other PARTIES for written approval by their respective authorized representatives. Each of the other PARTIES shall have 30 days to review the ANNUAL WORK PLANS

and to approve or disapprove the same in writing or suggest amendments thereto. Such approvals shall not be withheld or delayed unreasonably.

**7. PRELIMINARY PLANS AND SPECIFICATIONS.** An ANNUAL WORK PLAN shall call for the ENGINEERS to prepare preliminary plans and specifications (“**the PRELIMINARY PLANS**”) for the segment(s) of the MASTER WORK PLAN trails that will be constructed as a part of the ANNUAL WORK PLAN for such calendar year, subject to the following:

a) The PRELIMINARY PLANS shall be drawn in accordance with design criteria provided by agreement of the PARTIES for the MASTER WORK PLAN trails, which shall be in general compliance with the American Association of State Highway and Transportation Officials’ “1999 AASHTO Guide for the Development of Bicycle Facilities”(“**the AASHTO GUIDE**”) and in accordance with applicable Nebraska state and federal statutes, rules and regulations.

b) The PRELIMINARY PLANS as prepared by the ENGINEERS shall include, without limitation, the ENGINEERS’ itemized estimate of the cost of constructing the trails specified in the ANNUAL WORK PLAN, including the costs of engineering, design, construction and construction administration, but excluding rights-of-way costs.

**8. APPROVAL OF PRELIMINARY PLANS.** Upon the ENGINEERS’ completion of the PRELIMINARY PLANS, and after approval of the same by the ADMINISTRATOR, the PRELIMINARY PLANS shall be submitted to the other PARTIES for written approval by their respective authorized representatives. Each of the other PARTIES shall have 30 days to review the PRELIMINARY PLANS and to approve or disapprove the same in writing or suggest amendments thereto. Such approvals shall not be withheld or delayed unreasonably.

**9. PREPARATION OF FINAL PLANS FOR PROJECT.** Upon the ADMINISTRATOR'S receipt of the PARTIES' written approvals of the PRELIMINARY PLANS, the ADMINISTRATOR shall direct the ENGINEERS to prepare final plans and specifications ("FINAL PLANS") for construction of the trails specified in the ANNUAL WORKPLAN.

**10. APPROVAL OF FINAL PLANS.** Upon the ENGINEERS' completion of the FINAL PLANS, and after approval of the same by the ADMINISTRATOR, the FINAL PLANS shall be submitted to the other PARTIES for written approval by their respective authorized representatives. Each of the other PARTIES shall have 30 days to review the FINAL PLANS and to approve or disapprove the same in writing or suggest amendments thereto. Such approvals shall not be withheld or delayed unreasonably.

**11. RIGHTS-OF-WAY.** Within a reasonable time after approval of the FINAL PLANS by the PARTIES and without further consideration, each PARTY shall grant a permanent easement to the ADMINISTRATOR over all land owned by such PARTY that shall be designated in the FINAL PLANS as necessary right-of-way. Each such permanent easement shall grant the permanent right to design, construct, operate, maintain, repair, replace and regulate a bicycle and pedestrian trail in, on, over and across such designated land of the granting PARTY, or contain a grant in such other form as may be determined by agreement of the granting PARTY and the ADMINISTRATOR. The ADMINISTRATOR may be requested by any PARTY to acquire necessary lands, but the PARTIES reserve the right to use other resources, including their own respective staffs and authorities, to acquire necessary lands, easements and rights-of-way. All such acquisitions shall include without limitation, zoning and subdivision approvals, licenses, easements, water rights, and permits or consents as may be required for construction and/or for permanent operation, maintenance repair, replacement and regulation of the trail(s) designated in the FINAL PLANS. The ADMINISTRATOR'S costs for land



acquisition requested by a PARTY shall be reimbursed to the ADMINISTRATOR by the requesting PARTY.

**12. THE WORKPLAN CONTRACTOR.** The ADMINISTRATOR shall retain one or more general contractors (“**WORKPLAN CONTRACTOR**”), approved by the other PARTIES’ authorized representatives, in writing, to construct the trail(s) designated in the FINAL PLANS. Such approvals shall not be withheld or delayed unreasonably.

**13. CONSTRUCTION CONTRACT DOCUMENTS.** The proposed contract between the ADMINISTRATOR on the one hand, and the WORKPLAN CONTRACTOR, on the other hand, for construction of the trail(s) designated in the FINAL PLANS (“the **CONSTRUCTION CONTRACT DOCUMENTS**”), including, without limitation, the proposed schedule of all materials and labor compensation rates that the ADMINISTRATOR proposes to pay to the CONTRACTOR for construction of the trail(s) designated in the FINAL PLANS, shall be subject to the prior written approval of the other PARTIES’ authorized representatives, who shall have a period of 30 days to review the CONSTRUCTION CONTRACT DOCUMENTS and to approve or disapprove the same in writing or suggest amendments thereto, and who shall have an additional period of 30 days to review and approve subsequent amendments thereto. Such approvals shall not be withheld or delayed unreasonably.

**14. PROJECT CONTRACTOR’S BONDS.** The CONSTRUCTION CONTRACT DOCUMENTS shall require the CONTRACTOR to purchase and maintain, during performance of the work, labor and material payment bonds and performance bonds, in the amount of the contract price, naming all the PARTIES as secured parties.

**15. CONSTRUCTION OF ANNUAL WORKPLAN TRAILS.** Within 30 days after the PARTIES’ approvals of the CONSTRUCTION CONTRACT DOCUMENTS, or at such other time as the PARTIES’ authorized representatives agree in writing, the ADMINISTRATOR will sign the CONSTRUCTION CONTRACT

DOCUMENTS for construction of the trail(s) designated in the ANNUAL WORK PLAN.

**16. CONSTRUCTION.** The trail(s) designated in the ANNUAL WORK PLAN shall be constructed by the ADMINISTRATOR and the CONTRACTOR in conformance with the CONSTRUCTION CONTRACT DOCUMENTS.

**17. GRANTS.** The ADMINISTRATOR shall be responsible for applying for transportation enhancement funding or other state and federal grants for which the trail(s) designated in the ANNUAL WORK PLAN may be eligible.

**18. CONSTRUCTION OBSERVATION.** The ADMINISTRATOR will provide for full-time engineering observation and administration of construction of the trail(s) designated in the ANNUAL WORK PLAN. Representatives of the other PARTIES shall be given the opportunity to fully observe such construction at all reasonable hours and the right to request and receive from the ADMINISTRATOR contemporaneous copies of all written communications between or issued by the NRD and/or the ENGINEERS and/or the CONTRACTOR pertaining to such construction, including but not limited to statements by the ENGINEERS as to percentage of completion and substantial completion.

**19. CONTRACTOR'S WARRANTIES.** The ADMINISTRATOR shall enforce all bonds and warranties given by the CONTRACTOR and its subcontractors in the CONSTRUCTION CONTRACT DOCUMENTS.

**20. ANNUAL WORK PLAN CONTRIBUTION.** As their contributions towards the costs of design and construction of the trail(s) designated in the ANNUAL WORK PLAN and the acquisition of rights-of-way for the trail(s) designated in the ANNUAL WORK PLAN (collectively "ANNUAL WORK PLAN COSTS"), the PARTIES each shall pay to the ADMINISTRATOR a payment ("ANNUAL WORK PLAN CONTRIBUTION") consisting of a portion of the ADMINISTRATOR'S expenditures for design, construction and rights-of-way acquisition remaining unpaid

after the application of grant funds. Except as otherwise provided in THIS AGREEMENT, an ANNUAL WORK PLAN CONTRIBUTION paid by a PARTY to the ADMINISTRATOR shall constitute the sole contribution of such PARTY towards, and sole liability for, the costs of design, construction and rights-of-way for the trail(s) designated in the ANNUAL WORK PLAN. The ADMINISTRATOR'S records of PROJECT receipts and expenditures shall be made available to the other PARTIES at all reasonable hours for a period of ten years after completion of construction.

## **21. COMPUTATION OF ANNUAL WORK PLAN CONTRIBUTIONS.**

The ANNUAL WORK PLAN CONTRIBUTION of a PARTY towards the costs of design and construction of the trail(s) designated in an ANNUAL WORK PLAN shall be computed by multiplying the ANNUAL WORK PLAN COSTS for such year by the percentage set out opposite such PARTY'S name, as follows, to-wit:

<b>PARTY</b>	<b>MASTER WORK PLAN</b>	<b>TRAIL SEGMENTS in municipal PARTY'S corporate and extra-territorial jurisdiction</b>	<b>TRAIL SEGMENTS outside municipal PARTIES' corporate and extra-territorial jurisdiction</b>
NRD	40%	40%	50%
COUNTY	40%	40%	50%
WATERLOO	2%	*	NA
VALLEY	6%	*	NA
ELKHORN	12%	*	NA
TOTALS	100%	100%	100%

\* The 20% balance of the local share shall be paid by the respective municipality in which the project is located in either its corporate or extraterritorial jurisdiction..

**22. PAYMENT OF ANNUAL WORK PLAN CONTRIBUTION.** Each of the other PARTIES shall pay its ANNUAL WORK PLAN CONTRIBUTION to the ADMINISTRATOR within forty-five (45) days after receipt of written notice from the ENGINEERS that the trail(s) designated in the ANNUAL WORK PLAN have been substantially completed in accordance with the CONSTRUCTION CONTRACT DOCUMENTS. Each ANNUAL WORK PLAN CONTRIBUTION shall be paid without interest until due and thereafter shall be paid with simple interest computed from the due date at the rate provided by statute for delinquent real estate taxes.

**23. OPERATION AND MAINTENANCE.** After final completion of construction of the trail(s) designated in the ANNUAL WORK PLAN and acceptance of the same from the CONTRACTOR:

a) A PARTY (other than the COUNTY or the NRD) whose extra-territorial limits encompass a TRAIL SEGMENT designated in the ANNUAL WORK PLAN or a portion thereof, at its sole and unreimbursed cost and expense shall permanently operate, maintain, repair, replace and regulate such trail or portion thereof, in such manner and at such times as such party determines necessary, in accordance with generally accepted engineering practices and the AASHTO GUIDE.

b) The NRD, at its sole and unreimbursed cost and expense, shall permanently operate, maintain, repair, replace and regulate the trails designated in the ANNUAL WORK PLAN, or portions thereof, that are not within the extra-territorial limits of a municipality that is one of the PARTIES, and the future bicycle and pedestrian bridge across the Elkhorn River near Waterloo, in such manner and at such times as the NRD determines necessary, in accordance with generally accepted engineering practices and the AASHTO GUIDE.

**24. INDEMNIFICATIONS.** The ADMINISTRATOR shall defend, indemnify, and hold each of the other PARTIES harmless from and against all costs and

expenses, including attorneys fees, resulting from claims, demands or causes of action for personal injury or property damage arising out of or resulting from its design or construction of MASTER PLAN TRAILS pursuant to THIS AGREEMENT, except such personal injuries or property damages as may be caused by the sole negligence of such other PARTY. Each PARTY shall defend, indemnify, and hold each of the other PARTIES harmless from and against all costs and expenses, including attorneys fees, resulting from claims, demands or causes of action for personal injury or property damage arising out of or resulting from its operation, maintenance, repair, replacement, or regulation of MASTER PLAN TRAILS pursuant to THIS AGREEMENT, except such personal injuries or property damages as may be caused by the sole negligence of another PARTY.

**25. RISK OF LOSS.** After substantial completion of construction of MASTER WORK PLAN trails pursuant to THIS AGREEMENT, the sole risk of loss of or damage to any portion of such trails shall be borne by the PARTY that, under THIS AGREEMENT, has the duty to provide operation, maintenance, repair, replacement or regulation of such portion of the MASTER WORK PLAN trails, whether such loss or damage results from flood or other casualty whatsoever; provided, however, the NRD shall be responsible for trail repairs or replacements, occasioned by damage from flood or ice jams, relating to that portion of the trail under the Highway 64 Elkhorn River Bridge that lies within State highway right-of-way.

**26. NONDISCRIMINATION.** The PARTIES shall not, in the performance of THIS AGREEMENT, discriminate or permit discrimination in violation of federal or state laws or local ordinances because of race, color, sex, age, political or religious opinions, affiliations or national origin.

**27. CAPTIONS.** Captions used in THIS AGREEMENT are for convenience and are not used in the construction of THIS AGREEMENT.

**28. APPLICABLE LAW.** In performing THIS AGREEMENT the PARTIES shall conform to all existing and applicable ordinances, resolutions, state laws, federal laws, and all existing and applicable rules and regulations.

**29. MODIFICATION.** THIS AGREEMENT contains the entire agreement of the PARTIES. No representations were made or relied upon by any of the PARTIES other than those that may be expressly set forth herein. No agent, employee or other representative of any PARTY is empowered to alter any of the terms hereof unless done in writing and signed by an authorized officer of such respective PARTY.

**30. INVALID PROVISIONS.** In the event that any covenant, condition, or provision herein contained is held to be invalid by any court of competent jurisdiction, the invalidity of any such covenant, condition, or provision herein contained shall not affect the validity of the remainder of the covenants, conditions or provisions of THIS AGREEMENT which shall in all respects remain a legally binding agreement with the invalid portion being deleted; provided that the validity of any such covenant, condition, or provision does not materially prejudice any of the PARTIES in its respective rights and obligations contained in the valid covenants, conditions, or provisions of THIS AGREEMENT.

**31. NON-WAIVER.** No delay or failure by any of the PARTIES to exercise any right under THIS AGREEMENT, and no partial or single exercise of that right, shall constitute a waiver of that or any other right unless otherwise expressly provided herein. A valid waiver by any of the PARTIES shall not be deemed to extend the amount of time available to perform any other act required under THIS AGREEMENT.

**32. FURTHER AGREEMENTS.** Each of the PARTIES will, whenever and as often as another PARTY may request, execute, acknowledge and deliver or cause to be executed, acknowledged and delivered any and all such further conveyances, assignments or other instruments and documents as the requesting PARTY may determine to be

necessary, expedient or proper in order to complete any and all conveyances, transfers, and assignments herein provided, and do any and all other acts and to execute, acknowledge and deliver any other documents so requested in order to carry out the intent and purposes of THIS AGREEMENT.

**33. TIME IS OF THE ESSENCE.** Time is expressly declared to be of the essence of THIS AGREEMENT.

**34. DEFAULT.** If a PARTY fails to comply with any obligation imposed on it by this Agreement, any other PARTY may seek specific performance of the obligation by such defaulting PARTY upon the expiration of a thirty (30) day period following written notice of such failure to comply being served upon such defaulting PARTY by any other PARTY.

**35. EFFECTIVE DATE AND TERM.** THIS AGREEMENT shall become effective upon its execution by all PARTIES, and shall be perpetual in duration.

**36. NOTICES.** Notices to the respective parties provided for in THIS AGREEMENT shall be sufficient if sent by certified or registered mail, postage prepaid, addressed as follows:

To the NRD (PARTY and ADMINISTRATOR):

Steven G. Oltmans, General Manager  
Papio-Missouri River NRD  
8901 South 154th Street  
Omaha, Nebraska 68138-3621

To the COUNTY:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

To the CITY of ELKHORN:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

To the CITY of VALLEY:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

To the VILLAGE OF WATERLOO:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

or to such other respective address(s) as a respective PARTY may designate to the other PARTIES from time to time in writing.

**37. EFFECTIVE DATE.** This AGREEMENT shall become effective on the date it is executed by all of the PARTIES.

**38. VOLUNTARY TERMINATION.** Any PARTY may terminate this Agreement with respect to itself only, without cause, effective upon sixty (60) days' written notice to the other PARTIES. Such early termination by a PARTY will not operate to terminate this Agreement with respect to all remaining PARTIES nor shall it affect the obligations of the PARTY exercising its right to early termination hereunder, or the corresponding rights of the remaining PARTIES, arising hereunder prior to the effective date of such early termination. Obligations or rights, if any, that are by their explicit terms perpetual shall survive an early termination.

**39. AMENDMENTS AND SUPPLEMENTS.** The PARTIES may amend or supplement THIS AGREEMENT from time to time as may be deemed necessary to meet the mission and goals of THIS AGREEMENT.



**40. COUNTERPARTS.** This AGREEMENT may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Signature pages of counterpart copies, as executed, shall be maintained as part of the records of the ADMINISTRATOR, which, upon receiving signature pages executed by the PARTIES, shall notify all PARTIES that THIS AGREEMENT has been executed.

**IN WITNESS WHEREOF,** THIS AGREEMENT is entered into by the PARTIES pursuant to resolutions duly adopted by their respective governing boards.

[Signature pages follow]

**INTERLOCAL COOPERATION ACT AGREEMENT**  
**AMONG**  
**PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT,**  
**THE COUNTY OF DOUGLAS, NEBRASKA,**  
**THE CITY OF ELKHORN, NEBRASKA**  
**THE CITY OF VALLEY, NEBRASKA**  
**AND**  
**THE VILLAGE OF WATERLOO, NEBRASKA**  
**FOR**  
**WESTERN DOUGLAS COUNTY TRAILS CONSTRUCTION, OPERATION**  
**AND MAINTENANCE**

SIGNATURE PAGE

Executed by the City of Valley, Nebraska on this \_\_\_\_ day of \_\_\_\_\_,  
2004.

THE CITY OF VALLEY, NEBRASKA

Attest:

BY \_\_\_\_\_  
MAYOR

\_\_\_\_\_  
CITY CLERK

**INTERLOCAL COOPERATION ACT AGREEMENT**  
**AMONG**  
**PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT,**  
**THE COUNTY OF DOUGLAS, NEBRASKA,**  
**THE CITY OF ELKHORN, NEBRASKA**  
**THE CITY OF VALLEY, NEBRASKA**  
**AND**  
**THE VILLAGE OF WATERLOO, NEBRASKA**  
**FOR**  
**WESTERN DOUGLAS COUNTY TRAILS CONSTRUCTION, OPERATION**  
**AND MAINTENANCE**

SIGNATURE PAGE

Executed by the City of Elkhorn, Nebraska on this \_\_\_\_ day of \_\_\_\_\_, 2004.

THE CITY OF ELKHORN, NEBRASKA

Attest:

BY \_\_\_\_\_  
MAYOR

\_\_\_\_\_  
CITY CLERK

**INTERLOCAL COOPERATION ACT AGREEMENT**  
**AMONG**  
**PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT,**  
**THE COUNTY OF DOUGLAS, NEBRASKA,**  
**THE CITY OF ELKHORN, NEBRASKA**  
**THE CITY OF VALLEY, NEBRASKA**  
**AND**  
**THE VILLAGE OF WATERLOO, NEBRASKA**  
**FOR**  
**WESTERN DOUGLAS COUNTY TRAILS CONSTRUCTION, OPERATION**  
**AND MAINTENANCE**

SIGNATURE PAGE

Executed by the VILLAGE OF WATERLOO, Nebraska on this \_\_\_\_ day of \_\_\_\_\_, 2004.

THE VILLAGE OF WATERLOO, NEBRASKA

Attest:

BY \_\_\_\_\_  
MAYOR

\_\_\_\_\_  
CITY CLERK

**INTERLOCAL COOPERATION ACT AGREEMENT**  
**AMONG**  
**PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT,**  
**THE COUNTY OF DOUGLAS, NEBRASKA,**  
**THE CITY OF ELKHORN, NEBRASKA**  
**THE CITY OF VALLEY, NEBRASKA**  
**AND**  
**THE VILLAGE OF WATERLOO, NEBRASKA**  
**FOR**  
**WESTERN DOUGLAS COUNTY TRAILS CONSTRUCTION, OPERATION**  
**AND MAINTENANCE**

SIGNATURE PAGE

Executed by the County of Douglas, Nebraska on this \_\_\_\_ day of  
\_\_\_\_\_, 2004.

THE COUNTY OF DOUGLAS, NEBRASKA

Attest:

BY \_\_\_\_\_  
CHAIRPERSON  
BOARD OF COMMISSIONERS

\_\_\_\_\_  
COUNTY CLERK

**INTERLOCAL COOPERATION ACT AGREEMENT**  
**AMONG**  
**PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT,**  
**THE COUNTY OF DOUGLAS, NEBRASKA,**  
**THE CITY OF ELKHORN, NEBRASKA**  
**THE CITY OF VALLEY, NEBRASKA**  
**AND**  
**THE VILLAGE OF WATERLOO, NEBRASKA**  
**FOR**  
**WESTERN DOUGLAS COUNTY TRAILS CONSTRUCTION, OPERATION**  
**AND MAINTENANCE**

SIGNATURE PAGE

Executed by the Papio-Missouri River Natural Resources District on this \_\_\_\_ day  
of \_\_\_\_\_, 2004.

PAPIO-MISSOURI RIVER NATURAL  
RESOURCES DISTRICT

BY \_\_\_\_\_  
GENERAL MANAGER

# Memorandum

To: Programs, Projects, and Operations Subcommittee

Subject: Bennington Trail Interlocal Agreement

Date: March 1, 2005

From: Gerry Bowen

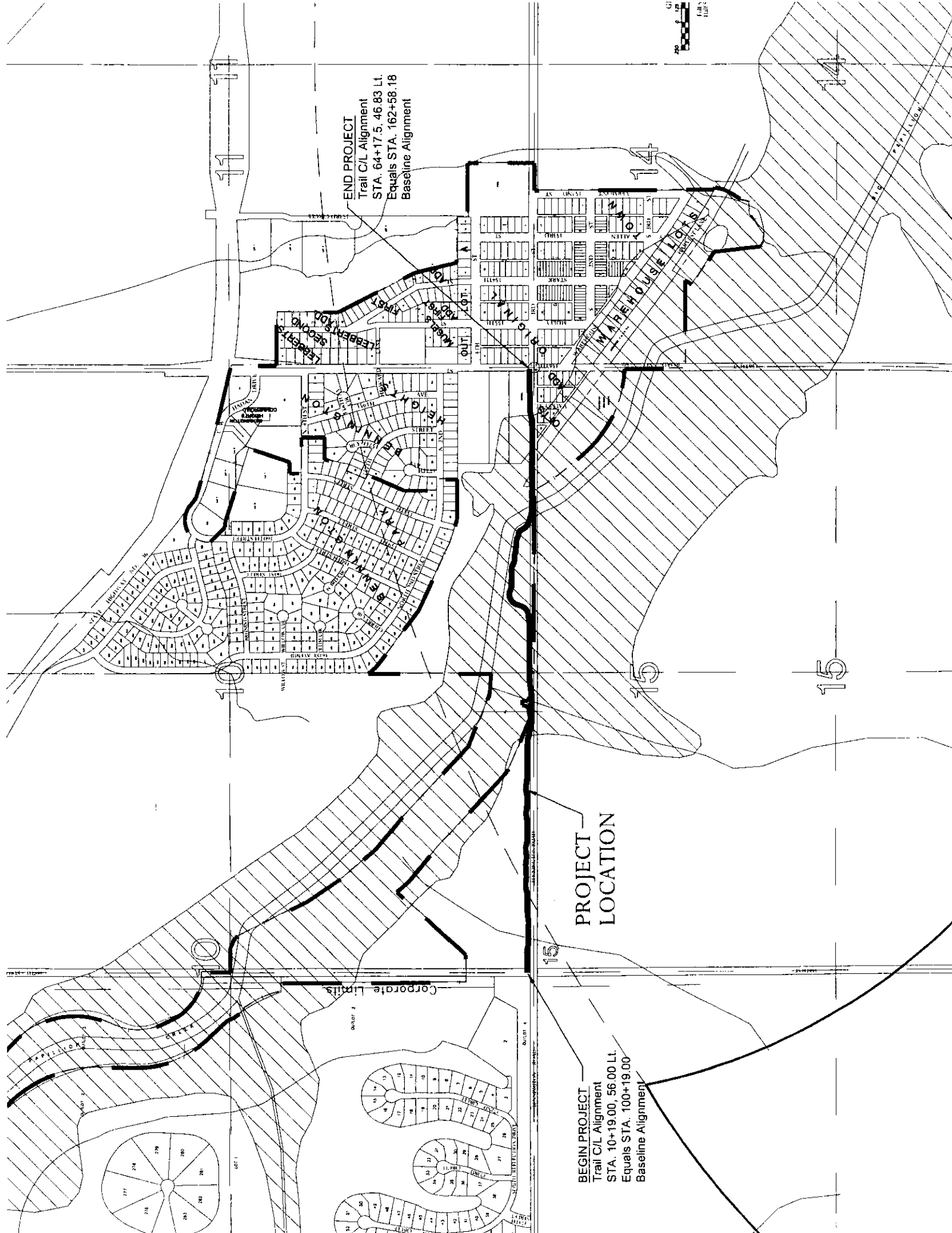
The City of Bennington applied, and was subsequently approved for, Transportation Enhancement funding on a trail project along Bennington Road between 168<sup>th</sup> Street (new high school) and the old high school at 156<sup>th</sup> Street (see attached map). It is proposed that the City, the Bennington School District, and the NRD equally split the local share of the costs. Operation and maintenance of the trail will be the responsibility of the City and the school district.

The total estimated cost of the project is \$450,000. The NDOR has approved \$340,416 towards the project. The remaining \$109,584 is proposed to be split between the three parties, or \$36,528 each. The agreement provides for a maximum of \$40,000 for each party, without prior board or council approval.

The funds for this project have been included in the FY 2005 Budget.

The agreement is intended to replace the NRD's Operation and Maintenance Agreement that is required of all applicants for Recreation Area Development Program.

**Management recommends that the Subcommittee recommend to the Board that the General Manager be authorized to execute an interlocal agreement with the City of Bennington and the Bennington School District for the Bennington Trail Project be approved, subject to changes deemed necessary by the General Manager, and accepted as to form by the District's legal counsel.**



END PROJECT  
Trail C/L Alignment  
STA. 64+17.5, 46.83 L.I.  
Equals STA. 162+58.18  
Baseline Alignment

PROJECT  
LOCATION

BEGIN PROJECT  
Trail C/L Alignment  
STA. 10+19.00, 56.00 L.I.  
Equals STA. 100+19.00  
Baseline Alignment



## INTERLOCAL COOPERATION ACT AGREEMENT PEDESTRIAN AND BICYCLE TRAIL

This Agreement ("this Agreement") is made and entered into by and among Douglas County School District 0059, a/k/a Bennington Public Schools, hereinafter referred to as "School," the City of Bennington, Nebraska, a municipal corporation, hereinafter referred to as "City," and the Papio-Missouri River Natural Resources District, hereinafter referred to as "the NRD."

### RECITALS

WHEREAS, the City has been approved for Transportation Enhancement Funding to develop the Bennington Papio Creek School Trail (the "Trail"); and

WHEREAS, the Trail affects all parties as the Trail will be located within the NRD and will run over land owned by the School and the City, the Trail will provide benefits to all the parties' facilities and patrons, and the parties agree that the Trail will be of predominantly general benefit to the NRD with only an incidental special benefit within the meaning of Section 2-3252(3) R.R.S., 1997; and

WHEREAS, the parties desire to enter into this Agreement for their mutual advantage and benefit, in order to develop, manage and maintain the Trail for the parties' facilities and patrons; and

WHEREAS, the parties contemplate the taking of all necessary and appropriate actions to support the parties' joint and mutual objectives.

Now, therefore, in consideration of the foregoing recitals and their mutual covenants hereinafter expressed, the Parties agree as follows:

**1. Name of Cooperative.** The joint and cooperative undertaking hereby created shall be named and known as the "Bennington Trail Cooperative" (sometimes referred to herein as the "Cooperative").

**2. Term of Agreement.** The term of this Agreement shall commence upon its execution by all of the parties hereto and shall be perpetual in duration.

**3. Authority and Purpose.** Article XV, Section 18 of the Constitution of the State of Nebraska, the Interlocal Cooperation Act of the State of Nebraska, Neb. Rev. Stat. 13-801 *et seq.*, (the "Act"), and the Joint Public Agency Act of the State of Nebraska, Neb. Rev. Stat. §§ 13-2501 *et seq.*, (the "Public Agency Act") authorize any two or more public agencies to enter into agreements for the joint or cooperative exercise of any power, privilege or authority exercised or capable of exercise individually by such public agencies. The parties are public agencies within the meaning of these laws. It is the purpose of this Agreement for the parties to make the most efficient use of their powers by cooperating with each other on the basis of mutual advantage.

**4. Construction of Trail.** The City shall be responsible for construction of the Trail. The City shall construct the Trail in conformance with the Transportation Enhancement Improvement program requirements, including the requirements set forth in the Agreement between the City and the State of Nebraska, Department of Roads for the Trail (the "State Agreement").

**5. Funding.** The funding from the Transportation Enhancement Improvement Program is provided on an 80/20 match up to the maximum federal contribution amount of \$340,416.00. The local government is responsible for the 20 percent matching funds as well as any nonparticipating costs or costs over the federal share. All of these costs are known as the local share. Pursuant to this agreement, the local share of the costs of original construction of the Trail (the "Construction Project") shall be evenly split among the City, the School and the NRD. The School and the NRD shall contribute their respective one-third shares to the City within 45 days of receiving a report of total construction costs and a request for payment from the City. Construction costs in excess of that provided by the Transportation Enhancement Improvement program shall be split evenly among the City, the School, and the NRD; provided, however, that no party's local share of the costs of original construction of the Trail shall exceed \$40,000.00 without approval of such party's board or council.

**6. Construction Project.** All Construction Project communications shall be by and through the City, provided that the City shall provide information of material Construction Project problems, if any, to the School and the NRD. The City shall be responsible for procuring insurance for the Construction Project which shall provide reasonable and customary protection to the City, the School and the NRD and the policies of such insurance shall provide that each party will be a named insured and entitled to certificates of insurance on reasonable demand being made therefor.

**7. Easements.** The School shall grant an easement to the City for the purpose of construction and maintenance of the Trail, provided that the School shall retain the authority to control use of the Trail in conformance with student discipline and safety rules and regulations. Other land rights needed for the Construction Project shall be acquired by the City and School at their own expense. The NRD shall not be responsible for the acquisition of any land rights necessary for the Construction Project or the Trail, or for the costs thereof.

**8. Maintenance of Trail.** The NRD shall have no responsibility for operation, maintenance, repair, replacement or regulation of the Trail or for the costs thereof. The City and the School shall enter into a separate agreement establishing responsibility for maintenance of the Trail after construction, which shall include but not be limited to establishing that the School is responsible for snow removal and the City is responsible for grass and landscape maintenance, and establishing that the School and the City shall be responsible for shared costs of trail improvements and maintenance. In the absence of such separate agreement the City and the School shall be jointly responsible for keeping the Trail in good condition and repair in accordance with generally-accepted engineering practices, in general conformance with the American Association of State Highway and Transportation Officials' "1999 AASHTO Guide for the Development of Bicycle Facilities," and in accordance with applicable Nebraska state and federal statutes, rules and regulations, and jointly responsible for the costs thereof.

**9. Risk of Loss.** After substantial completion of the Construction Project pursuant to this Agreement, the sole risk of loss of or damage to any portion of the Trail shall be borne by the party that, under this Agreement, has the duty to provide operation, maintenance, repair, replacement or regulation of such portion of the Trail, whether such loss or damage results from flood or other casualty whatsoever.

**10. Administration of Agreement.** The parties each shall designate an administrator who is hereby delegated all power and responsibility for the management of the cooperative undertaking set forth in this Agreement, including but not limited to, the power to sign, execute and deliver agreements or contracts for and on behalf of the Cooperative. Any Party appointing such administrator upon no less than seven (7) days advance written notice to the other Party may change the administrator from time to time. Each administrator shall communicate with the other administrator to effectuate the terms of this Agreement. Unless otherwise agreed, the initial administrator under this Agreement for the School shall be the Superintendent or the Superintendent's designee, for the City shall be the Mayor of the City of Bennington or the Mayor's designee, and for the NRD shall be the General Manager or the General Manager's designee.

a. In all events, unless otherwise mutually agreed, the City will be the fiscal agent under this Agreement for the Cooperative. The City as fiscal agent for the Cooperative shall make all payments required for the Trail on behalf of the parties under this Agreement. Funds paid under this Agreement shall not be considered accountable receipts to the Party serving as fiscal agent.

b. It is expressly understood that the Cooperative is not a separate public body or entity, and is to be operated not for profit, and that no profit or dividend will inure to the benefit of any individual or Party. No separate legal or administrative entity is created under this Interlocal Agreement. Any real and personal property shall be acquired, held and disposed as set forth in this Agreement or any amendment hereto.

c. The Cooperative administrators shall be responsible for administering this Agreement.

**11. Indemnification.** The parties shall defend, indemnify and hold each other, and its directors, board members, officers, administrators, and employees harmless, from and against any claims and expenses (including attorneys' fees and litigation expenses), damages or losses either may suffer as a result of any claims, demands or causes of action made under, in the administration of, or regarding the validity of this Agreement or the effect of this Agreement on the expenditure or revenue authority of the parties, including but not limited to liability, or taxpayer or regulatory claims. The City shall defend, indemnify and hold each of the other parties, and their directors, board members, officers, administrators, and employees, harmless from and against any costs and expenses, including attorneys fees and litigation expenses, damages or losses either may suffer as a result of any claims, demands or causes of action for personal injury or property damage arising out of or resulting from its design or construction of the Trail pursuant to this Agreement, except such personal injuries or property damages as may be caused by the sole negligence of such other party. The party having responsibility under this Agreement, or assuming responsibility under the City and School's afore-mentioned separate agreement, for land rights, or for operation, maintenance, repair, replacement, or regulation of the

Trail, shall defend, indemnify and hold each of the other parties, and their directors, board members, officers, administrators, and employees, harmless from and against any costs and expenses, including attorneys fees and litigation expenses, damages or losses either may suffer as a result of any claims, demands or causes of action for land rights damages, or for personal injury or property damage arising out of or resulting from its operation, maintenance, repair, replacement, or regulation of the Trail, except such personal injuries or property damages as may be caused by the sole negligence of such other party.

**12. Assignment.** This Agreement shall be binding upon and inure to the benefit of the parties and their successors or assigns; provided, this Agreement shall not be assigned or otherwise transferred to a third party without the prior written consent of the other Parties hereto. Other entities which qualify as public agencies under the Act may enter into this Agreement by amendment hereto executed and approved by all parties.

**13. Notices.** All notices or other communications which are required or permitted herein shall be in writing and shall be sufficient if delivered personally, sent by facsimile transmission, or sent by registered or certified mail, postage prepaid, return receipt requested, to the parties at their addresses or facsimile numbers set forth below which may be changed from time to time by notice to the other party:

<b>Bennington Public Schools</b> Attention: Superintendent Bennington Public Schools 11620 N 156th St Bennington, NE 68007	<b>City of Bennington</b> Attention: City Clerk 15514 Warehouse St PO Box 221 Bennington, NE 68007
<b>Papio-Missouri River Natural Resources District</b> Attention: General Manager 8901 South 154th Street Omaha, NE 68138-3621	

**14. Governing Law.** This Agreement shall be governed by and interpreted in accordance with the statutory and decisional law of the State of Nebraska.

**15. Default.** If the any of the parties fails to comply with any provision of this Agreement after reasonable request for performance has been served on such party, any other party may seek specific performance of this Agreement after written notice to all other parties.

**16. Entire Agreement.** This Agreement constitutes the entire Agreement of the parties with respect to the subject matter hereof. All prior agreements, representations, statements, and negotiations are hereby superseded. This Agreement may be amended only by a writing executed by both parties.

**IN WITNESS WHEREOF,** each of the parties have executed and delivered this document executed by its duly authorized officers on the date designated below.

<p><b>DATED</b> this ____ day of _____, 2005.</p> <p><b>DOUGLAS COUNTY SCHOOL DISTRICT 0059, a/k/a Bennington Public Schools</b></p> <p>BY: _____ President</p> <p>ATTEST: _____ Secretary</p>	<p><b>DATED</b> this ____ day of _____, 2005.</p> <p><b>CITY OF BENNINGTON, NEBRASKA</b></p> <p>BY: _____ Mayor of the City of Bennington</p> <p>ATTEST: _____ City Clerk</p>
<p><b>DATED</b> this ____ day of _____, 2005.</p> <p><b>Papio-Missouri River Natural Resources District,</b></p> <p>BY: _____ General Manager</p>	

# MEMORANDUM

**To:** Programs, Projects and Operations subcommittee

**Re:** Resolution to the Nebraska Department of Roads Transportation Enhancement Program for the Platte River Trail Phase 3; the Platte River Trail Phase 1 and the Missouri River Trail Phase 1.

**From:** Jim Becic

**Date:** 2 March, 2005

The Papio-Missouri River Natural Resources District (NRD) has submitted three applications to the Nebraska Department of Roads (NDOR) Transportation Enhancement Program for trail projects in the fall of 2004. This Program is designed to provide up to 80% federal reimbursement funds (maximum of \$500,000.00) per project.

All three of the NRD's applications were approved in December of 2004, for the maximum amount of \$500,000.00 for each project.

NDOR requires that a resolution by the NRD Board, stating that the NRD agrees to the terms and conditions of the agreement is now required.

**Therefore, it is the staff recommendation that the Subcommittee recommend to the Board to approve the attached resolution and authorize the General Manager to execute the agreements for the Platte River Trail Phase 3; the Platte River Trail Phase 1; and the Missouri River Trail Phase 1, for submittal to the Nebraska Department of Roads Transportation Enhancement Program.**

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**WHEREAS**, the Papio-Missouri River Natural Resources District (DISTRICT) wishes to enter into an agreement with the State of Nebraska Department of Roads to construct three segments of the following hiking/biking trails in the DISTRICT, to wit:

Platte River Trail Phase 3 (Hwy 370 to Springfield),

Platte River Trail Phase 1 (Hwy 50 to Lied Bridge), and

Missouri River Trail Phase 1 (N.P. Dodge Park north to Ponca Road),

with funds made available through the Nebraska Department of Roads Transportation Enhancement Program funds, and

**WHEREAS**, the Federal share payable shall be a maximum of eighty (80) percent of the eligible costs thereof, up to a maximum payment from federal funds of \$500,000.00 for each segment (Total of \$1,500,000.00), and

**WHEREAS**, the DISTRICT has agreed to place in its fiscal budget said amount,

**NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT**, that the DISTRICT enter into an agreement with the State of Nebraska Department of Roads for the construction of the aforesaid three trail segments; that these projects be constructed under the designation of Project Numbers: STPB-SO-2 (126), State Control No. 21790 Platte River Trail Phase 3 (Hwy 370 to Springfield); STPB-77 (49), State Control No. 22191 Platte River Trail Phase 1 (Hwy 5 to Lied Bridge); and STPB-28(85), State Control No. 22190 Missouri River Trail Phase 1 (N.P. Dodge Park north to Ponca Road), respectively and that the terms and conditions as contained in the Agreement with the Nebraska Department of Roads are hereby approved and that the DISTRICT General Manager is hereby authorized to execute said Agreement.

PASSED AND APPROVED this 10<sup>th</sup> day of MARCH, 2005.

ATTEST: \_\_\_\_\_

Steven G. Oltmans, General Manager

# MEMORANDUM

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

**Re:** Interlocal Cooperation Act Agreement – Bellevue Riverfront Development.

**From:** Jim Becic

**Date:** 2 March, 2005

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The City of Bellevue (City) has approached the Papio-Missouri River Natural Resources District (District) for assistance in their comprehensive planning, development and restoration efforts along the Missouri Riverfront area. This assistance, if approved, would eventually result in a variety of positive, healthy and regionally beneficial improvements.

The City, towards this end, has already accomplished the removal of the Kramer Power Plant (totaling 101 acres, of which 40 acres abut Fontenelle Nature Association property) and developed a Land Use and Proposed Work Plan Budget for this site. (Exhibits A and B).

The attached Interlocal Cooperation Act Agreement has been drafted to accomplish a variety of additional improvements with the District providing **one million two hundred and fifty thousand dollars (\$1,250,000.00)** in cost-share funds over a four year period.

The City, during its 28 February, 2005 Council meeting, approved this agreement for consideration by the District at its March meeting.

**Therefore, it is the staff recommendation that the Programs, Projects and Operations Subcommittee recommend to the Board that the General Manager be authorized to execute the *Interlocal Cooperation Act Agreement between the City of Bellevue, Nebraska and Papio-Missouri River Natural Resources District for Bellevue Riverfront Development*, which provides for a commitment of District cost share funds, not to exceed one million two hundred fifty thousand dollars (\$1,250,000.00) over a four year period.**

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**INTERLOCAL COOPERATION ACT AGREEMENT**

**Between**

**THE CITY OF BELLEVUE, NEBRASKA**

**And**

**PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT**

**For**

**BELLEVUE RIVERFRONT DEVELOPMENT**

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**THIS AGREEMENT** (hereinafter referred to as “**THIS AGREEMENT**”) is entered into by and between the **CITY OF BELLEVUE, NEBRASKA** (hereinafter referred to as “the **CITY**”) and the **PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT** (hereinafter referred to as “the **NRD**”), and is made pursuant to the authority provided in the Nebraska Interlocal Cooperation Act (§§13-801, R.R.S., 1943, et seq.).

**RECITAL:**

**WHEREAS**, the **CITY** intends to establish and implement a project (hereinafter referred to as “the **PROJECT**”) to improve the **CITY**’S Missouri River frontage in general accordance with the **CITY**’S Haworth Park North Land Use Plan – Option ‘A’ (hereinafter referred to as “the **LAND USE PLAN**”) prepared by Big Muddy Workshop, dated January 24, 2005, a copy of which is attached hereto as Exhibit “A” and incorporated herein by reference.

**WHEREAS**, the **NRD** desires to assist the **CITY** in financing the development of certain portions of the **PROJECT** and assist the **CITY** in financing certain **CITY** activities associated with the **PROJECT**.

**NOW, THEREFORE**, for and in consideration of the foregoing recitals and the mutual covenants of the parties hereinafter expressed, the parties agree as follows:

1. **PROJECT BENEFITS.** The parties do hereby find and determine that the PROJECT will be of general benefit to the CITY and the NRD, with only an incidental special benefit.

2. **PROJECT PARTICIPANTS.** The PROJECT shall be undertaken by the CITY, with NRD financing assistance as provided herein, without any separate entity being created, and the duties and responsibilities of the parties with respect to the PROJECT shall be as defined by THIS AGREEMENT.

3. **PROJECT DESIGN.** The CITY shall retain and compensate engineering consultants, planners and landscape architects (hereinafter referred to collectively as “the **ENGINEERS**”), approved by the NRD (such approval to not be withheld or delayed unreasonably), to design and administer the PROJECT.

4. **PROJECT PLANS.** The plans and specifications for the constructible portions of the PROJECT shall be drawn by the ENGINEERS in accordance with the LAND USE PLAN and other written design criteria provided by the CITY, and the preliminary and final plans and specifications for the constructible elements of the PROJECT, and the work plans for the planning elements of the PROJECT, funded with the assistance of the NRD (hereinafter referred to collectively as “the **COOPERATIVELY-FUNDED PORTIONS OF THE PROJECT**”) shall be subject to the written approval by the NRD, which approvals shall not be withheld or delayed unreasonably.

5. **COOPERATIVELY-FUNDED PORTIONS OF THE PROJECT.** The COOPERATIVELY-FUNDED PORTIONS OF THE PROJECT potentially may consist of the following planning elements and constructible elements, to-wit:

- a) Preparation of a study of the feasibility of demolition and removal of the CITY’S present sewage treatment plant, and design and implementation of a demolition plan found feasible;

- b) Preparation of a comprehensive plan for public Missouri river front improvements that would extend the LAND USE PLAN south, to encompass the land in the CITY and in Sarpy County lying east of the NRD'S R-616 levee, or east or south of the NRD'S R-613 Levee, and east of Highway 75;
- c) Design and development of the "Riverfront Pedestrian Trail" system depicted on the LAND USE PLAN, consisting of a ten-foot-wide concrete slab together with lighting, interpretive signs, and other appurtenances;
- d) Design and development of the "River Overlook" depicted on the LAND USE PLAN;
- e) Design and development of green spaces, landscaping, access roads and parking areas depicted on the LAND USE PLAN; and,
- f) Such other features of the PROJECT as the parties from time to time may in writing agree should be cooperatively funded with the funding assistance of the NRD described in THIS AGREEMENT.

**6. RIGHTS-OF-WAY ACQUISITION.** Lands, easements and rights-of-way that the ENGINEERS or the CITY determine are necessary for the PROJECT (hereinafter referred to as "the **PROJECT RIGHTS-OF-WAY**") shall be obtained by the CITY, without NRD cost or expense, to which PROJECT RIGHTS-OF-WAY the CITY shall hold title.

**7. PERMITS.** All necessary local, state and federal permits that the ENGINEERS or the CITY determine are necessary for the PROJECT shall be obtained by the CITY without NRD cost or expense.

**8. UTILITY RELOCATIONS.** The CITY shall perform the relocation of any utilities that are determined to interfere with the PROJECT, without NRD cost or expense.

**9. CONTRACT FOR PROJECT CONSTRUCTIONS.** Following the ENGINEER'S preparation of final plans and specifications for construction of constructible

COOPERATIVELY-FUNDED PORTIONS OF THE PROJECT, and approval of the same by the NRD, such approval to not be withheld or delayed unreasonably, the CITY shall solicit competitive sealed bids for construction thereof. Within a reasonable time after CITY receipt and opening of such bids, the CITY shall deliver a summary thereof to the General Manager of the NRD, together with the identification by the CITY of the bidder which the CITY determines is the lowest and best bidder for construction of such COOPERATIVELY-FUNDED PORTIONS OF THE PROJECT. In the absence of good cause to the contrary being shown by the NRD, the CITY shall accept such lowest and best bidder's bid.

**10. PROJECT CONSTRUCTIONS.** The CITY, through its contractor, shall construct COOPERATIVELY-FUNDED PORTIONS OF THE PROJECT in accordance with the NRD-approved plans and specifications.

**11. EROSION.** The CITY shall control erosion on sites and lands comprising PROJECT RIGHTS-OF-WAY until permanent vegetation is firmly established.

**12. OPERATION AND MAINTENANCE OF PROJECT CONSTRUCTIONS.** After completion of construction of COOPERATIVELY-FUNDED PORTIONS OF THE PROJECT and CITY acceptance of the same from the CITY'S contractor, the CITY, at its own cost and expense, shall permanently operate, maintain, repair, replace, manage and regulate such COOPERATIVELY-FUNDED PORTIONS OF THE PROJECT, as the CITY in its discretion determines necessary and in accordance with applicable and generally-accepted engineering practices.

**13. WORK PLANS.** The COOPERATIVELY-FUNDED PORTIONS OF THE PROJECT that the CITY desires to carry out using funds allocated by the NRD for the NRD's fiscal year 2005 (July 1, 2004-June 30, 2005) are identified in the NRD-approved work plan attached hereto as Exhibit "B" and incorporated herein by reference. Prior to the first day of April preceding each subsequent NRD fiscal year during the term of this AGREEMENT, the CITY shall prepare and submit to the NRD for its approval a written

work plan identifying the COOPERATIVELY-FUNDED PORTIONS OF THE PROJECT that the CITY desires to accomplish using funds allocated by the NRD for the PROJECT for such subsequent NRD fiscal year, such approvals to not be withheld or delayed unreasonably.

**14. NRD CONTRIBUTION.** As the NRD's sole contribution to the CITY towards costs of the COOPERATIVELY-FUNDED PORTIONS OF THE PROJECT identified in Exhibit "B" or in a subsequent NRD-approved work plan (hereinafter referred to as "the **NRD CONTRIBUTION**"), the NRD shall pay to the CITY the lesser of:

a) Fifty percent (50%) of the costs incurred by the CITY for such COOPERATIVELY-FUNDED PORTIONS OF THE PROJECT, after the deduction of grants or contributions by third parties towards such costs, or

b) ONE MILLION TWO HUNDRED FIFTY THOUSAND DOLLARS (\$1,250,000).

The CITY shall be solely responsible to pay all remaining PROJECT COSTS, and all remaining costs of COOPERATIVELY-FUNDED PORTIONS OF THE PROJECT, without NRD reimbursement.

**15. PAYMENT OF NRD CONTRIBUTION.** The NRD CONTRIBUTION shall be paid, in installments, without interest, as follows, to-wit:

a) For the NRD's **fiscal year 2005** (July 1, 2004-June 30, 2005), the amount of the NRD CONTRIBUTION shall be **\$250,000**, such sum to be due and payable by the NRD to the CITY on the later of the following dates:

i) **July 1, 2005**; or,

ii) 45 days after the CITY shall have submitted to the NRD paid invoices showing that the cumulative costs incurred by the CITY on NRD-approved work plans for COOPERATIVELY-FUNDED PORTIONS OF THE PROJECT have been at least **\$500,000**.

b) For the NRD's **fiscal year 2006** (July 1, 2005-June 30, 2006), the amount of the NRD CONTRIBUTION shall be **\$334,000**, such sum to be due and payable by the NRD to the CITY on the later of the following dates:

i) **July 1, 2006**; or,

ii) 45 days after the CITY shall have submitted to the NRD paid invoices showing that the cumulative costs incurred by the CITY on NRD-approved work plans for COOPERATIVELY-FUNDED PORTIONS OF THE PROJECT have been at least **\$1,168,000**.

c) For the NRD's **fiscal year 2007** (July 1, 2006-June 30, 2007), the amount of the NRD CONTRIBUTION shall be **\$333,000**, such sum to be due and payable by the NRD to the CITY on the later of the following dates:

i) **July 1, 2007**; or,

ii) 45 days after the CITY shall have submitted to the NRD paid invoices showing that the cumulative costs incurred by the CITY on NRD-approved work plans for COOPERATIVELY-FUNDED PORTIONS OF THE PROJECT have been at least **\$1,834,000**.

d) For the NRD's **fiscal year 2008** (July 1, 2007-June 30, 2008), the amount of the NRD CONTRIBUTION shall be **\$333,000**, such sum to be due and payable by the NRD to the CITY on the later of the following dates:

i) **July 1, 2008**; or,

ii) 45 days after the CITY shall have submitted to the NRD paid invoices showing that the cumulative costs incurred by the CITY on NRD-approved work plans for COOPERATIVELY-FUNDED PORTIONS OF THE PROJECT have been at least **\$2,500,000**; or,

iii) 45 days after the Engineers shall have certified to the NRD in writing that the PROJECT is complete.

The unpaid portion of any fiscal year's NRD CONTRIBUTION shall carry-over to succeeding fiscal years.

**16. INVOICES.** The afore-mentioned paid invoices shall set out the following information with respect to each such cost being invoiced for partial reimbursement:

- a) the amount of such cost,
- b) the date such cost was incurred,
- c) the person to whom such amount was paid, and,
- d) the purpose(s) for such cost;

*provided, however,* with respect to the CITY'S own personnel and their supervisors, and CITY-owned or CITY-leased equipment, materials, supplies and fuel utilized in design, engineering, administration and performance of COOPERATIVELY-FUNDED PORTIONS OF THE PROJECT, as NRD consent to such utilization is reflected in NRD-approved work plans, the CITY may include invoices for reasonable amounts representing the actual cost and expense to the CITY of providing such personnel, equipment, materials, supplies and fuel.

**17. USE COVENANT.** At times requested by the NRD, the City will procure the due execution, and filing with the Register of Deeds of Sarpy County, Nebraska, of written covenants or other appropriate instruments, approved by the NRD, effectively providing that project rights of way that are being improved in whole or part through the expenditure of NRD funds contributed pursuant to THIS AGREEMENT will be permanently maintained by the CITY for public park and recreation purposes.

**18. PROJECT RISK OF LOSS.** The CITY shall have and bear the sole risk of loss of or damage to the PROJECT or any and all PROJECT elements, whether such loss or damage results from flood or other casualty whatsoever.

**19. INDEMNIFICATION.** Except as otherwise specifically provided in THIS AGREEMENT, the CITY shall defend and indemnify the NRD and hold the NRD harmless (1) from and against any and all costs of the PROJECT exceeding the NRD'S CONTRIBUTION; (2) from and against any and all claims, demands, causes of action, costs and expenses, including court costs and attorneys fees, for personal injuries or

property damages in whole or in part arising out of the demolitions involved in the PROJECT, arising out of the design and construction of the PROJECT or elements thereof; arising out of the operation, maintenance, repair, replacement, management or regulation of the PROJECT or elements thereof; or caused by the negligence or other actions or inactions of the CITY, its employees, officers, contractors and agents in the design, acquisition of PROJECT RIGHTS-OF-WAY, construction, operation, maintenance, repair, replacement, management or regulation of the PROJECT or elements thereof (except as may be caused solely by the negligence of the NRD or its employees, officers, contractors or agents); and, (3) from and against all claims, demands, causes of action, costs and expenses, including without limitation costs of investigations, court costs and attorneys fees, arising from the introduction or presence in or on any PROJECT RIGHTS-OF-WAY of asbestos or any form thereof, or any material or substance listed, defined, designated or otherwise regulated as hazardous, toxic, radioactive or dangerous under the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. Sections 9601-9675, or under any other federal, state or local law, rule, regulation, ordinance, code or order now in effect or hereafter enacted to protect the environment; and, from and against any and all costs and expenses of clean-up and response with respect to any such materials or substances in or on any PROJECT RIGHTS-OF-WAY, including, without limitation, costs of any studies and investigations necessary to determine an appropriate response to any contamination in or on the PROJECT RIGHTS-OF-WAY (except costs and expenses relating to any such substances or materials introduced by the NRD or its employees, officers, contractors or agents).

**20. NRD APPROVALS.** Approvals by the NRD, and other NRD actions contemplated by THIS AGREEMENT, may be provided by the General Manager of the NRD.



**21. RECYCLED MATERIALS.** The CITY shall utilize recycled or recyclable materials and products in the PROJECT whenever feasible and practical.

**22. EFFECTIVE DATE.** THIS AGREEMENT shall be in force and effect from and after its execution by the parties hereto.

**23. TERM.** THIS AGREEMENT shall have permanent duration.

**24. NON-DISCRIMINATION.** Any contract awarded or executed for work pursuant to THIS AGREEMENT, or any addenda thereto, shall incorporate therein the equal employment provisions which are contained in a document attached hereto and incorporated herein as Exhibit "C" to THIS AGREEMENT, if any. The parties hereto shall not, in the performance of THIS AGREEMENT, discriminate or permit discrimination in violation of federal or state laws or local ordinances because of race, disability, color, sex, age, political or religious opinions, affiliations or national origin.

**25. APPLICABLE LAW.** Each party to THIS AGREEMENT shall follow all applicable federal and state statutes and regulations in carrying out the faithful performance and terms of THIS AGREEMENT. Each party hereto shall, whenever applicable, require performance under the Fair Labor- Standards Act.

**26. SEVERABILITY.** In the event any portion of THIS AGREEMENT is held invalid or unenforceable for any reason, it is agreed that any such invalidity or unenforceability shall not affect the remainder of THIS AGREEMENT and the remaining provisions shall remain in full force and effect, and any court of competent jurisdiction may so modify any objectionable provision of THIS AGREEMENT so as to render it valid, reasonable, and enforceable.

**27. CAPTIONS.** Captions used in THIS AGREEMENT are for convenience and not for use in the construction of THIS AGREEMENT.

**IN WITNESS WHEREOF**, the parties have executed THIS AGREEMENT on the dates hereinafter indicated pursuant to authorizing resolutions duly adopted at regularly called meetings of their governing bodies.

The CITY has executed THIS AGREEMENT on \_\_\_\_\_, 2005.

**THE CITY OF BELLEVUE, NEBRASKA**

By \_\_\_\_\_  
**Mayor**

**Attest:**

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

The NRD has executed THIS AGREEMENT on \_\_\_\_\_, 2005.

**PAPIO-MISSOURI RIVER NATURAL  
RESOURCES DISTRICT**

By \_\_\_\_\_  
**General Manager**

Fiscal Year	City costs	Cumulative City costs	NRD Contribution
2005	500,000.00	500,000.00	250,000.00
2006	668,000.00	1,168,000.00	334,000.00
2007	666,000.00	1,834,000.00	333,000.00
2008	666,000.00	2,500,000.00	333,000.00
	2,500,000.00		1,250,000.00

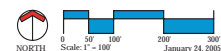




# Haworth Park North

## Land Use Plan

City of Bellevue, Nebraska





## **EXHIBIT “B”**

### **COOPERATIVELY – FUNDED PORTIONS OF THE PROJECT** **WORK PLAN**

#### **Proposed One and Two Year’s Budget – 2005 and 2006**

<b><u>PROJECT</u></b>	<b><u>ESTIMATED COST</u></b>
North Trail Design – Trail design for northern portion of Kramer Property	\$9,500
North Trail Clean Up and Implementation	\$150,000
Environmental Kiosks and Displays along the North Trails	\$100,000
Sewage Treatment Plant Demolition and Removal Feasibility Study	\$20,000
Turn Concept Plan into an Actual Design Development Plan to Encompass the Land in the City and in Sarpy County Lying East Of the NRD’s R-616 Levee, or East or South of the NRD’s R-613 Levee, and East of Highway 75	\$50,000 - \$60,000
Riverbank Cleanup and Preservation	\$100,000 - \$150,000
Implementation of Riverfront Pedestrian Trail	\$200,000 - \$250,000
Trail Overlooks, Bridges and Beautification	\$150,000 - \$200,000
Design and Development of Scenic River Overlook	\$150,000 - \$250,000
Temporary Access and Parking for Nature Trails and River Overlook	\$20,000

**TOTAL ESTIMATED PROJECT COSTS: \$949,500 - \$1,209,500**

\*\*\*\*\*

# Memorandum

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

**Re:** Additional Professional Services for West Papio Watershed Floodplain Remapping

**From:** Paul Woodward, Water Resources Engineer

**Date:** March 1, 2005

---

In February 2003, the Board approved a contract with HDR Engineering Inc. in the amount not to exceed \$368,500 for professional services to develop new and/or updated flood hazard data for the West Branch Papillion Creek and its Tributaries. Since that time, HDR has completed several tasks within their scope including field reconnaissance, bridges and culvert surveys, and new hydrology. During the completion of these tasks, several additional services necessary to perform the study were completed or are anticipated. A February 4, 2005 letter from HDR documents these additional services and was included with February's General Manager's Report, and is enclosed for your consideration.

In general, the additional services relate to the added work performed on 105 bridges or culverts in comparison to the 89 originally scoped. More bridges required additional field reconnaissance and survey and will likely mean more time required to develop the hydraulic modeling in the coming months. Other added services relate to: 1) detailed review of topographic mapping provided by MAPA, 2) an analysis of the District's West Papio Channel Project, 3) and the calibration needed to update the hydrologic model to better reflect recent "urban buildout" conditions in the watershed. In all, HDR is requesting an increase in the maximum fee of \$41,980. This would bring the total contract cost up to \$410,480. However, a FEMA grant in the amount of \$349,100 has been secured for this project, making the final cost to the NRD only \$61,380, or nearly 15%. Currently the District has enough budgeted for this project under Floodway Purchase professional services.

In conclusion, additional services provided by HDR for this floodplain mapping project are estimated to cost an extra \$41,980, increasing the maximum fee from \$368,500 to \$410,480. The staff does believe that the additional work is justified and necessary to develop complete and accurate floodplain mapping of the West Papio Watershed.

**Management recommends that the Subcommittee recommend to the Board that the General Manager be authorized to execute an amendment to the professional services contract with HDR Engineering, Inc. for the West Papio Watershed Flood Plain Mapping Project which provides for an increase in the maximum fee to \$410,480, subject to changes deemed necessary by the General Manager and approval as to form by District Legal Council.**



Sent Via Email: February 4, 2005

February 4, 2005

Marlin Petermann, PE  
Assistant General Manager  
Papio-Missouri River Natural Resources District  
8901 S. 154th Street  
Omaha, NE 68138

RE: Floodplain Remapping for West Papillion Creek and its Tributaries  
HDR Job Number 12266  
Request for Additional Services

Dear Marlin:

The Papio-Missouri River NRD contracted with HDR Engineering, Inc. on March 2004 to provide engineering services to remap the floodplain on the West Papillion Creek and its Tributaries. During the development of the deliverables stated in FEMA's Map Activity Statement (MAS), additional analyses beyond what was scoped in our agreement were conducted. The purpose of this letter is to document the changes to the scope of work and request an additional fee of \$41,980.

The scope of work was segmented into eight (8) task series. The additional work is associated with FEMA's MAS 1 - Surveying and Field Reconnaissance, MAS 2 - Topographic Mapping, MAS 3 - Hydrologic Analysis, and MAS 4 - Hydraulic Modeling. The following paragraphs summarize the Additional Services.

*MAS 1 - Surveying and Field Reconnaissance (Task Series 200)*

In our key understandings, "The number of hydraulic structures to be surveyed is 89." Based on existing flood profiles and aerial mapping, only 89 structures were identified. In an attempt to keep within the grant funding limits, the number of hydraulic structures was limited to 89 and no contingency was included. During the field reconnaissance, we identified 104 structures, in which 100 structures have been surveyed by Lamp, Rynearson Associates (LRA). This effort included additional field survey and field reconnaissance services at a cost of \$15,120.

*MAS 2 - Topographic Mapping*

Within the project scope, it was anticipated that some time would be required to review topographic mapping deliverables from Horizons and was incorporated into Task Series 400. HDR was asked to assist in defining the limits of the LiDAR corridor for the topographic mapping contractor along the Big Papillion Creek and its tributaries. This was an iterative process and required 24 hours of extra effort.

Data has been received from Horizons and the P-MRNRD on four different occasions, requiring additional time for data inventory and inspection. The additional time spent in data review and coordination totaled 16 hours.

The subtotal for assisting in the topographic mapping work totaled 40 hours of a water resources engineer or a cost of \$3,400.

MAS 4 – Hydrologic Analyses (Task Series 300)

In the Agreement, the key understandings notes that *“The HEC-HMS model developed for Stage I will be utilized as the baseline hydrologic model. The land use maps created in Stage I were created from data collected from the Partnership communities and adequately depict 2040 land use conditions.”* This item was discussed in much detail during scope negotiations. During an October 14, 2004, progress meeting with P-MRNRD staff it was decided to re-evaluate the landuse. This extra effort required 32 hours of a water resources engineer.

Another key understanding in the agreement states that *“Only 1 HEC-HMS model will be prepared for the Watershed”* and *“Calibration of the baseline HEC-HMS model was performed during Stage I activities. Since only minor modifications will be made to the baseline HEC-HMS model, no additional calibration is required.”* While initial comparisons to the Stage I HEC-HMS model were in good agreement, it was recognized that the Stage I HEC-HMS model overestimated peak discharges along the downstream portions of West Papillion Creek. The Baseline HEC-HMS floodplain model was modified and additional comparisons made. This extra effort required 60 hours of a water resources engineer.

During the October 29, 2004 meeting, channel improvements on West Papillion Creek upstream of Walnut Creek were discussed. It was decided to segment the channel improvements into 3 phases, thereby showing the effect of the channel improvement. This was not anticipated in the initial scope. This extra effort required 24 hours of a water resources engineer.

The subtotal for Task Series 300 Hydrologic Analysis Additional Services totaled 116 hours of a water resources engineer or a cost of \$9,860.

MAS 5 – Hydraulic Analyses (Task Series 400)

The hydraulic model is currently under development. Due to the number of additional hydraulic structures, an additional fee for Task Series 400 will be required. It is estimated that incorporating the additional 15 hydraulic structures will require 120 hours of a water resources engineer.

In addition, we have been requested to incorporate projects currently under construction or in final design into the model. During scope negotiations, incorporating the channel improvements from 96th Street to Giles was discussed. Since then, additional bridges (42nd Street, 48th Street and 96th Street) and a channel improvement project (segment of West Papillion Creek in Elkhorn) were identified for inclusion in the model. This will require review of hydraulic models prepared by Others and review of bridge plans. It is estimated that this effort will require 40 hours of a water resources engineer.

The subtotal for Task Series 400 Hydraulic Analysis Additional Services requires 160 hours of a water resources engineer or a cost of \$13,600.

Summary

The following summarizes the Additional Services fee:

MAS 1 - Surveying and Field Reconnaissance	\$15,120
MAS 2 - Topographic Mapping	\$3,400
MAS 4 – Hydrologic Analyses	\$9,860
MAS 5 – Hydraulic Analyses	<u>\$13,600</u>
Total:	\$41,980



Letter to Mr. Petermann  
February 4, 2005  
Page 3

The activities described above need to be completed to remap the floodplain of West Papillion Creek and its tributaries. With the identified Additional Services, the schedule may be adjusted. We are currently placing additional resources on this important project to meet current deadlines.

If you have any questions or would like to discuss this request in more detail, please contact me at (402) 399-1078 at your convenience.

Very truly yours,

A handwritten signature in cursive script that reads "Laurie Carrette Zook".

Laurie Carrette Zook, P.E.  
Project Manager

Enclosure

cc: Paul Woodward, P-MRNRD, Water Resources Engineer



ONE COMPANY | *Many Solutions™*

March 1, 2005

Marlin Petermann, P.E.  
Assistant General Manager  
Papio-Missouri River Natural Resources District  
8901 S. 154th Street  
Omaha, NE 68138-3621

RE: Floodplain Remapping for West Papillion Creek and its Tributaries  
Contract Amendment No. 1

Dear Marlin:

Enclosed is Amendment No. 1 that outlines the additional professional services to be performed in connection with the floodplain remapping of West Branch Papillion Creek and its tributaries. The amended agreement is not to exceed \$410,480, which is the sum of \$368,500 from the original agreement dated March 1, 2004, plus an additional \$41,980 from Amendment No. 1.

Please sign both copies of the Agreement and retain one copy for your records and return the other signed copy for our files.

If you have any questions, please contact me at 399-1078 at your convenience.

Very truly yours,

HDR ENGINEERING, INC.

Laurie Carrette Zook, P.E.  
Project Manager

Enclosure

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

*Prepared by*

**ENGINEERS JOINT CONTRACT DOCUMENTS COMMITTEE**

*and*

*Issued and Published Jointly By*

[LOGOS]

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)

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  
1801 Alexander Bell Drive, Reston, VA 20191-4344

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

**AMENDMENT NO. 1**

This is Amendment No.1 to the original Agreement dated March 1, 2004. This Amendment No. 1 shall be effective as of \_\_\_\_\_, 2005 ("Effective Date") between Papio-Missouri River Natural Resources District ("OWNER") and HDR Engineering, Inc. ("ENGINEER"). OWNER retains ENGINEER to perform additional professional services, in connection with floodplain remapping of West Branch Papillion Creek and its Tributaries ("Assignment" or "Project").

OWNER and ENGINEER, in consideration of their mutual covenants as set forth herein, agree as follows:

**ARTICLE 1--ENGINEER'S SERVICES**

**1.01 Scope**

A. ENGINEER shall provide the services set forth in the "Exhibit SR-A" for Amendment No. 1.

B. Upon this Amendment No. 1 becoming effective, ENGINEER is authorized to begin services as set forth in said "Exhibit SR-A".

C. If authorized in writing by OWNER, and agreed to by ENGINEER, services beyond the scope of this Amendment No. 1 will be performed by ENGINEER for additional compensation.

**ARTICLE 2--OWNER'S RESPONSIBILITIES**

**2.01 General**

A. OWNER shall have the responsibilities set forth in the original Agreement, as amended herein and in said "Exhibit SR-A".

**ARTICLE 3--TIMES FOR RENDERING SERVICES**

3.01 ENGINEER's services will be performed within the time period established in the original Agreement..

3.02 If ENGINEER's services are delayed or suspended in whole or in part by OWNER, ENGINEER shall be entitled to equitable adjustment of the time for performance and 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 of ENGINEER.**

A. OWNER shall pay ENGINEER for services rendered under this Amendment No. 1 as follows:

1. An amount equal to ENGINEER's Direct Labor Costs times a Factor of 3.15 for the services of ENGINEER's employees engaged on the Assignment, plus Reimbursable Expenses, estimated to be \$ 41,980 which includes ENGINEER's sub-consultants' charges estimated to be \$7,560. The total compensation under paragraph 4.01.A.1 is estimated to be \$ 41,980. Therefore, the fee proposal for the entire Agreement, including this Amendment No. 1 is not to exceed four hundred ten thousand four hundred eighty dollars (\$410,480), which is computed as the sum of three hundred sixty eight thousand five hundred dollars (\$368,500) from the original Agreement, plus an additional forty one thousand nine hundred and eighty dollars (\$41,980) from this Amendment No. 1 as per Attachment "A" hereto.

**NO OTHER CHANGES TO ARTICLES 4 AND 5.**

**ARTICLE 6—CONTENT OF AMENDMENT**

6.01 The following amended Exhibits are incorporated herein by reference:

A. Exhibit SR-A for Amendment No. 1, "Further Description of Services, Responsibilities, Time, and Related Matters," consisting of 4 pages.

B. Attachment A "Fee Estimate" for Amendment No. 1 consisting of 1 page.

**6.02 Total Agreement**

A. This Amendment No. 1 (consisting of pages 1 to 2, inclusive, together with the Exhibits identified in paragraph 6.01) constitutes the entire amended agreement between OWNER and ENGINEER and supersedes all prior written or oral understandings. This Amendment No. 1 may only be further amended, supplemented, modified, or canceled by a duly executed written instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment No. 1, the Effective Date of which is indicated on page 1.

OWNER:

PAPIO-MISSOURI RIVER NATUAL RESOURES  
DISTRICT

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

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

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

ENGINEER:

HDR ENGINEERING, INC.

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

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

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

This is **EXHIBIT SR-A**, consisting of 4 pages, referred to in and part of the **Amendment No. 1** between **OWNER** and **ENGINEER** for **Study and Report Phase Professional Services** dated \_\_\_\_\_.

Initial:  
OWNER  
ENGINEER

### **Further Description of Services, Responsibilities, Time, and Related Matters**

Specific articles of the Agreement are amended and supplemented to include the following agreement of the parties:

#### **A.1.01 ENGINEER's Services**

**For Papio-Missouri River Natural Resources District  
For Development of Flood Hazard Data for West Branch Papillion Creek and its Tributaries  
Douglas and Sarpy Counties, NE**



#### **ENGINEERING PROPOSAL – AMENDMENT NO. 1**



#### **BACKGROUND AND BASIS OF PROPOSAL**

The purpose of the Amendment No. 1 effort is to supplement flood hazard mapping activities outlined in the original Agreement, dated March 1, 2005. The original Agreement listed key understandings that were exceeded during the course of the project. This Amendment is intended to continue an on-going work effort in an integrated and cohesive manner toward development of the flood hazard mapping of the West Papillion Creek and its tributaries.

The original scope of work was segmented into eight (8) task series. The additional work is associated with FEMA's MAS 1 - Surveying and Field Reconnaissance, MAS 2 - Topographic Mapping, MAS 3 - Hydrologic Analysis, and MAS 4 – Hydraulic Modeling. The following paragraphs summarize the Additional Services.

#### **AMENDED SCOPE OF SERVICES**

##### **TASK SERIES 200 -MAS 1 - Surveying and Field Reconnaissance**

In our original key understandings, "*The number of hydraulic structures to be surveyed is 89.*" Based on existing flood profiles and aerial mapping, only 89 structures were identified. In an attempt to keep within the grant funding limits, the number of hydraulic structures was limited to 89 and no contingency was included. During the field reconnaissance, we identified 103 structures, in which 100 structures have been surveyed by Lamp, Rynearson Associates (LRA).

**Task Objectives:** Collect additional hydraulic structure information to support the hydrologic and hydraulic modeling efforts.

**HDR Activities:** **Task 250 Additional Field Reconnaissance and Field Hydraulic Survey.**  
Conduct additional field reconnaissance of hydraulic structures within the floodplain mapping reaches. Document field conditions. Collect additional hydraulic structure information by field survey. Hydraulic information to be

obtained includes: structure type, open-end area, pier dimensions, channel cross section at upstream face, and flow depth. Process additional field data into usable format for hydraulic modeling.

**Task Deliverables:** Field Reconnaissance Summary Report; Survey maps and drawings; and Survey notebook.

**Key Understandings:** Conduct field reconnaissance for a total of 103 structures and provide field survey on a total of 100 structures. Three remaining structures to be surveyed by NRD.

**Effort of Services:** This effort of services totals \$15,120.

#### **TASK SERIES 300 -MAS 4 – Hydrologic Analyses**

In the Original Agreement, the key understandings notes that *“The HEC-HMS model developed for Stage I will be utilized as the baseline hydrologic model. The land use maps created in Stage I were created from data collected from the Partnership communities and adequately depict 2040 land use conditions.”* This item was discussed in much detail during scope negotiations. During an October 14, 2004, progress meeting with P-MRNRD staff it was decided to re-evaluate the landuse.

Another key understanding in the agreement states that *“Only 1 HEC-HMS model will be prepared for the Watershed”* and *“Calibration of the baseline HEC-HMS model was performed during Stage I activities. Since only minor modifications will be made to the baseline HEC-HMS model, no additional calibration is required.”* The Baseline HEC-HMS floodplain model was modified and additional comparisons made.

During the October 29, 2004, meeting channel improvements on West Papillion Creek upstream of Walnut Creek were discussed. It was decided to segment the channel improvements into 3 phases, thereby showing the effect of the channel improvement.

**Task Objectives:** To quantify and predict flood runoff

**HDR Activities:** **Task 350 Additional Hydrologic Modeling.** Reevaluate land use conditions for year 2050. Compare Baseline HEC-HMS floodplain model to two additional scenarios presented in the USACE Section 22 Study. Evaluate three channel improvement scenarios and incorporate the selected scenario into the floodplain results.

**Task Deliverables:** Incorporate modeling changes into hydrologic modeling files and hydrologic report.

**Effort of Services:** This effort of services involved 116 hours of a water resources engineer or a cost of \$9,860.

#### **TASK SERIES 400 -MAS 5 – Hydraulic Analyses**

Due to the number of additional hydraulic structures, additional effort to model 15 hydraulic structures will be necessary. In addition, incorporating projects currently under construction or in final design into the model were not fully considered in the Original Agreement. During scope negotiations, incorporating the channel improvements from 96th Street to Giles was discussed. Since then, additional bridges (42nd Street, 48th Street and 96th Street) and a channel improvement project (segment of West Papillion Creek in Elkhorn) were identified for inclusion in the model.



- Task Objectives:** Establish the 10-, 2-, 1- and 0.2-percent annual chance flood hazard data for existing and 2040 land use conditions and establish new flood hazard boundaries.
- HDR Activities:** **Task 480 Additional Hydraulic Modeling Development.** Include the additional hydraulic structures surveyed under Task 250 into the HEC-RAS model. Incorporate proposed channel improvements and bridges either under construction or to be completed within the next year.
- Task Deliverables:** Incorporate additional modeling changes into hydraulic modeling files and hydraulic report.
- Key Understandings:** Incorporate 17 additional bridges (for a total of 106 structures). Incorporate existing channel improvement project on West Papillion Creek in Elkhorn. Incorporate selected proposed channel improvement scenario on West Papillion Creek upstream of Walnut Creek
- Effort of Services:** This effort of services involved 160 hours of a water resources engineer or a cost of \$13,600.

#### **TASK SERIES 800 -MAS 2 – Topographic Mapping (Not Previously Defined)**

Within the project scope, it was anticipated that some time would be required to review topographic mapping deliverables from Horizons and was incorporated into Task Series 400. HDR assisted in defining the limits of the LiDAR corridor for the topographic mapping contractor along the Big Papillion Creek and its tributaries. In addition, data was received from Horizons on four different occasions, requiring additional time for data inventory and inspection.

- Task Objectives:** Provide assistance on topographic mapping.
- HDR Activities:** **Task 810 Topographic Mapping Assistance.** Assist NRD staff in the review of the topographic data.
- Task Deliverables:** Emails explaining review of topographic datasets.
- Key Understandings:** Topographic dataset review for West Papillion Creek floodplain remapping project limits only.
- Effort of Services:** This effort of services involved 40 hours of a water resources engineer or a cost of \$3,400.

**A.2.01 OWNER's Responsibilities.** Other than that outlined above, no changes from the intent of the original Agreement.

#### **A.3.01 Time for Rendering Services.**

A. The time period for the performance of ENGINEER's services in this Amendment shall be schedule established in the original Agreement.

B. ENGINEER's services under this Agreement will be considered complete when all deliverables described in this Amendment are submitted to OWNER.

#### **A.4.02 Other**

E. OWNER has established the following budget: Project fee under the Amended Agreement is not to exceed four hundred ten thousand four hundred eighty dollars (\$410,480), which is computed as the sum of three hundred sixty eight thousand five hundred dollars (\$368,500) from the original Agreement, plus an additional forty one thousand nine hundred and eighty dollars (\$41,980) from this Amendment No. 1 as per Attachment "A" hereto.

### **Attachment A – Fee Estimate**

The following summarizes the Additional Services fee:

MAS 1 - Surveying and Field Reconnaissance	\$15,120
MAS 4 – Hydrologic Analyses	\$9,860
MAS 5 – Hydraulic Analyses	\$13,600
MAS 2 - Topographic Mapping	<u>\$3,400</u>
Total:	\$41,980

# MEMORANDUM

TO: Programs, Projects and Operations Subcommittee

FROM: Martin P. Cleveland, Construction Engineer

SUBJECT: Papillion Creek Bank Stabilization Project Bids

DATE: February 23, 2005

Attached are location maps and typical cross-sections for the referenced creek bank stabilization project. The work consists of placing rock rip-rap along the creek bank of the Little Papillion Creek at four (4) locations between Blondo Street and "Q" Street (Omaha, NE) and West Branch Papillion Creek at four (4) locations between 48<sup>th</sup> Street and 84<sup>th</sup> Street (Papillion, NE). The work includes the furnishing of the labor, materials, equipment, tools and incidentals necessary to install approximately 21,870 tons of rock rip-rap bank protection along approximately 3,430 linear feet of creek bank. The contract provides for 120 working days to complete the project and in a typical weather year this would result in November 6 completion deadline.

A bid summary is attached for your consideration. The apparent low bidder is Midwest Dumpers Inc. with bids as follows:

SITE	EST. TONS	UNIT PRICE	TOTAL COST
A1	520	\$24.20/Ton	\$12,584
A2	700	\$24.20/Ton	\$16,940
B	2,800	\$20.30/Ton	\$56,840
C	3,170	\$20.20/Ton	\$64,034
D	4,080	\$20.70/Ton	\$84,456
E1	1,180	\$21.80/Ton	\$25,724
E2	8,070	\$21.80/Ton	\$171,891
F	1,350	\$21.30/Ton	\$29,430
TOTALS	21,870		\$461,899

Based on the estimated total rip-rap quantity of 21,870 tons the total project cost (total base bid plus alternative additive) would be \$461,899. The Engineer's estimate for total project cost is \$482,000.

This work will be funded via funds included in Project Maintenance General Contract Work (Account 010312 4479) and Maintenance Materials (Account 010312 4477) and West Branch Contract Work (Account 010304 4479) and Maintenance Materials (Account 010304 4477). As of February 10, 2005 remaining funds in these accounts were \$176,507 + \$182,333 + \$189,000 = \$547,840.

**It is Management's recommendation that the Subcommittee recommend to the Board of Directors that the General Manager be authorized to execute a contract for rock rip-rap stabilization work at eight (8) sites along the Little and West Branch Papillion Creeks with Midwest Dumpers Inc., for their Base and Alternative Additive bid of \$461,899.**

## Summary of Bid Proposals

Project: Papillion Creek Bank Stabilization Project      NRD Project No. 529H  
 Opening Date: February 22, 2005      Opening Time: 2:00 p.m.

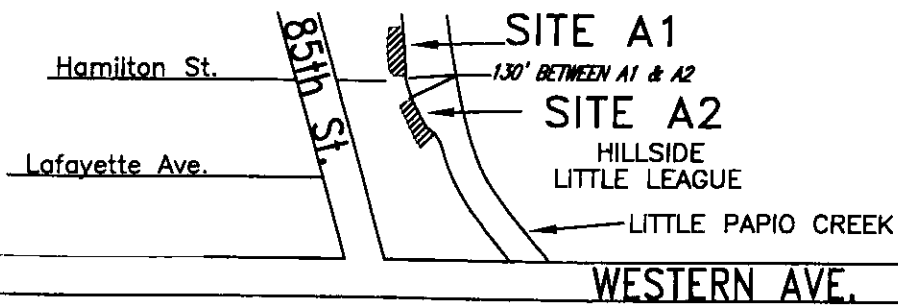
Bidder Name:	1	2	3	4	5
	Kohl Construction	Nelson & Rock	Midwest Dumpers		

1. Site A1 – Riprap (520 Tons) Unit Price Bid (\$/Ton)	37.50	26.00	24.20		
2. Site A2 (700 Tons) (\$ /Ton)	37.50	26.00	24.20		
3. Site B - Riprap (2800 Tons) Unit Price Bid (\$/Ton)	46.53	26.00	20.30		
4. Site C – (3170 Tons) Unit Price Bid (\$/Ton)	38.00	26.00	20.20		
5. Site D – (4080 Tons) (\$/Ton)	36.75	26.00	20.70		
6. Site F – (1350 Tons) (\$/Ton)	44.55	26.00	21.80		
7. <b>Total Base Bid</b> (1 thru 6) (\$)	506,576.50	328,120	264,284		
8. Site E1 (1180 Tons) (\$/Ton)	38.00	26.00	21.80		
9. Site E2 (8070 Tons) (\$/Tons)	38.00	26.00	21.30		
10. Alternative Additive Subtotal (8+9) \$	351,500.00	240,500	197,615		
11. <b>Total Base Bid</b> plus Alternative Additive (7 + 10) \$	858,076.50	568,620	461,899 *		

Bid Bond (5%)	Yes	Yes	Yes		
Rock Supplier	Rinker Materials (Ft. Calhoun)	Rinker Materials (Ft. Calhoun)	Rinker Materials (Ft. Calhoun)		

\* Apparent Low Bidder is Midwest Dumpers Inc.

Engineer's Estimate: \$482,000



I-80

UNION PACIFIC RR

SITE B

690'

"F" STREET

"F" STREET

67th St.

LITTLE PAPIO CREEK

"I" STREET

240'

SITE C

LITTLE PAPIO CREEK

"Q" STREET



Not to scale

SITE	LENGTH (ft)	LOCATION
A1	110'	NE 1/4 of Section 15, T15N, R12E, Douglas County, Nebraska
A2	150'	NE 1/4 of Section 15, T15N, R12E, Douglas County, Nebraska
B	360'	NE 1/4 of Section 1, T14N, R12E, Douglas County, Nebraska
C	460'	SE 1/4 of Section 1, T14N, R12E, Douglas County, Nebraska

# LEGEND

 Rock Riprap

PAPIO-MISSOURI RIVER  
NATURAL  
RESOURCES  
DISTRICT



8901 S. 154th St.  
Omaha, NE 68138-3621  
[www.papionrd.org](http://www.papionrd.org)

TITLE

LITTLE PAPIO CREEK  
BANK STABILIZATION PROJECT  
HAMILTON to "Q" ST.  
Location Map  
Sites A, B, & C

DATE: 1/26/05 Figure: 1

CORNHUSKER RD.

48th St.

SITE F

1550'

WEST BRANCH PAPIILLION CREEK

SITE E2

130'

240'

SITE E1

72nd St.

SITE D

380'

66th St.

CEDARDALE RD.

60th St.

54th St.



Not to scale

HWY. 370

SITE	LENGTH (ft)	LOCATION
D	470'	SW 1/4 of Section 25, T14N, R12E, Sarpy County, Nebraska
E1	230'	SE 1/4 of Section 26, T14N, R12E, Sarpy County, Nebraska
E2	1100'	SE 1/4 of Section 26, T14N, R12E, Sarpy County, Nebraska
F	550'	SE 1/4 of Section 30, T14N, R13E, Sarpy County, Nebraska

# LEGEND

 Rock Riprap

PAPIO-MISSOURI RIVER  
NATURAL  
RESOURCES  
DISTRICT



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TITLE

LITTLE PAPIO CREEK  
BANK STABILIZATION PROJECT  
48th to 84th St.

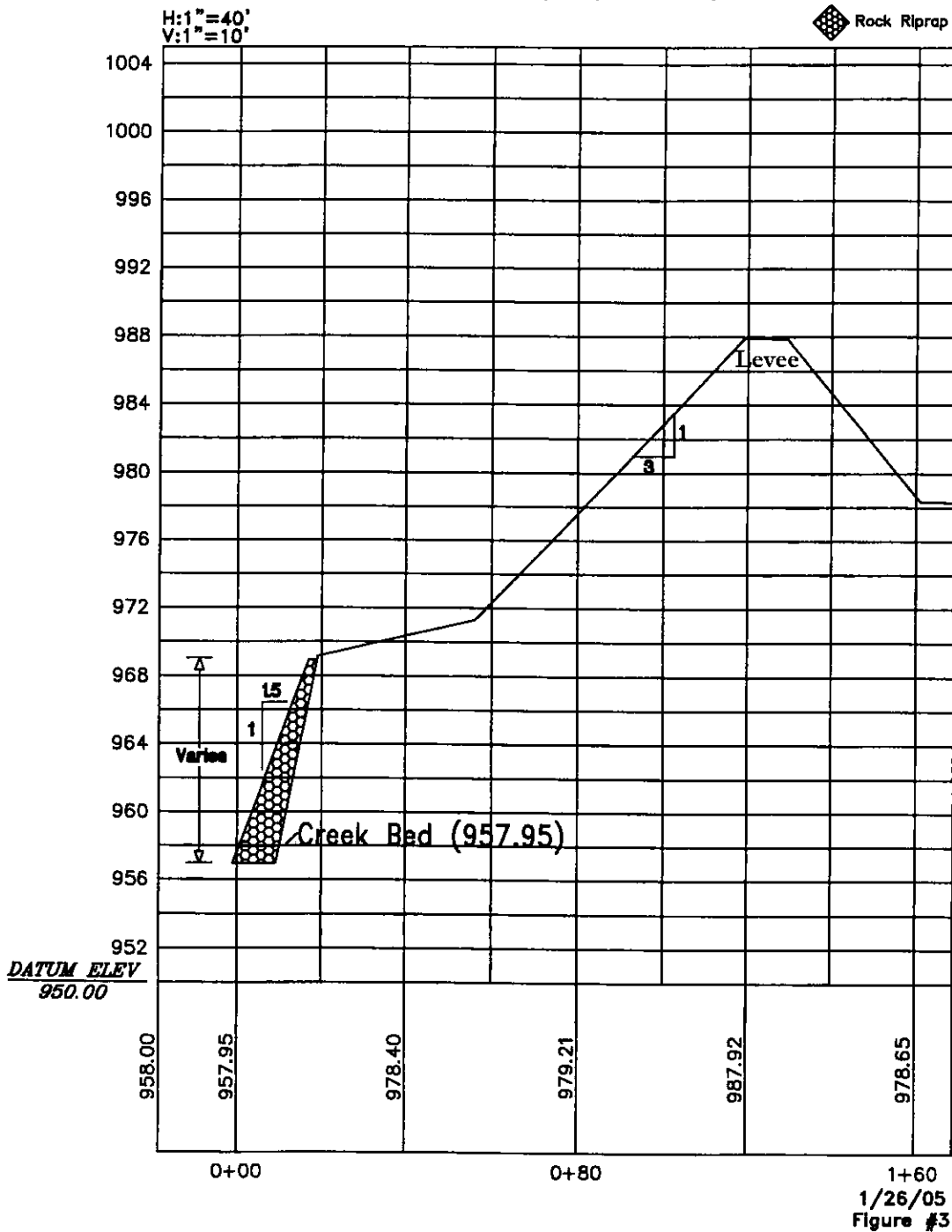
Location Map  
Sites D, E, & F

DATE: 1/26/05 Figure: 2

# PAPILLION CREEK

## BANK STABILIZATION PROJECT

Typical Cross-Section- Sites C, D, E1, E2, & F  
Full Height Protection  
(Looking Upstream)





# PAPILLION CREEK

## BANK STABILIZATION PROJECT

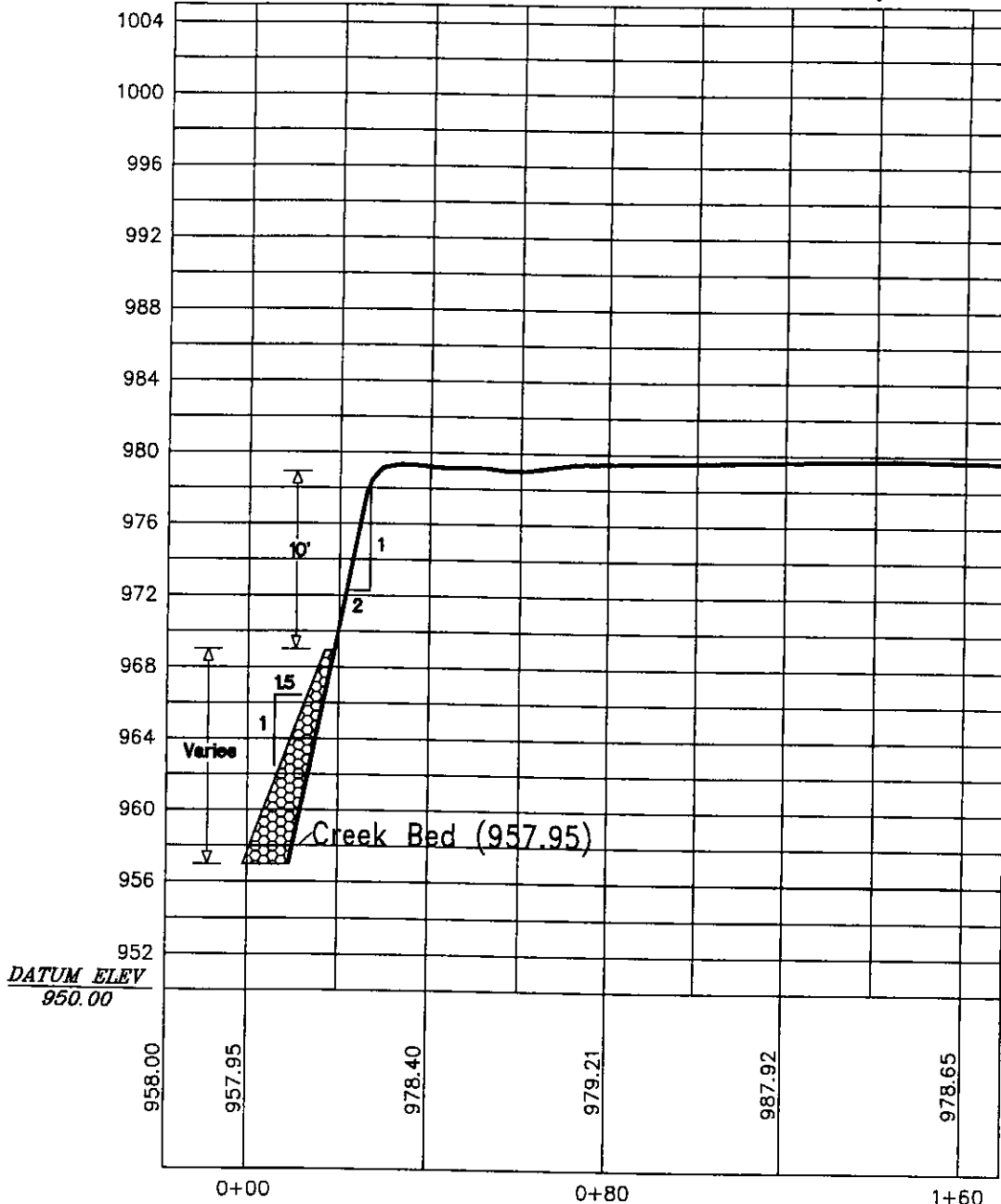
### Typical Cross-Section- Sites A1, A2, & B

#### Partial Height Protection (Looking Upstream)

Legend:



H:1"=40'  
V:1"=10'



1+60  
1/26/05  
Figure #4