

**Programs, Projects & Operations  
Subcommittee Meeting  
September 7, 2004  
7:00 p.m.  
Agenda**

**Programs, Projects & Operations:**

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

**Alternate Members:** Dick Connealy

**Staff Liaison:** Gerry Bowen      Ralph Puls  
Jerry Herbster \*      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. Request by Judith L. Adler to Allow Horseback Riding at Prairie View Rec Area (West side of 180<sup>th</sup> Street between Hwy 36 and Bennington Road) – Judith Adler and Jerry Herbster
6. Review and Recommendation on Draft Cooperative Agreement with Game and Parks for Mentored Youth Hunting on Vencil's Island – Jeff Rawlinson, Outdoor Educator, Game and Parks; and Gerry Bowen
7. Review and Recommendation on Amendment No. 2 to Interlocal Agreement for the Lower Platte River Corridor Alliance – Gerry Bowen
8. Review and Recommendation on Sale of Dakota County Waterline to South Sioux City – Dick Sklenar
9. Review and Recommendation on P-MRNRD/Village of Waterloo Agreement for Development of Elkhorn River Public Access site on West Maple Road – Dick Sklenar
10. Review and Recommendation on Contribution Agreement with Natural Resources Conservation Service to Expedite Silver Creek Structures– Ralph Puls
11. Review and Recommendation on Bids for Construction of Natural Resources Center at Dakota City – Ralph Puls

12. Review and Recommendation on Resolution for Application for Nebraska Departments of Road Transportation Enhancement Program Funds for Platte River Trail Phase 3 (Hwy 370 to Springfield), Platte River Trail Phase 1 (Hwy 50 to Lied Bridge); and the Missouri River Trail Phase 1 (NP Dodge Park north to Ponca Road) – Jim Becic and Gerry Bowen
13. Review and Recommendation on Big Papio Trail (Center to Blondo) Cracking [*Executive Session, if needed*] – Joe Waxse, Terracon, Inc.; Steve Oltmans and Gerry Bowen; Representatives of Kirkham Michael and Hawkins Construction
14. Other Items of Interest
15. Adjourn

## MEMORANDUM

TO: Programs, Projects, and Operations Subcommittee

FROM: Jerry Herbster, Park Superintendent

SUBJECT: Horseback Riding at Prairie View Recreation Area

DATE: August 31, 2004

In response to a letter written by Ms. Judith Adler dated August 24, 2004 regarding no horseback riding at Prairie View Recreation Area, it was decided by staff prior to the opening of the Recreation Area that from a safety standpoint we would exclude horseback riding from the area. The reasons for this is mainly lack of space. An 84 acre recreation site with 42 acres of water only leaves 42 acres for a boat ramp, picnic facilities, restrooms, parking lot, 2.5k limestone trail and three pedestrian bridges. Staff feels that in order to allow horseback riding we need greater physical separation between our normal trail users (i.e. hikers, bikers, dog walkers, etc.) and horseback riders, for the safety of all users of the trail and recreation area facilities. A copy of the current rules and regulations regarding "Horses and Other Livestock" is attached.

As of this time, we have not expanded Prairie View Recreation Area and are still dealing with the same size recreation area; therefore, staff stands by the current rules and regulations that prohibit horseback riding at Prairie View Recreation Area.

Papio Missouri River Natural Resources District

**RULES AND REGULATIONS  
FOR ALL  
DISTRICT RECREATION AREAS**

<b>Chalco Hills Lake and Recreation Area</b>	<b>Walnut Creek Lake and Recreation Area</b>
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<b>Prairie View Lake And Recreation Area</b>	<b>Elkhorn Crossing Recreation Area</b>	<b>Platte River Crossing Recreation Area</b>
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applied for a Special Use Permit or prior written approval by Park Superintendent.

**13. Horses and Other Livestock**

- A. Horseback riding and the use of pack animals within any recreation area is prohibited except at Walnut Creek Lake and Recreation Area.
- B. The loading and unloading of horses, and the parking of vehicles and trailers should be done only in areas designated by the District and/or Park Superintendent.
- C. Grazing or ranging domestic animals or poultry in a recreation area is prohibited without prior written authorization by the District.
- D. Riding and hitching of horses or other saddle or pack animals in campgrounds or picnic areas, or within the immediate vicinity of trail shelters, eating or sleeping establishments, or other areas or public gatherings, except where trails and facilities are provided for such use, are prohibited.
- E. Horseback riders shall slow their horses to a walk when passing persons on foot or bicycle, or other horses.

**14. Intoxication: Consumption of Alcohol**

- A. Consumption of alcoholic beverages in a recreation area is prohibited.
- B. Presence in a recreation area while under the influence of alcoholic liquor or of any drug, or when that person has .08 of one percent or more by weight of alcohol in his (her) body fluid as shown by chemical analysis of his (her) blood, breath, or urine, is prohibited.

**15. Permits: Special Use Permit**

- A. Sports events, pageants, re-enactment, regattas, entertainment's and the like, characterized as public spectator attractions or participant activities, are prohibited in a recreation area unless written permission therefor has been given by the District. Such permits shall be issued only after a finding that the issuance of such permit will not be inconsistent with the purposes for which the recreation area is established and maintained and will cause the minimum possible interference with use of the area by the general public. The permit may contain such reasonable conditions and restrictions as to duration and area occupied as are necessary for the protection of the recreation area and public use thereof. In the case of a fishing contest, only one permit, per year, shall be issued to any one group or organization, and the number of boats allowed in the contest will be set by the District.
- B. Public meetings, assemblies, gatherings, demonstrations, parades, religious services, and other expressions of views are prohibited in a recreation area unless written permission has been given by the District in accordance with District policy.
- C. The filming of still or motion pictures for commercial purposes is prohibited in a recreation area unless written permission therefore has been given by the District.
- D. Applications for a Special Use Permit shall be received by the District not later than thirty (30) days prior to the requested special activity and shall set forth the following: the name of the applicant, the date, time, duration, nature, and place of the proposed activity, an estimate of the number of persons expected to

Mr. & Mrs. George Adler  
11812 North 190<sup>th</sup> Circle  
Bennington, NE 68007-8034

August 24, 2004

Mr. Jerry Herbster  
Papio Natural Resource District  
8901 South 154<sup>th</sup> Street  
Omaha, NE 68138

SUBJECT: Papio NRD – Prairie View Recreation Area  
(West side of 180<sup>th</sup> Street between Hwy. 36 and Bennington Road)

Dear Mr. Herbster,

We are writing on behalf of ourselves and many others (please see attached signature sheet(s)) who either live in the area or board their horses in nearby facilities.

Since moving to Shannon Hills in 1991 we have had the privilege and pleasure of riding our horses wherever we chose. This included the area now known as Prairie View Recreation Area.

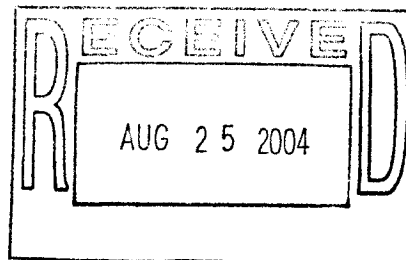
When riding at Prairie View two weeks ago, it was pointed out to us, as we rode our horses around the path, that there were signs indicating that horseback riders were no longer permitted in this area.

We all, as tax paying citizens, take STRONG exception to this ruling and hereby formerly request a hearing before the Board to remove the restriction against our 'animal of choice' being precluded from this area. It is our belief we can share the area with the fishermen, dog owners, walkers/joggers, and bikers. We would certainly be courteous, giving them the right-of-way. We walk off the designated path in order that they would will not have to contend with the horses' necessity to use the out-of-door facilities.

I appreciate and thank you for the time you afforded me on the phone and look forward to a mutually satisfactory resolution to this opportunity for all neighbors to work together.

Sincerely,

*Geetha L. Adler for both*  
Mr. & Mrs. George Adler



We, by signing this sheet, agree that the restriction precluding horses from the Prairie View Recreation Area, a violation of our rights as tax paying citizens. (Please see the letter dated August 2, 2004 on Mr. & Mrs. George Adler's letterhead.)

1. Marilyn Babbit
2. Ned Babbit
3. Debra Deffer
4. Janet Farrell
5. Miguel Alvarado
6. Dee Pungton
7. Karen Johnson
8. [Signature]
9. Erica Annis
10. S. Sardi
11. Heidi Hagg
12. Carly Weber
13. Laura Weber
14. Blaine H. Weber
15. JUAN ALVARADO LOZA
16. Heidi K. Hagg
17. Tracy Hunter
18. John P. [Signature]
19. Jeni Brown
20. Dee King
21. Jim Stamm

- 22. ~~Henry Flagg~~
- 23. ~~John Doe~~
- 24. Nevon Faulhaber
- 25. ~~Rich March~~
- 26. Michele Desmet
- 27. ~~J.P. Smith~~
- 28. Kelly Smith
- 29. ~~W. J. Doe~~
- 30. Debra Rogovin
- 31. Nath Rogovin
- 32. Ronald R. Turner
- 33. Cary W. Pugh
- 34. Bluffis
- 35. Gwen Glazyski
- 36. Eric M. Grant
- 37. Richard E. Hanger
- 38. ~~Shannon Fuller~~
- 39. ~~John Hill~~
- 40. Liz Hill
- 41. ~~Carolyn Hill~~
- 42. Danielle Rivard
- 43. Emily Reeder
- 44. Jenni Tennant Schumacher
- 45. Paul Stoy
- 46. George Schumacher

(over)



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Jan 1st

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Amey Santos

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Lee Baxter

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Memo to the Programs, Projects, and Operations Subcommittee

Subject: Mentored Youth Hunting – Agreement with Nebraska Game and Parks Commission

Date: August 24, 2004

From: Gerry Bowen

As part of the Western Sarpy/Clear Creek Levee Project, the District acquired the Glasshoff property at the tip of Vencil's Island as a conservation measure for endangered species. Several flow through and/or backwater chutes are planned for the area.

The Nebraska Game and Parks Commission (NGPC) approached the District about the utilization of this area for mentored youth hunting and fishing. A draft of an agreement prepared by NGPC was reviewed at the August Subcommittee and Board of Directors meetings. The Board decided to limit the waterfowl hunting to only the established two-day mentored youth hunting season, prohibit high-powered and/or black powder rifles, and that the agreement be in effect for one year. The project agreement was to be reviewed at the end of the term to determine the effectiveness of the program.

The draft agreement is attached for your review.

**Management recommends that the Subcommittee recommend to the Board that the General Manager be authorized to execute an agreement with the Nebraska Game and Parks Commission to allow for mentored youth hunting and fishing on the Glasshoff Tract at Vencil's Island, subject to changes deemed necessary by the General Manager and approved as to form by the District Legal Counsel.**

# AGREEMENT

## BETWEEN THE PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT AND THE NEBRASKA GAME AND PARKS COMMISSION

This agreement made on \_\_\_\_\_ day of \_\_\_\_\_, 2004, between the Papio-Missouri River Natural Resources District, herein referred to as the District, pursuant to Sections 2-3235 of Revised Statutes of Nebraska, 1943, and the Nebraska Game and Parks Commission, hereinafter referred to as the Commission, pursuant to Sections 37-301, 37-304, Revised Statutes of Nebraska, 1998, 37-303, Revised Statutes of Nebraska, 2000.

WITNESSETH:

WHEREAS, The District has ownership of a tract of land commonly known as Vencils Island (Glasshoff tract) (Attachment A), for the Western Sarpy Clear Creek Flood Reduction Project (hereinafter referred to as the project).

WHEREAS, the Vencils Island tract creates public use value and interest for youth hunts and related purposes;

WHEREAS, the District therefore desires to enter into agreement, with the Commission, to provide limited access and management on District said lands hereinafter described (Attachment A) for the purpose of controlling and administering youth hunts, fish and wildlife management and other outdoor education uses, including assistance from the Commission, with operation and maintenance of the lands and facilities so specified;

WHEREAS, the Commission and the District desire to utilize the District's said land for the purpose of controlling and administering youth hunts, fish and wildlife management and outdoor education thereupon;

WHEREAS, it has been determined to be to the advantage of the District to be aided in public access and fish and wildlife management and responsibility as to youth hunts and outdoor education purposes upon said lands;

NOW, THEREFORE, FOR AND IN CONSIDERATION of the premises, covenants and conditions, herein contained, the parties hereto agree as follows:

- A. The District and the Commission shall take the necessary steps to ensure that this area is accessible and limited to mentored youth archery big game hunting, shotgun turkey hunting, shotgun small game hunting, waterfowl hunting during the two day youth waterfowl season, fishing and related outdoor education purposes under the direction of the Commission. A restriction prohibiting high power and muzzle loading rifles will be enforced.
- B. The Commission shall promulgate specific area regulations mutually agreed upon by the District and Commission; the Commission shall enforce state statutes and regulations related to hunting, fishing, boating, trapping, and specific area regulations governing administration and use of property on this area as necessary and within its legal authority.

- C. The Commission shall place appropriate signs guiding, directing and restricting public access and use.
- D. The Commission shall not be responsible for noxious weed control in accordance with Nebraska statutes.
- E. The Commission shall assist with the management of wildlife and fishery resources. The District and Commission will mutually plan and implement management activities on planted and native vegetation on this area as necessary and appropriate, within the limits of available funds, and consistent with policies of the District and Commission.
- F. The District may enter into and hold agricultural leases that are compatible with the public activities under this agreement.
- G. The right of officers, directors, agents, employees and permittees of the District, at all times and places to have full ingress for passage over and egress from all of said lands for the purpose of carrying on operations of the District.
- H. The right of the District directors, agents, employees and permittees and lessees to remove from said lands any and all materials necessary for construction, operation and maintenance for the project facilities or for other purposes, provided that no such removal be made without prior notice to the Commission.
- I. The District expressly permits Commission officers, employees, and representatives to enter upon the land and water areas of this area at any time and for any purpose necessary or convenient in connection with management, maintenance, and operation of this area according to this agreement.
- J. The District shall not be responsible for damages to property or injuries which may arise from or be incident to the exercise of the privileges herein granted, or for damages to the property of the Commission or for damages to the property or injuries to the person of the Commission's employees.
- K. The Commission shall not be responsible for damage to structures and facilities or for damages to the property or injuries to the person of the District's employees..

#### GENERAL MAINTENANCE OF THE PROJECT AND AREA.

By mutual agreement with the District,

- A. The Commission may perform routine maintenance of access road, trails, parking lots and gates on the area, but shall assume no responsibility for major repair or renovation of same.
- B. All improvements constructed by the Commission at its sole cost and expense shall be and remain the property of the Commission; provided, however, the Commission shall remove or cause to be removed the respective improvements at its sole cost and expense within 90 days

from and after the termination of this agreement, or respective part thereof, and shall restore the land to a safe and natural condition. These improvements shall include minor enhancements to the area that benefit youth hunting, installation of pit or free-standing blinds, ground blinds, tree stands, vehicle access features and limited parking areas. It is expressly understood the installation of pit or free-standing blinds for waterfowl hunting shall not exceed three blinds.

- C. All improvements constructed by the District upon the said lands and all improvements existing upon said lands at the time of execution of this agreement shall be the property of the District and shall remain so vested. The Commission shall make no additions, alterations, or improvements thereto, not already mentioned in this agreement, without the prior written consent of the District.
- D. The District shall retain responsibility for major repairs or renovations to drainage ways, channels, erosion control structures, and the like.

#### TERMS AND CONDITIONS

- A. This agreement is valid for a term of one year from the date as first signed with an option for renewal at the end of this term
- B. This agreement may be terminated by mutual agreement upon 180 days written notice by either party.
- C. The District and Commission shall observe an opportunity for contract amendments at one mutually agreed upon time each year.

In Witness whereof, the parties hereto have executed this agreement as of the day and year first written.

Papio-Missouri River NRD

Nebraska Game and Parks Commission

by \_\_\_\_\_

\_\_\_\_\_

Date \_\_\_\_\_

\_\_\_\_\_

Glasshoff Tract at Vencil's Island  
Legal Description

Tax Lot 1A in Section 5, Township 13 North, Range 10 East of the 6<sup>th</sup> P.M., Sarpy County, Nebraska, together with all accretions Thereto; and,

Tax Lot D in Section 29, Township 14 North, Range 10 East of the 6<sup>th</sup> P.M., Sarpy County, Nebraska, together with all accretions thereto; and,

Tax Lot 1 in Section 32, Township 14 North, Range 10 East of the 6<sup>th</sup> P.M., Sarpy County, Nebraska, together with all accretions thereto; and,

A tract of land in Tax Lot 5 in Section 33, Township 14 North (T14N), Range 10 East (R10E) of the 6<sup>th</sup> P.M., Sarpy County, Nebraska, more particularly described as follows:

Beginning at the NW corner of said Section 33; thence East along the North line of said Section 33, a distance of 420.00 feet; thence Southerly to a point on the South line of the NW<sup>1</sup>/<sub>4</sub> of the NW<sup>1</sup>/<sub>4</sub>, being 410.00 feet East of the SW corner of the NW<sup>1</sup>/<sub>4</sub>; thence Southwesterly to a point on the South line of the NW<sup>1</sup>/<sub>4</sub>, being 225 feet East of the West <sup>1</sup>/<sub>4</sub> Corner of said Section 33; thence continuing Southwesterly to the SW Corner of the NW<sup>1</sup>/<sub>4</sub> of the SW<sup>1</sup>/<sub>4</sub> of said Section 33; thence continuing North along the West Line of said Section 33 a distance of 3960 feet to the NW Corner of said Section 33 and the Point of Beginning, together with all accretions thereto.

**EXHIBIT A**

15-95 DACW45-93-D-0039

1"=600'

13-14



Memo to the Programs, Projects, and Operations Subcommittee

Subject: Lower Platte River Corridor Alliance – Interlocal Agreement Amendment #2

Date: August 24, 2004

From: Gerry Bowen

In April, 2004, the Board approved the Lower Platte River Corridor Alliance's (LPRCA) affiliation with the Nebraska Community Foundation (NCF). The agreement with NCF (see attached) describes how funds kept with NCF can be distributed. A fund advisory committee has been established to oversee the management of the fund. The committee members are Steve Oltmans (PMRNRD), Glenn Johnson (LPSNRD), John Miyoshi (LPNNRD), Steve Gaul (NDNR), and Frank Albrecht (NGPC).

The Interlocal Agreement for the LPRCA needs to be amended to create the fund and to describe how funds can be used from the fund. Amendment #2 (see attached) covers that issue.

**Management recommends that the Subcommittee recommend to the Board that the General Manager be authorized to execute Amendment #2 to the 1997 Amended Lower Platte River Corridor Alliance Interlocal Agreement, that provides for the establishment of the LPRCA Fund.**



**AMENDMENT NO. 2**  
to  
**THE 1997 AMENDED INTERLOCAL COOPERATIVE ACT AGREEMENT**  
Creating the  
**LOWER PLATTE RIVER CORRIDOR ALLIANCE**

**Section I. Purposes of Amendment:**

The purpose of this amendment is to create an affiliated fund to be known as the “Lower Platte River Corridor Alliance Fund” through a designated fund agreement with the Nebraska Community Foundation (“NCF”). This will allow the Lower Platte River Corridor Alliance (“LPRCA”) to broaden its funding sources and accept grants, donations, and other contributions. Affiliation with the NCF allows the LPRCA to share in the benefits of nonprofit status since the LPRCA cannot by the nature of this agreement achieve this status. The Lower Platte South Natural Resources District (“LPSNRD”) will enter into this designated fund agreement on behalf of the LPRCA. A “Fund Advisory Committee” shall make recommendations on investment options and disbursements for this fund.

**Section II. Amendments:**

A. Article 5 of the 1997 agreement among the parties is hereby amended to include a new, sub-paragraph 5.1 and shall read as follows:

Lower Platte River Corridor Alliance Fund – Affiliated Fund with Nebraska Community Foundation: The parties agree to establish the “Lower Platte River Corridor Alliance Fund” (hereinafter referred to as “LPRCA Fund”) through a Designated Fund Agreement with the Nebraska Community Foundation (“NCF”). This fund will allow the Lower Platte River Corridor Alliance (“LPRCA”) to accept grants, donations, and other contributions to carry out the purposes as set forth in this interlocal agreement. The LPSNRD shall enter into an agreement with the NCF on behalf of the LPRCA. The LPRCA shall pay all administrative, disbursement, and other associated fees to maintain the fund and shall appoint a “Fund Advisory Committee” to make recommendations on investment options and disbursements for the LPRCA Fund. The NCF shall collect and hold all funds as stipulated in the Designated Fund Agreement. The LPSNRD shall request disbursement of funds as necessary and deemed appropriate by the Fund Advisory Committee.

**Section III Effective Date:**

This Amendment to the “Agreement” shall become effective upon execution by all parties.

**IN WITNESS WHEREOF**, This AMENDMENT TO THE INTERLOCAL COOPERATIVE ACT AGREEMENT for the LOWER PLATTE RIVER CORRIDOR ALLIANCE is executed by the Lower Platte South Natural Resources District on this \_\_\_\_\_ day of \_\_\_\_\_ 2004, pursuant to resolution duly adopted by its Board of Directors.

LOWER PLATTE SOUTH NATURAL RESOURCES DISTRICT

By \_\_\_\_\_  
Glenn D. Johnson, General Manager

This AMENDMENT TO THE INTERLOCAL COOPERATIVE ACT AGREEMENT for the LOWER PLATTE RIVER CORRIDOR ALLIANCE is executed by the Lower Platte North Natural Resources District on this \_\_\_\_ day of \_\_\_\_\_ 2004, pursuant to resolution duly adopted by its Board of Directors.

LOWER PLATTE NORTH NATURAL RESOURCES DISTRICT

By \_\_\_\_\_  
John Miyoshi, General Manager

This AMENDMENT TO THE INTERLOCAL COOPERATIVE ACT AGREEMENT for the LOWER PLATTE RIVER CORRIDOR ALLIANCE is executed by the Papio-Missouri River Natural Resources District on this \_\_\_\_ day of \_\_\_\_\_ 2004, pursuant to resolution duly adopted by its Board of Directors.

PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT

By \_\_\_\_\_  
Steven G. Oltmans, General Manager

This AMENDMENT TO THE INTERLOCAL COOPERATIVE ACT AGREEMENT for the LOWER PLATTE RIVER CORRIDOR ALLIANCE is executed by the Nebraska Department of Natural Resources on this \_\_\_\_ day of \_\_\_\_\_ 2004.

NEBRASKA DEPARTMENT OF NATURAL RESOURCES

By \_\_\_\_\_  
Roger Patterson, Director

This AMENDMENT TO THE INTERLOCAL COOPERATIVE ACT AGREEMENT for the LOWER PLATTE RIVER CORRIDOR ALLIANCE is executed by the Nebraska Department of Environmental Quality on this \_\_\_\_ day of \_\_\_\_\_ 2004.

NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY

By \_\_\_\_\_  
Mike Linder, Director

This AMENDMENT TO THE INTERLOCAL COOPERATIVE ACT AGREEMENT for the LOWER PLATTE RIVER CORRIDOR ALLIANCE is executed by the Nebraska Department of Health and Human Services on this \_\_\_\_ day of \_\_\_\_\_ 2004.

NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES

By \_\_\_\_\_  
Richard Nelson, Director of Regulation and Licensure

This AMENDMENT TO THE INTERLOCAL COOPERATIVE ACT AGREEMENT for the LOWER PLATTE RIVER CORRIDOR ALLIANCE is executed by the Nebraska Game & Parks Commission on this \_\_\_\_ day of \_\_\_\_\_ 2004.

NEBRASKA GAME & PARKS COMMISSION

By \_\_\_\_\_  
Rex Amack, Director

This AMENDMENT TO THE INTERLOCAL COOPERATIVE ACT AGREEMENT for the LOWER PLATTE RIVER CORRIDOR ALLIANCE is executed by the Nebraska Military Department on this \_\_\_\_ day of \_\_\_\_\_ 2004.

NEBRASKA MILITARY DEPARTMENT

By \_\_\_\_\_

This AMENDMENT TO THE INTERLOCAL COOPERATIVE ACT AGREEMENT for the LOWER PLATTE RIVER CORRIDOR ALLIANCE is executed by the University Conservation and Survey Division on this \_\_\_\_\_ day of \_\_\_\_\_ 2004.

UNIVERSITY CONSERVATION AND SURVEY DIVISION

By \_\_\_\_\_



**DESIGNATED FUND AGREEMENT**  
**between the**  
**NEBRASKA COMMUNITY FOUNDATION, INC.**  
**and the**  
**LOWER PLATTE SOUTH NATURAL RESOURCES DISTRICT**  
**to establish the**  
**LOWER PLATTE RIVER CORRIDOR ALLIANCE FUND**

THIS AGREEMENT is hereby made between the Nebraska Community Foundation, Inc. ("Foundation"), which qualifies under the Internal Revenue Code as a public, non-profit, 501(C)(3) organization, and the Lower Platte South Natural Resources District ("Organization"), for the purpose of establishing the Lower Platte River Corridor Alliance Fund ("Fund"), a permanent endowment fund and/or non-permanent project funds to be managed by the Foundation. The Fund is established to receive grants and/or tax-deductible contributions of cash, appreciated securities or property, bequests, and other gifts in support of the current and long-term support of the Organization and related purposes.

**1. Purpose**

This Fund is established to acquire gifts for the endowment fund principal and/or support for non-permanent project/program funds, to assure prudent investment and management of gifted assets, and to establish a procedure for disbursement of endowment income and other gifted assets in accordance with Organization objectives for the Fund and IRS regulations.

**2. Fund Advisory Committee**

Recommendations regarding uses of this Fund will be made by the Lower Platte River Corridor Alliance Fund Advisory Committee ("Committee") (see Attachment B) to the Foundation. The Committee agrees to provide full disclosure to any contributors to the Fund regarding the role and constitution of said Committee.

**3. Recipient of Tax-Deductible Contributions**

The Foundation will serve as the recipient of donations for the Fund and will ensure appropriate receipting to donors and use of and documentation for expenditures from this Fund.

**4. Assets**

The Fund can include both permanent (endowment) assets and non-permanent assets to be included under this Agreement. In the case of the permanent fund, all gifts would be added to the principal of the Fund, to be invested, with only investment earnings to be available for disbursement in support of allowable activities associated with Community projects or programs, as requested by the Committee. In the case of non-permanent funds, both gifts and investment earnings could be expended in entirety.

**5. Investment and Withdrawals**

Full authority for the investment and management of the Fund will rest with the Foundation. However, the Foundation will consult with the Committee to ensure that the Fund is prudently invested in accordance with the general goals of the Committee (see Attachment D).

**6. Distributions**

The Fund is established to assist with providing ongoing reliable support for the Organization's activities which qualify for support through use of tax-deductible gifts. If appropriate at some time in the future, additional accounts can be added to the Fund for use in supporting other projects, facilities, or activities of the Organization considered charitable, educational, or scientific that would benefit the community consistent with sections 170 and 501(c)3 of the Internal Revenue Code. The Committee shall select appropriate projects to receive support from the Fund and will submit in writing all requests for withdrawals from the Fund (see Attachment E).

**7. Administrative Costs**

The Foundation will provide full management services for the Fund. Administrative fees will be determined based on the structure of the investments of the Fund and any additional service requirements associated with contributions or grants to the Fund (see Attachment C for current fee schedule).

**8. Reports**

On behalf of the Organization and its Fund, the Committee agrees to provide to the Foundation, upon request, a copy of its annual financial report or appropriate related materials documenting the actual use of disbursements from this Fund.

The Foundation agrees to provide to the Committee, upon request, an annual financial report and/or other information which could include the following periodic reports: (1) contributions received for the Fund, (2) income received and/or capital gains/losses realized by the Fund's investment, (3) investment and administrative fees charged to the Fund, (4) disbursements made from the Fund, and (5) net assets remaining in the Fund. The Foundation will also provide to the Committee an Annual Report on the Foundation's general operations.

**9. Donor Recognition**

On behalf of the Organization, the Committee agrees to provide methods to recognize donors to the Fund, as it deems appropriate (i.e., thank-you letters, published donor lists, plaques, book or list of individuals memorialized or honored through gifts, legacy group of those who have made deferred-giving commitments, and/or news releases).

In the case of any news articles or releases that might be generated by the Foundation related to this Fund, the Foundation will, to the extent possible, receive approval from the Committee and/or specific donors to the Fund in advance of providing information to the media.

**10. Termination**

Notwithstanding any of the provisions contained herein, this Agreement may be terminated by either party, such termination to be effective twelve (12) months after written notice stating this intent has been served by either party hereto upon the other. In the case of the permanent fund (endowment), the total of gifts received by the Foundation designated for such endowment fund to benefit the Organization (whereby the principal

must be held intact), may only be transferred to a 501(c)(3) organization that would comply with the intentions of the donor(s) to maintain the principal in total, using only investment income for future projects. In the event of such termination, and upon request, the Foundation shall distribute all assets and income remaining in non-permanent funds in payment for purposes designated by the Committee. Any remaining assets in the Fund may only be transferred to a 501(c)(3) organization. The Foundation will provide an accounting of Fund use and fees up to and including the date of termination.

**11. Dissolution and Amendment**

In the event of termination, liquidation, or dissolution of the Organization or Committee, the principal balance and income in the Fund or any other tangible assets shall be retained by the Foundation and will be accumulated for a period of not less than five years in contemplation of re-establishment of the Organization or Committee. If not reestablished during that period of time, the Foundation may continue the Fund in support of the same beneficiaries and distribute the income, at its discretion, to tax-exempt purposes similar to the activities for which the Fund was established and in accordance with any direction and restriction imposed by contributors.

THIS AGREEMENT may be amended at any time by mutual consent of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, including both its specific and general conditions, on the day and year noted below.

**LOWER PLATTE RIVER CORRIDOR ALLIANCE  
FUND ADVISORY COMMITTEE**

DATE

_____	Chairperson	_____
_____	Secretary/Treasurer	_____
_____		_____
_____		_____
_____		_____
_____		_____

**NEBRASKA COMMUNITY FOUNDATION, INC.**

\_\_\_\_\_  
Jeffrey G Yost, President and CEO

\_\_\_\_\_  
Date

- Included as part of this Agreement are the following:
- Attachment A: Statement of Fund Purposes
  - Attachment B: Fund Advisory Committee
  - Attachment C: Administrative Fee Schedules
  - Attachment D: Funds Investment Options
  - Attachment E: Fund Disbursement Authorization Form

**ATTACHMENT A**  
**Statement of Fund Purposes**

The purpose of this Fund is to encourage, solicit, receive, and use charitable contributions and the income derived from the investment of gifts made in support of current and emerging needs of the Lower Platte River Corridor Alliance and related purposes.

Factors leading to the promotion and development of the Fund include the benefits that can be derived from having a full range of both gift arrangement possibilities and investment options. Donations, bequests, and memorial gifts will be used in total or added to the endowment fund principal. Gifts and investment earnings will provide a reliable and ongoing source of private financial support to benefit the Fund.



**ATTACHMENT B**  
**Lower Platte River Corridor Alliance**  
**Fund Advisory Committee**

Name, office in organization (if any), address:	phone/FAX/e-mail
<u>Rodney Verhoeff (LPRCA Coordinator), CHAIR</u> <u>3125 Portia, PO Box 83581, Lincoln, NE 68501</u>	<u>476-2729/FAX - 476-6454</u> <u>rverhoeff@lpsnrd.org</u>
<u>Glenn Johnson (LPSNRD Gen Mgr), SEC/TREASURER</u> <u>3125 Portia, PO Box 83581, Lincoln, NE 68501</u>	<u>476-2729/FAX - 476-6454</u> <u>glenn@lpsnrd.org</u>
<u>Steve Oltmans (PMRNRD Gen Mgr),</u> <u>8901 S. 154<sup>th</sup> Street, Omaha, NE 68138</u>	<u>444-6222/FAX – 895-6543</u> <u>soltmans@papionrd.org</u>
<u>John Miyoshi (LPNNRD Gen Mgr)</u> <u>3125 Portia, PO Box 83581, Lincoln, NE 68501</u>	<u>443-4675/FAX – 443-5339</u> <u>jmiyoshi@lpnrd.org</u>
<u>Steve Gaul (NDNR)</u> <u>P.O. Box 94676, Lincoln, NE 68509-4676</u>	<u>471-3955/FAX – 471-2900</u> <u>sgaul@dnr.state.ne.us</u>
<u>Frank Albrecht (NG&amp;PC)</u> <u>P.O Box 30370, Lincoln, NE 68503-0370</u>	<u>471-5422/FAX – 471-5528</u> <u>albrecht@ngpc.state.ne.us</u>

**ATTACHMENT C**  
**Administrative Fee Schedule**  
**(Adopted May 2004 – Effective July 1, 2004)**

**Fund Costs:** Administrative fees are intended to recoup the costs of serving affiliated funds. These costs include bank transactions and fees, postage, gift receipting, disbursements, annual audit, financial reporting, IRS reports/returns and general overhead costs.

**Origination Fee:** A one-time \$100 start-up fee is assessed when a new affiliated fund is established.

**Maintenance Fee:** A maintenance fee of \$75 per fund is assessed each quarter.

The Foundation administers monies in two ways: Non-Permanent/Pass-Through and Permanent/Endowed:

◆ **Disbursement Fee Schedule for Short-Term Non-Permanent/Pass-Through Fund Investments:**

<u>Affiliated Fund Balance (Monthly Avg)</u>	<u>Disbursement Fee</u>	<u>Earning Interest*</u>
under \$5,000	3.5% of disbursements	No
\$5,001 to \$100,000	3.5% of disbursements	Yes
\$100,001 to \$500,000	3.0% of disbursements	Yes
\$500,001 or more	negotiable	negotiable

NCF retains up to 1.0% of the interest earned on short-term investments. All NCF short-term investments are pooled, resulting in increased interest earnings above that of a typical checking account.

◆ **Annual Fee Schedule for Long-Term Permanently Endowed Investments:** The Foundation charges an annual administrative fee on the fund balance of all endowments invested in long-term investment instruments, including stocks, bonds, certificates of deposit or cash.

<u>Affiliated Fund Balance (Quarterly)</u>	<u>Annual Management Fee</u>
\$1 to \$1,000,000	1.00% per year
\$1,000,001 or more	0.75% per year

In addition, the fund is responsible to pay any additional investment fees charged by the investment manager (see Attachment D). Administrative fees are assessed against the fund on a quarterly basis.

**Donor Investment Alternatives.** Although the Foundation prefers to manage long-term investments in one of the Foundation asset allocation models, the Foundation does allow donors to recommend alternative investment managers for gifts of \$100,000 or greater, assuming the absence of material restriction.\* All such recommendations are subject to approval by the Foundation Board of Directors.

\* A material restriction is a restriction or condition that prevents a community foundation from “freely and effectively employing the transferred assets, or the income derived therefrom, in the furtherance of its exempt purposes.”

**Value-Added Services:** The Foundation may assess additional fees or charges to an affiliated fund if value-added services are provided. Examples of value-added services may include providing employment or contracting services, extraordinary financial and/or government reporting, transaction costs associated with gifts of real property, customized receipting, or other services the affiliated fund may desire.

**Gift Annuity Agreements:** With a minimum \$10,000 gift annuity, the origination fee is \$100 and is deducted from the amount of the gift. This fee underwrites a portion of the costs associated with setting up the gift agreement. The annual management fee after the gift annuity is established is 1.00% of the invested gift value plus the cost of the investment vehicle (see Attachment D). No expenses are deducted from the income received from a Gift Annuity. Note: Gift annuity agreements are not subject to the \$75/quarter maintenance fee.

**ATTACHMENT D**  
**Fund Investment Options**  
**(Adopted November 2001 – Updated June 2004)**

**Immediate Access Funds.** Funds requiring 24-hour access are deposited in the Foundation's checking account. These deposits are then automatically transferred each day into an investment that is collateralized by U.S. Treasury and/or U.S. Agency securities. Rates vary daily reflecting periodic changes in bond market yields.

**Long-Term Investment Options.** The Foundation provides a range of investment options for long-term permanent assets under management. The Foundation has contracted with McCarthy Group Asset Management, a Nebraska-based company, to serve as the Foundation Investment “Manager-of-Managers.” The Foundation is committed to a diversified investment strategy. Historical research has proven that over time, about 91% of total return is a function of diversification amongst asset classes, including stocks, bonds and cash. Therefore, the Foundation offers its affiliated funds a range of asset-allocation models that are properly diversified and customized for needed/expected cash flow and donor and fund advisory committee member investment preferences. The three asset allocation models are:

	<b>Fixed</b>		<b>Projected</b>	<b>Standard</b>	<b>Annual</b>	<b>Total</b>
	<b>Income<sup>1</sup></b>	<b>Equities<sup>2</sup></b>	<b>Return<sup>3,4</sup></b>	<b>Deviation<sup>3,4</sup></b>	<b>Expense<sup>4</sup></b>	<b>Managers<sup>5</sup></b>
<b>Mod. Conservative</b>	75%	25%	+5.3%	6.2%	0.45%	20
<b>Moderate</b>	50%	50%	+6.2%	9.5%	0.55%	18
<b>Mod. Aggressive</b>	25%	75%	+7.0%	13.2%	0.65%	18

1. Fixed income investments include cash, core income and total return bonds.
2. Equity investments include a diversified portfolio of stocks, including growth and value stocks, small, mid and large cap stocks, and US and foreign stocks. Each of the asset allocation models has a different ratio of equity investments.
3. Projected Returns and Standard Deviations are based upon models provided by Wilshire Associates “2004 Asset Allocation Return and Risk Assumptions, January 30, 2004.” Standard Deviation measures what the volatility of an investment is likely to be vs. the expected return, but only about two-thirds of the time. For example, if an investment is expected to have a return of 3% with a standard deviation of 5%, then two-thirds of the time you may expect this investment to have returns between -2% and +8%. The return on these investments is not guaranteed and will fluctuate in price and rate of return. Past performance is not a guarantee of future returns, and the risk of permanent loss of capital does exist.
4. Annual expenses are subject to change, and generally range up or down no more than 0.05%.
5. Total managers is the number of investment managers engaged within each asset allocation models, and may change over time.

**Donor Investment Recommendations.** Although the Foundation prefers to manage long-term permanent assets within one of the asset allocation models referenced above, Foundation policy does allow donors in certain circumstances to make suggestions regarding alternative investment management of their charitable gift(s). The Foundation Board of Directors has established several conditions which must be met before considering such requests, including individual gifts must be \$100,000 or greater, must be free of material restrictions, are subject to approval by the Board of Directors, and the Foundation retains the right to change asset managers and types of investment options in furtherance of its tax-exempt purposes.

Additional details on any of these asset allocation models or the donor investment recommendations policy (both of which are detailed in the Foundation Investment Policy), can be obtained by either contacting the Foundation offices or accessing the Foundation website at [www.nebcommfound.org](http://www.nebcommfound.org).

**ATTACHMENT E**  
**Fund Disbursement Authorization Form**

The Lower Platte South Natural Resources District in consultation with the Lower Platte River Corridor Alliance Fund Advisory Committee authorizes the following individual(s) to request disbursements from this Fund:

Glenn Johnson, General Manager LPSNRD / Fund Advisory Committee Secretary-Treasurer  
Name(s) of person(s) authorized

\_\_\_\_\_  
Signature(s) of person(s) authorized

Payments from the above-referenced fund account can be made up to a maximum of \$ 10,000 per request.

\_\_\_\_\_  
Fund Advisory Committee  
President or Chair

\_\_\_\_\_  
Fund Advisory Committee  
Secretary/Treasurer/or authorized member

Date \_\_\_\_\_

# Memorandum

**To:** Programs, Projects, and Operations Subcommittee  
**From:** Randy Hummel Dakota County Rural Water Supply Superintendent  
**Date:** August 26, 2004  
**Re:** Water Line Purchase by South Sioux City

South Sioux City is in the process of installing a new 12" water main south along "C" Avenue then west to connect with their main at 164<sup>th</sup> Street and Dakota Avenue. The entire area is prime industrial development property within the zoning control of South Sioux City, which currently serves several large industrial operations and more development in the area is certain.

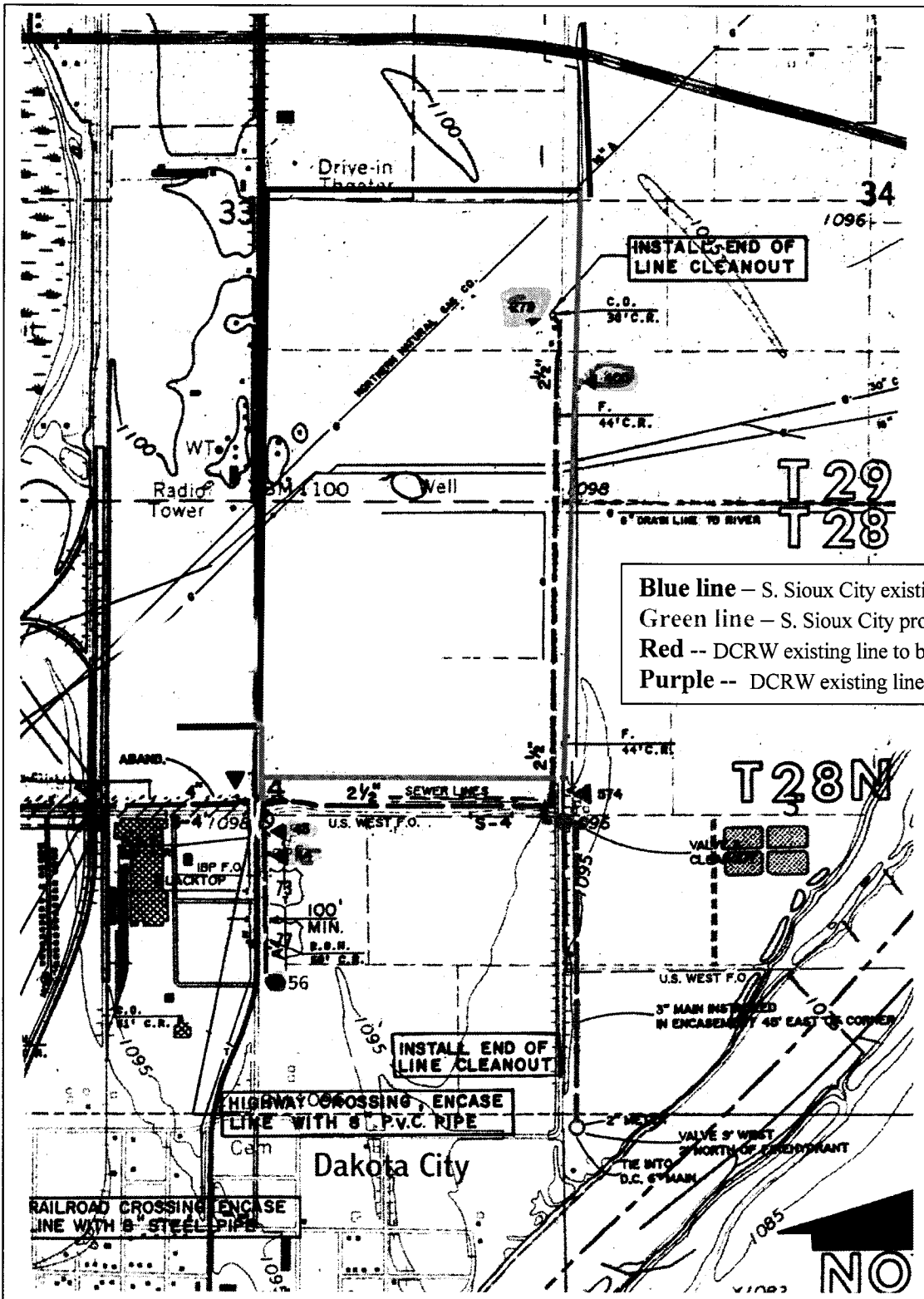
The City is proposing to purchase a small segment (see attached map) of the Dakota County Rural Water system in the area that they are expanding into.

The Dakota County Rural Water system has supplied water to 5 residential households along the route to be purchased since 1980. In 1993 the IBP (Tyson) wastewater treatment plant was provided with a rural water service connection for "potable use". Later IBP requested a larger meter service for their expanded wastewater operation. Line capacity is adequate for those now served, but it is now at its useful limits. This waterline has also been problematic to the District over the past several years, with a few waterline breaks that have occurred.

In an effort of cooperation, and to best serve the growing needs of that area, S. Sioux City's Public Works Dept. and the District's staff, are proposing an agreement that would best serve the area in question. The plan seemed feasible and logical for the City to connect and serve our 2 "north end" customers by reconnecting them to the City's new 12" main and use the existing 4" main for the 3 customers along the west side (the 4" line would also be connected to the 12" main) . The District will continue to serve the Tyson wastewater plant.

Timing of this proposal is also ideal, inasmuch as the City would be able to include those changes into their design plans for the area's present and future need.

**Management recommends that the Subcommittee recommend to the Board that the General Manager be authorized to execute an agreement with South Sioux City for the transfer and sale of water lines, service meters, and appurtenances, of the Dakota County Rural Water System along portions of 'C' Avenue, 164<sup>th</sup> Street, and Dakota Avenue, subject to changes deemed necessary by the General Manager and approved as to form by the District's legal counsel.**



**Blue line** – S. Sioux City existing line  
**Green line** – S. Sioux City proposed new line  
**Red --** DCRW existing line to be transferred  
**Purple --** DCRW existing line to be retained

## MEMORANDUM

**TO:** Projects, Planning and Operations Sub-Committee

**FROM:** Dick Sklenar

**SUBJECT:** Elkhorn River Canoe Public Access/Agreement with Village of Waterloo

**DATE:** August 30, 2004

Attached is the Inter-local Cooperation Act Agreement between the Village of Waterloo and the District for the development of the Elkhorn River Canoe Access Site at West Maple Road. The Agreement was drafted by the District's Legal Counsel and has been approved by the Village.

Because it is expected that the Village will own the property, they will act as sponsor when applying for federal aid programs administered by the Nebraska Game and Parks Commission. The District will act as co-sponsor by developing and financing the site. The Agreement calls for the Village to operate, maintain, and repair the site after completion of construction activities.

**The staff recommends that the subcommittee recommend to the Board of Directors that the General Manager be authorized to execute the Inter-local Cooperation Act Agreement with the Village of Waterloo, NE for an Elkhorn River Canoe Access Site and that the District be co-applicant with the Village for federal and state aid program grants for the project, and furthermore;**

- 1. The Pappio-Missouri River Natural Resource District of Nebraska is applying for federal assistance from the Recreational Trails Program, Land & Water Conservation Fund and the Trails Development Assistance Fund for the purpose of developing the Elkhorn River Canoe Access site at West Maple Road in Douglas County, Nebraska.**
- 2. The General Manager of the Pappio-Missouri River NRD of Nebraska is authorized to sign the application for federal assistance, and any other official project documents that are necessary to obtain such assistance, including any agreements, contract or other documents that are required by the State of Nebraska or the Federal Highway Administration.**
- 3. The Pappio-Missouri River Natural Resources District of Nebraska currently has the written commitment for the local matching share for the project elements that are identified on the Application form and the Supplemental Documents and will, as it becomes necessary, allocate the local funds for this project.**

4. The Papio-Missouri River Natural Resources District of Nebraska will commit the necessary financial resources to operate and maintain the completed project in a safe and attractive manner.
5. The Papio-Missouri River Natural Resources District of Nebraska will not discriminate against any person on the basis of race, color, age, religion, disability, sex or nation origin in the use of any property or facility that is acquired or developed pursuant to the project proposal, and shall comply with the terms and intent of Title VI of the Civil Rights Act of 1964, and any of the regulations promulgated pursuant to such Act.
6. The Papio-Missouri River Natural Resources District of Nebraska will comply with all rules and regulations of the Recreational Trails Program, Land & Water Conservation Fund and Trails Development Assistance Fund, applicable Executive Orders and all state laws that govern the grant applicant during the performance of the project.
7. The Papio-Missouri River Natural Resources District of Nebraska will comply with the Federal disability access and use standards where they can be reasonably applied, in accord with the American with Disability Act of 1991.
8. All paperwork may be signed by the project sponsor, but the Resolution **MUST** be signed by the Board Chairperson.



**INTERLOCAL COOPERATION ACT AGREEMENT**

**Between**

**THE VILLAGE OF WATERLOO, NEBRASKA**

**And**

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

**For**

**ELKHORN RIVER CANOE ACCESS SITE**

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

**RECITAL:**

**WHEREAS**, the **NRD** and the **VILLAGE** desire to establish a project (hereinafter referred to as “the **PROJECT**”) to provide Elkhorn River canoe access improvements on a tract of land now owned by the **VILLAGE** and located near the West Maple Road crossing of the Elkhorn River, such tract of land being more particularly described in the legal description attached hereto as Exhibit “A” and incorporated herein by reference.

**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. ESTABLISHMENT OF PROJECT.** The parties hereby establish the **PROJECT**, which the parties hereby find and determine will be of general benefit to the **VILLAGE** and the **NRD**, with only an incidental special benefit.

1. **PROJECT PARTICIPANTS.** The PROJECT shall be a joint undertaking by and between the NRD and the VILLAGE, without any separate entity being created, and the duties and responsibilities of the parties shall be as defined by this AGREEMENT.

2. **GRANTS FOR PROJECT COSTS.** The VILLAGE, at its sole cost and expense, shall make timely applications for such federal and/or state grant funds as may be available to defray the costs of design and construction of the PROJECT (hereinafter referred to as “the **GRANT FUNDS.**”)

3. **PROJECT DESIGN.** Within a reasonable time after the effective date of THIS AGREEMENT, the NRD shall retain one or more engineering consultants (hereinafter referred to as “the **ENGINEERS**”) to design the PROJECT, to prepare plans and specifications and contract documents, as necessary for construction of the PROJECT, and to assist the NRD in administering construction of the PROJECT.

4. **DESIGN CRITERIA.** The preliminary and final plans and specifications for the PROJECT shall be drawn by the ENGINEERS in substantial accordance with the concept plan (hereinafter referred to as “the **CONCEPT PLAN**”) attached hereto as Exhibit “B” and incorporated herein by reference, and such other design criteria as may be approved by both the Chairperson of the VILLAGE Board of Trustees and the General Manager of the NRD. In the event of the failure of such parties to agree upon any such criteria, THIS AGREEMENT may be terminated by either party upon ten days written notice to the other party, without liability to the other party.

5. **APPROVAL OF PLANS AND SPECIFICATIONS.** Preliminary and final plans and specifications prepared by the ENGINEERS for the PROJECT shall be subject to the written approval of both the Chairperson of the VILLAGE Board of Trustees and the General Manager of the NRD. In the event of the failure of such parties to agree upon any such plans or specifications, THIS AGREEMENT may be terminated by either party upon ten days written notice to the other party, without liability to the other party.

6. **RECYCLED MATERIALS.** The ENGINEER shall be directed to specify the utilization of recycled or recyclable products in the PROJECT plans and specifications whenever feasible and practical.

7. **RIGHTS-OF-WAY ACQUISITION.** Lands, easements and rights-of-way, that the ENGINEERS or the NRD determine are necessary for the PROJECT (hereinafter referred to as “the **PROJECT RIGHTS-OF-WAY**”), shall be provided by the VILLAGE, which shall hold title thereto.

8. **USE COVENANT.** Prior to the award of a contract for construction of the PROJECT, the VILLAGE will procure the due execution and filing with the Register of Deeds of Douglas County, Nebraska, of a written covenant or other appropriate instrument, approved in writing by the General Manager of the NRD, providing that the PROJECT RIGHTS OF WAY which are being improved through the expenditure of NRD funds pursuant to THIS AGREEMENT will be permanently kept and maintained by the VILLAGE for public park and recreation purposes.

9. **PERMITS.** All necessary local, state and federal permits that the ENGINEERS or the NRD determine are necessary for construction of the PROJECT shall be obtained by the NRD.

10. **CONTRACT FOR PROJECT CONSTRUCTION.** Within a reasonable time following the ENGINEER’S preparation of final plans and specifications for the PROJECT and approval of the same by the Chairperson of the VILLAGE Board of Trustees and the General Manager of the NRD, the NRD shall solicit competitive sealed bids for construction of the PROJECT. Within a reasonable time after NRD receipt and opening of such bids, the NRD shall deliver a summary of such bids to the Chairperson of the VILLAGE Board of Trustees, together with the identification by the NRD of the bidder which the NRD determines is the lowest and best bidder. In the absence of good cause to the contrary being shown by the VILLAGE, the NRD shall accept such lowest and best

bidder's bid and shall award to such bidder (hereinafter referred to as "the **PROJECT CONTRACTOR**") the contract to construct the PROJECT.

**11. PROJECT CONSTRUCTION.** The NRD, through the PROJECT CONTRACTOR, shall construct the PROJECT in accordance with the NRD and VILLAGE-approved final plans and specifications, including the relocation of any utilities that interfere with construction of the PROJECT.

**12. APPLICATION OF GRANT FUNDS.** Upon receipt of the GRANT FUNDS, the VILLAGE shall apply such GRANT FUNDS to the billed fees and expenses of the ENGINEER and the PROJECT CONTRACTOR, or pay such funds to the NRD in reimbursement or for payment of earned fees and expenses of the ENGINEER and the PROJECT CONTRACTOR for the PROJECT. The NRD, at its sole cost, shall pay all fees and expenses of the ENGINEER and the PROJECT CONTRACTOR that exceed the GRANT FUNDS.

**13. OPERATION AND MAINTENANCE OF PROJECT.** After completion of construction of the PROJECT, and after the NRD'S acceptance of the same from the PROJECT CONTRACTOR, the VILLAGE, at its sole cost and expense, shall permanently operate, maintain, repair, replace, manage and regulate the PROJECT, in accordance with generally-accepted engineering practices.

**14. OPERATIONAL RULES AND REGULATIONS.** The operational rules and regulations adopted by the VILLAGE for the management of the PROJECT after its construction shall provide that no fee shall be required to be paid by members of the public as a condition to the use of the PROJECT, and shall contain such other rules and regulations as the VILLAGE may adopt that are consistent with state and federal laws, rules and regulations, and are approved in writing by the General Manager of the NRD. If requested by the VILLAGE, the Board of Directors of the NRD shall co-adopt such operational rules and regulations.

**15. PROJECT RISK OF LOSS.** After completion of construction of the PROJECT and the NRD's acceptance of the same from the PROJECT CONTRACTOR, the VILLAGE, at its sole cost and expense, shall permanently have and bear the sole risk of loss of or damage to the PROJECT and all PROJECT components, whether such loss or damage results from flood or other casualty whatsoever; and, the VILLAGE shall pay the cost of any insurance on the PROJECT that the VILLAGE determines necessary to cover such risks.

**16. INDEMNIFICATIONS.** Except as otherwise specifically provided in THIS AGREEMENT, (a) the NRD shall defend and indemnify the VILLAGE and hold the VILLAGE harmless from and against any and all claims, demands, causes of action, costs and expenses, including without limitation court costs and attorneys fees, for personal injuries or property damages in whole or in part arising out of or caused by the negligence or other actions or inactions of the NRD, its employees, officers, contractors and agents, in design or construction of the PROJECT; (b) the VILLAGE shall defend and indemnify the NRD and hold the NRD harmless from and against any and all claims, demands, causes of action, costs and expenses, including without limitation court costs and attorneys fees, for personal injuries or property damages in whole or in part arising out of or caused by the negligence or other actions or inactions of the VILLAGE, its employees, officers, contractors and agents, in the operation, maintenance, repair, replacement, management or regulation of the PROJECT, or arising out of the use of the PROJECT by members of the public; and, (c) the VILLAGE shall defend and indemnify the NRD and hold the NRD harmless from and against any and all claims, demands, causes of action, costs and expenses, including without limitation costs of investigations, court costs and attorneys fees, arising from the 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 (hereinafter "CERCLA"), 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, and also including without limitation costs of any studies and investigations necessary to determine an appropriate response to any contamination in the PROJECT RIGHTS-OF-WAY, but excepting costs and expenses relating to any such substances or materials introduced by the NRD or its employees, officers, contractors or agents in or on any PROJECT RIGHTS-OF-WAY.

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

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

**19. NON-DISCRIMINATION.** 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.

**20. APPLICABLE LAW.** Each party to THIS AGREEMENT shall follow all applicable federal and state statutes and regulations in carrying out the faithful performance of its duties and the terms of THIS AGREEMENT.

**21. 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.

**22. 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 VILLAGE has executed THIS AGREEMENT on Aug. 24, 2004.

**VILLAGE OF WATERLOO, NEBRASKA**

By Stanley E. Benke, Jr.  
Chairperson

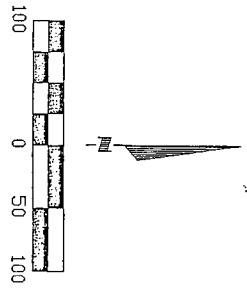
**Attest:**

Nancy Hest  
VILLAGE Clerk

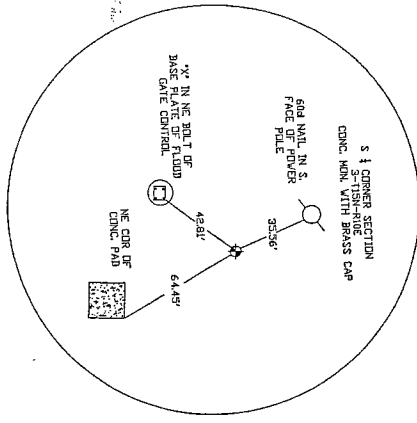
The NRD has executed THIS AGREEMENT on \_\_\_\_\_, 2004.

**PAPIO-MISSOURI RIVER NATURAL  
RESOURCES DISTRICT**

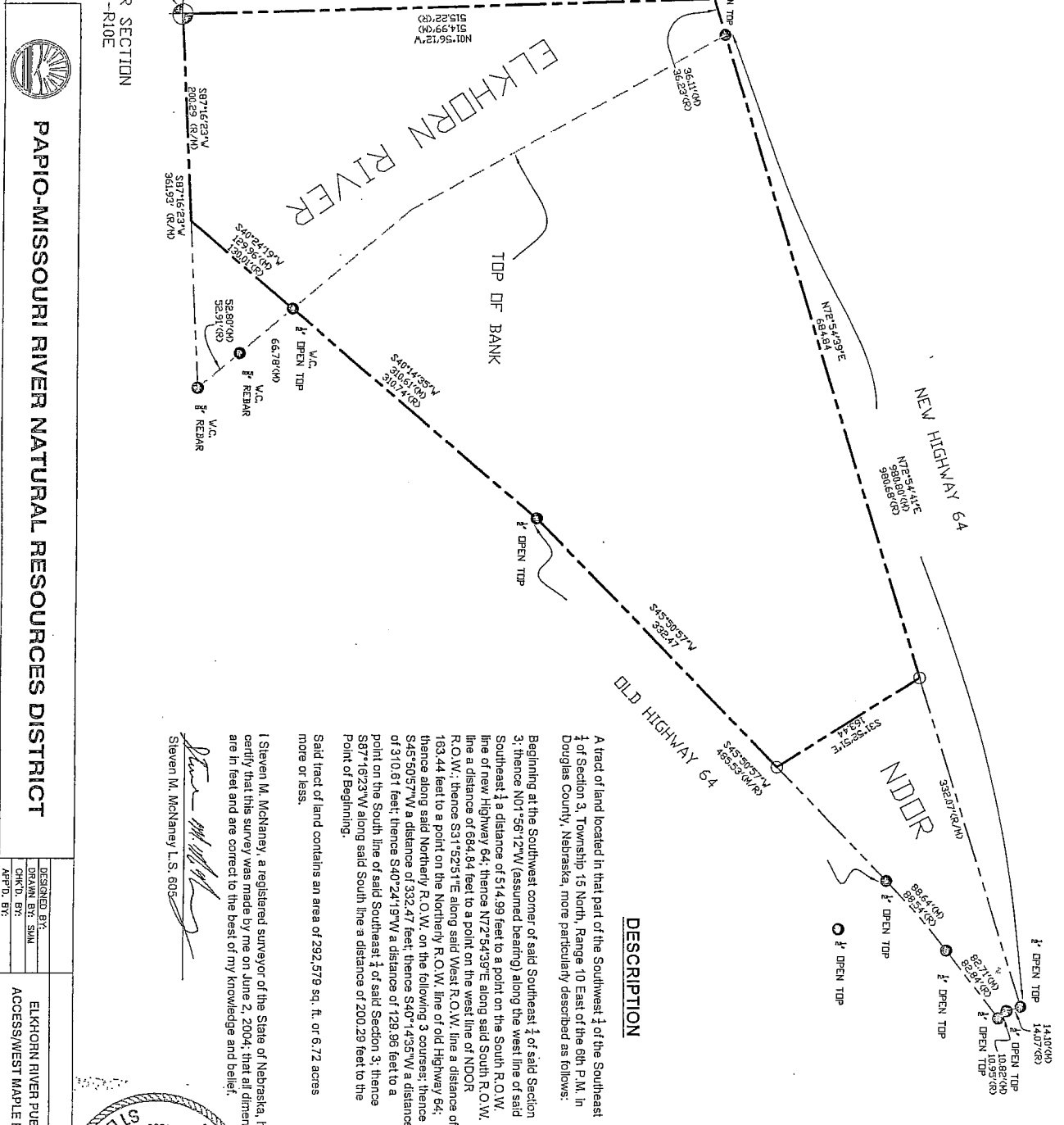
By \_\_\_\_\_  
General Manager



- - PINS FOUND (AS NOTED)
- - 5/8" REBAR SET
- M - MEASURED DISTANCE
- R - RECORD DISTANCE
- WC - WITNESS CORNER



S 1/4 CORNER SECTION  
3-T15N-R10E



**DESCRIPTION**

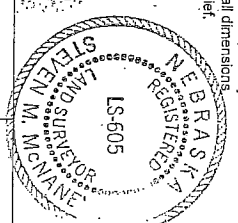
A tract of land located in that part of the Southwest 1/4 of the Southeast 1/4 of Section 3, Township 15 North, Range 10 East of the 6th P.M. in Douglas County, Nebraska, more particularly described as follows:

Beginning at the Southwest corner of said Southeast 1/4 of said Section 3; thence N01°56'12"W (assumed bearing) along the west line of said Southeast 1/4 a distance of 514.99 feet to a point on the South R.O.W. line of new Highway 64; thence N72°54'39"E along said South R.O.W. line a distance of 684.84 feet to a point on the west line of NDOR R.O.W.; thence S31°52'51"E along said West R.O.W. line a distance of 183.44 feet to a point on the Northern R.O.W. line of old Highway 64; thence S45°50'57"W a distance of 332.47 feet; thence S40°14'35"W a distance of 310.81 feet; thence S40°24'19"W a distance of 129.96 feet to a point on the South line of said Southeast 1/4 of said Section 3; thence S87°16'23"W along said South line a distance of 200.29 feet to the Point of Beginning.

Said tract of land contains an area of 292,579 sq. ft. or 6.72 acres more or less.

I, Steven M. McNaney, a registered surveyor of the State of Nebraska, hereby certify that this survey was made by me on June 2, 2004; that all dimensions are in feet and are correct to the best of my knowledge and belief.

*Steven M. McNaney*  
Steven M. McNaney, L.S. 6035



**PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT**

DESIGNED BY: _____	ELKHORN RIVER PUBLIC
CHECKED BY: _____	ACCESS/WEST MAPLE ROAD
APP'D. BY: _____	PROJECT NO.: 266
	DATE: 06/02/04
	SHEET NO. 1 OF 1



STATE HIGHWAY 64 / WEST MAPLE ROAD ■ CONT.

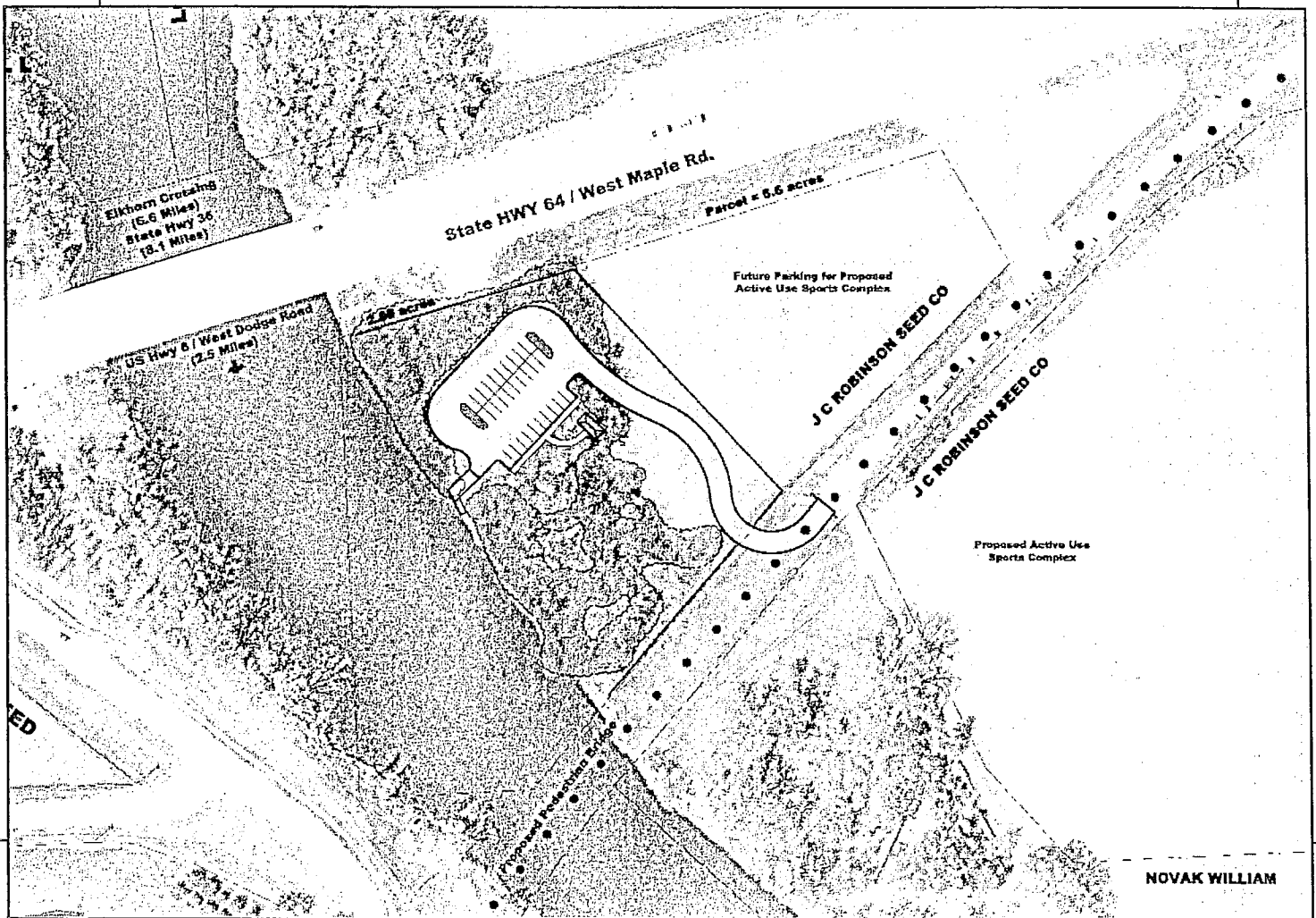


EXHIBIT 'B'

## MEMORANDUM

TO: Programs, Projects and Operations Subcommittee

SUBJECT: Contribution Agreement with NRCS

BY: Ralph Puls, Land/Water Programs Coordinator

DATE: September 1, 2004

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The Natural Resources Conservation Service (NRCS) proposes that the P-MRNRD and NRCS enter into an agreement that will accelerate the design and construction of the ten erosion control dams remaining in the Silver Creek Watershed Plan.

Recently the NRCS has made significant changes in the way it operates. Some of the technical assistance it provides, such as the planning and design of dams, is being contracted to the "private" sector rather than being done "in house" as it was traditionally done. These private sector entities are designated as Technical Service Providers (TSP), and they must meet the technical standards of the NRCS. The NRCS provides oversight to ensure their standards are met.

With Technical Service Providers doing some of the technical work, the NRCS personnel will be available to complete a backlog of work, and they will also be able to address the workload that will be generated by substantial increases in conservation cost-sharing funds available through the Environmental Quality Incentives Program (EQIP). EQIP represents another significant change in the way the NRCS operates. Prior to EQIP, relatively few conservation cost-sharing dollars were available through the USDA programs. The P-MRNRD provided most of the conservation cost-sharing funds through its Conservation Assistance Program (CAP). Now substantial EQIP dollars are available to construct conservation practices (see attached).

The Contribution Agreement that the NRCS proposes will provide USDA funds to design the Silver Creek Watershed dams, and EQIP funds will be used to construct them. The cost of the design and other technical assistance for the ten dams will be shared evenly by the NRCS and the P-MRNRD; \$250,000 each. The cost of construction also will be shared by the NRCS and the P-MRNRD (cost estimates have not been developed for all sites as yet, but should range from \$50,000 to \$75,000 each).

The Responsibilities of the District and the NRCS are shown on pages 2 and 3 of the Agreement; the P-MRNRD would be responsible for the selection of a Technical Service Provider, for the Administration of the contract and for providing 50 percent of the costs. The costs to the District would be spread out during the course of the Agreement which is effective through December 15, 2006. Also attached is a one-page informational sheet

that contains additional details of the work that will be performed and the rationale for the approval of the Agreement.

This is an opportunity for the P-MRNRD to accelerate the construction of the dams planned for the Silver Creek Watershed and to utilize USDA funds to defray a good portion of the cost; and at the same time, the NRCS will be able to provide technical assistance for additional conservation measures in the District.

**Staff recommends that the Subcommittee recommend to the Board of Directors that the P-MRNRD enter into the Contribution Agreement with the NRCS for the Silver Creek Watershed Project and that the General Manager be authorized to execute the necessary contract documents subject to review as to form by District's Legal Counsel.**

**SILVER CREEK WATERSHED**  
**Acceleration Plan**

- This contribution agreement will accelerate delivery of technical and administrative assistance which addresses both the NRCS and P-MRNRD technical needs.
- The NRCS and the P-MRNRD will provide 50 percent of the cost of the work described in the attached plan of work and budget. The 50 percent cost is estimated to be \$250,000.
- The Plan of Work will require the District to solicit a consultant to complete components of the plan from preliminary design to final certification of the projects. This can be completed in conjunction with technical review throughout the project by NRCS.
- NRCS received 1.5 million dollars for Technical Service Providers (TSP) in 2004 that was intended for use by outside sources to provide technical assistance related to Farm Bill Programs. This funding was supplemental to existing Conservation Technical Assistance and was intended to generate additional help to meet the increased demand for conservation practices due to elevated appropriations in Federal Farm Bill Programs. With the funding sources and limited personnel to deliver all the services, a supplemental delivery method to provide technical and administrative assistance have been made available through Contribution Agreements utilizing TSP funds.
- This agreement helps to meet the demand of the technical service needs of the watershed work plans and the increased funding that will be provided in the district through the EQIP program. This funding is projected to increase each year for the next 3 years.
- The NRCS is charged with the promotion of the Environmental Quality Incentives Program (EQIP). EQIP is a voluntary conservation program available through the USDA Natural Resources Conservation Service. The program is voluntary and supports production agriculture and environmental quality as compatible goals. Through EQIP, farmers may receive financial and technical help with structural and management conservation practices on agricultural land. EQIP may pay up to 50 percent of the costs of eligible conservation practices.
- The Silver Creek Work Plan has 4 sites approved for EQIP funding this year (2004). The funding provided is for Sites 24, 25, 26 and 31, but design and construction are being delayed because of the lack of local NRCS field office personnel available to complete the task.
- Because the NRCS is funded through a fiscal year basis, the agreement will need to be continued annually by an amendment between the P-MRNRD and the NRCS until the completion date of the project on or before December 15, 2006.

## **CONTRIBUTION AGREEMENT**

This agreement is by and between the Papio – Missouri River Natural Resources District, hereafter called P-MRNRD, and the United States Department of Agriculture (USDA), Natural Resources Conservation Service, hereafter called NRCS.

### **AUTHORITY:**

NRCS authority to enter into this agreement is the Food Security Act of 1985, Title XII, P.L. 99-198, as amended; Food Agriculture, Conservation and Trade Act of 1990, Title XIV, Section 1237, P. L. 1-101-624, 104 Stat. 3584, 7 U.S.C. 3837, as amended; Omnibus Budget Reconciliation Act of 1993; Federal Agriculture Improvement and Reform Act of 1996; Agriculture Appropriations Act of 1997; Farm Security and Rural Investment Act of 2002, P.L. 107-171 and P.L. 106-387, Section 714.

### **PURPOSE:**

The purpose of this agreement is to deliver the conservation technical assistance and conservation programs of the Natural Resources Conservation Service that are of mutual interest to the P-MRNRD and NRCS. The project area for the work to be performed is in the Silver Creek Watershed. NRCS is actively pursuing support from the PM-RNRD to provide assistance in implementing conservation practices with producers. Execution of the work described in this agreement will conclude the grade stabilization practice measures planned for the Silver Creek Watershed.

### **MUTUAL INTEREST:**

The P-MRNRD and NRCS have a mutual interest in helping to bring about the awareness of conservation and wise use of land, water, wildlife, and related resources. The P-MRNRD has a mutual interest in the conservation goals of USDA conservation programs administered by the NRCS to ensure that they are effectively implemented and address conservation priorities within the P-MRNRD. Accelerated delivery of technical and administrative assistance will address environmental quality issues and will result in reduced soil erosion, improved soil health, improved water quality and quantity, enhanced wildlife habitat, and improved grazing conditions. Agricultural production will be promoted and the economic growth of local agricultural enterprises and rural communities will be enhanced. The combined resources will result in enhancing the protection of land and water resources in the District, and the conservation and restoration of wildlife habitat. This combined partnership and resources will result in enhancing the protection of land and water resources within the P-MRNRD, and the conservation and restoration of wildlife habitat.

## RESPONSIBILITIES:

### A. THE P-MRNRD WILL:

1. Provide 50 percent of the cost of the work described in the attached plan of work and budget. The 50 percent cost is estimated to be \$250,000.
2. Administer and manage the contract(s) for consultant design of grade stabilization structures to be installed, solicitation and award of contracts for construction to be performed on each project site, and provide inspection services on each project site during installation of grade stabilization measures as described in the attached plan of work and budget.
3. Warrant that the technical service provided will:
  - Work will be sealed by a registered professional engineer as identified in the plan of work:
  - Comply with all applicable Federal, State, and Tribal and local laws and requirements;
  - Meet applicable NRCS standards, specifications, and program requirements;
  - Be consistent with the conservation program goals and objectives in the agreement; and
  - Incorporate, where appropriate, low-cost alternatives that would address the resource issues and meet the objectives of both the program and program participants for which assistance is provided.
4. Request reimbursement monthly by submitting a completed form SF-270, Request for Advance or Reimbursement, with supporting documentation to NRCS. Refer to Attachment B – Budget which is attached. Include a Vendor Identification Number (VIN) on the second line of the remittance address on all SF-270 forms submitted for payment in order for NRCS to make payment by electronic funds transfer. The total amount of reimbursement from NRCS will not exceed \$250,000. Supporting documentation for payment will be based on completed components as noted in the plan of work and will include bills or invoices itemized by the Silver Creek Watershed site number as listed in Attachment B- Budget.
5. If the P-MRNRD does not currently set up for electronic payments, one may be set up by submitting a complete SF-1199A, Direct Deposit Sign-Up Form. A copy of the SF-1199A and instructions may be obtained from NRCS. ( Form is to be mailed to USDA-NRCS, attn: Lori Aquila, Federal Building, Room 152, 100 Centennial Mall North, Lincoln, NE 68508-3866. Obtain a Vender Identification Number (VIN) if the P-MRNRD does not currently have one.
6. Provide the NRCS Technical Adviser with a contract performance report on February 15 and August 15 of every year covered under this agreement. The contract performance report will as a minimum include: statement of progress, including the results to date and a comparison to actual accomplishments with proposed goals for the period, any current problems or unusual developments or delays and work to be performed during the succeeding period.

7. Comply with the Attachment A, Special Provisions, and Attachment C, Plan of Work, which are attached.

**8. Provide the following as the liaison:**

Technical contact:

Name Ralph Puls, Land/Water Programs Coordinator  
Address 8901 S. 154<sup>th</sup> St, Omaha, NE 68138  
Telephone 402-444-6222 ext.209  
Fax 402-895-6543  
E-mail rpuls@papionrd.org

Administrative contact:

Name: Pat Teer  
Address 8901 S. 154<sup>th</sup> St. Omaha, NE 68128  
Telephone: 402-444-6222  
Fax: 402-895-6543  
E-mail: pteer@papionrd.org

District Accountant

Name: Jack Lawless  
Address 8901 S. 154<sup>th</sup> St. Omaha, NE 68138  
Telephone 402-444-6222 ext.221  
Fax 402-895-6543  
E-mail jlawless@papionrd.org

**B. NRCS WILL:**

1. Provide 50 percent of the cost of the work described in the attached plan of work and budget. This cost to NRCS will not exceed \$ 250,000.
2. Provide technical guidance to P-MRNRD or consultant to accomplish the objectives of the plan of work and budget. This includes but is not limited to participation in pre-design conference, reviewing preliminary and final designs and participation in the final construction inspection.
3. Provide to the P-MRNRD or consultant, NRCS reference material and design software, as requested, to accomplish the work of this agreement.
4. Provide planning information and survey data, if applicable, as described in the attached plan of work.
5. Reimburse upon receipt and approval, form SF-270, Request for Advance or Reimbursement. Items of work approved for reimbursement are shown in Attachment B – Budget.
6. Provide the following contacts:  
Technical: Chuck Leinen, Civil Engineer  
8901 S. 154<sup>th</sup> St, Omaha, NE 68138

Telephone, 402-896-0121 ext 237, Fax 981-0429

Administrative: Virginia Adkins  
100 Centennial Mall N., Rm. 152  
Lincoln, NE 68508  
Telephone 402-437-4046, Fax 437-5327

**C: IT IS MUTUALLY AGREED:**

1. This agreement is effective through December 31, 2004.
2. This agreement may be amended in writing by either of the parties to this agreement.
3. This agreement may be terminated by either party anytime by mutual agreement or by written notice to the other party(ies) at least 30 days in advance of the termination.
4. The furnishing of financial and other assistance by NRCS is contingent upon funds appropriated by Congress, made administratively available, or authorized by law.
5. NRCS may terminate this agreement in whole or in part if NRCS determines the P-MRNRD has failed to comply with any of the conditions of this agreement. NRCS shall promptly notify the P-MRNRD in writing of the determination and reasons for the termination, together with the effective date. Payments made by or recoveries made by NRCS under this termination shall be in accord with the legal rights and liabilities of NRCS and the P-MRNRD.
6. This agreement may be temporarily suspended by NRCS if NRCS determines that corrective action by the P-MRNRD is needed to meet the provisions of this agreement. Further, NRCS may suspend this agreement when it is evident that a termination is pending.
7. Privacy of personal information relating to natural resources conservation programs will be in accordance with Section 1244 of Title II of the Farm Security and Rural Investment Act of 2002 (Public Law 107-171, 116 Stat. 235).
8. This agreement is effective the date it is signed by both parties.
9. By signing this agreement, the P-MRNRD assures the Department of Agriculture that the program or activities provided for under this agreement will be conducted in compliance with all applicable Federal civil rights laws, rules, regulations, and policies.
10. The work described in the attached plan of work and budget will be completed by December 15, 2006.



11. Employees of the P-MRNRD shall remain its employees while carrying out their duties under this agreement and shall not be considered as Federal employees or agents of the United States for any purpose under this agreement.
12. As a condition of this agreement the P-MRNRD will assure and certify that it is in compliance with, and will comply in the course of this agreement with all applicable laws, regulations, executive orders, and other generally applicable requirements.
13. The Uniform Federal Assistance Regulations found in Title 7 of the Code of Federal Regulation & Office of Management and Budget Circular that apply to grants and cooperative agreements do not apply to contribution agreements; however, they may be referred to for purposes of procedural administration of this agreement.

**PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT**

By \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

This action was authorized at an official meeting of the \_\_\_\_\_ District on the \_\_\_\_\_ day of \_\_\_\_\_ 2004, at Omaha, Nebraska

Attest: \_\_\_\_\_  
(Signature)

**U. S. DEPARTMENT OF AGRICULTURE  
NATURAL RESOURCES CONSERVATION SERVICE**

By \_\_\_\_\_

Title STATE CONSERVATIONIST

Date \_\_\_\_\_

- Attachment A – Special Provisions
- Attachment B – Budget
- Attachment C – Plan of Work

## ATTACHMENT A - SPECIAL PROVISIONS

The cooperator agrees to comply with the following special provisions which are hereby attached to this agreement.

### I. Drug-Free Workplace.

By signing this agreement, the cooperator is providing the certification set out below. If it is later determined that the cooperator knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, the NRCS, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act.

Controlled substance means a controlled substance in Schedules I through V of the Controlled Substances Act (21 U.S.C. 812) and as further defined by regulation (21 CFS 1308.11 through 1308.15);

Conviction means a finding of (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

Criminal drug statute means a Federal or non-Federal criminal statute involving the manufacturing, distribution, dispensing, use, or possession of any controlled substance;

Employee means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) All direct charge employees; (ii) All indirect charge employees unless their impact or involvement is insignificant to the performance of the grant; and, (iii) Temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirements; consultants or independent contractors not on the grantees' payroll; or employees of sub-recipients or subcontractors in covered workplaces).

Certification:

A. The grantee certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an ongoing drug-free awareness program to inform employees about --

(1) The danger of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph 9a) that, as a condition of employment under the grant, the employee will --

(1) Abide by the terms of the statement; and

(2) Notifying the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such a conviction;

(e) Notifying NRCS in writing, within ten calendar days after receiving notice under paragraph 9(d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under paragraph (d)(2), with respect to any employee who is so convicted --

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

(h) Agencies shall keep the original of all disclosure reports in the official files of the agency.

B. The cooperator may provide a list of the site(s) for the performance of work done in connection with a specific project or other agreement.

## **II. Certification Regarding Lobbying (7 CFR 3018) (Applicable if agreement exceeds \$100,000)**

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the cooperator, to any person for influencing or attempting to influence an officer or employee of an agency, Member of Congress, and officer or employer of Congress, or a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress, in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The cooperator shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, Title 31, U. S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

**III. Certification Regarding Debarment, Suspension, and Other Responsibility matters - Primary Covered Transactions, (7 CFR 3017)**

(1) The cooperator certifies to the best of its knowledge and belief, that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal has one or more public transactions (Federal, State or local) terminated for cause or default.

(2) Where the primary cooperator is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this agreement.

**IV. Clean Air and Water Certification (Applicable if agreement exceeds \$100,000 or a facility to be used has been the subject of a conviction under the Clean Air Act (42 U.S.C. 1857c-8(c)(1) or the Federal Water Pollution Control Act (33 U.S.C. 1319(c)) and is listed by EPA, or is not otherwise exempt.)**

The cooperator signatory to this agreement certifies as follows:

(a) Any facility to be utilized in the performance of this proposed agreement is \_\_\_\_\_, is not \_\_\_\_\_, listed on the Environmental Protection Agency List of Violating Facilities.

(b) To promptly notify the State or Regional Conservationist prior to the signing of this agreement by NRCS, of the receipt of any communication from the Director, Office of Federal Activities, U. S. Environmental Protection Agency, indicating that any facility which he/she proposes to use for the performance of the agreement is under consideration to be listed on the Environmental Protection Agency List of Violating Facilities.

(c) To include substantially this certification, including this subparagraph (c), in every nonexempt sub-agreement.

Clean Air and Water Clause

(Applicable only if the agreement exceeds \$100,000, or a facility to be used has been the subject of a conviction under the Clean Air Act (42 U.S.C. 1857c-8(c)(1) or the Federal Water Pollution Control Act (33 U.S.C. 1319(c)) and is listed by EPA or the agreement is not otherwise exempt.)

A. The cooperator agrees as follows:

(1) To comply with all the requirements of section 114 of the Clean Air Act as amended (42 U.S.C. 1857, et seq., as amended by Public Law 91-604) and section 308 of the Federal Water Pollution Control Act (33 U.S.C. 1251 et. seq., as amended by Public Law 92-500), respectively, relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in section 114 and section 308 of the Air Act and the Water Act, respectively, and all regulations and guidelines issued thereunder before the signing of this agreement by NRCS.

(2) That no portion of the work required by this agreement will be performed in a facility listed on the Environmental Protection Agency List of Violating Facilities on the date when this agreement was signed by NRCS unless and until the EPA eliminates the name of such facility or facilities from such listing.

(3) To use their best efforts to comply with clean air standards and clean water standards at the facilities in which the agreement is being performed.

(4) To insert the substance of the provisions of this clause in any nonexempt sub-agreement, including this subparagraph A. (4).

B. The terms used in this clause have the following meanings:

(1) The term "Air Act" means the Clean Air Act, as amended (42 U.S.C. 1857 et seq., as amended by Public Law 91-604).

(2) The term "Water Act" means Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq., as amended by Public Law 92-55).

(3) The term "clean air standards" means any enforceable rules, regulations, guidelines, standards, limitations, orders, controls, prohibitions, or other requirements which are contained in, issued under, or otherwise adopted pursuant to the Air Act or Executive Order 11738, an applicable implementation plan as described in section 110(d) of the Clean Air Act (42 U.S.C. 1857c-5(d)), and approved implementation procedure or plan under section 111(c) or section 111(d), respectively, of the Air Act (42 U.S.C. 1857c-6(c) or (d)), or an approved implementation procedure under section 112(d) of the Air Act (42 U.S.C. 1857c-7(d)).

(4) The term "clean water standards" means any enforceable limitation, control, condition, prohibition, standards, or other requirement which is promulgated pursuant to the Water Act or contained a permit issued to a discharger by the Environmental Protection Agency or by a State under an approved program, as authorized by section 402 of the Water Act (33 U.S.C. 1342), or by a local government to ensure compliance with pretreatment regulations as required by section 307 of the Water Act (3 U.S.C. 1317).

(5) The term "compliance" means compliance with clean air or water standards. Compliance shall also mean compliance with the scheduled or plan ordered or approved by a court of competent jurisdiction, the Environmental Protection Agency or any air or water pollution control issued pursuant thereto.

(6) The term "facility" means any building, plant, installation, structure, mine, vessel or other floating craft, location or site of operations, owned leased, or supervised by a sponsor, to be utilized in the performance of an agreement or sub-agreement. Where a location or site of operations contains or includes more than one building, plant, installation, or structure, the entire location shall be deemed to be a facility except where the Director, Office of Federal Activities, Environmental Protection Agency, determines that independent facilities are collated in one geographical area.

**V. Examination of Records**

Give the NRCS or the Comptroller General, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to this agreement. Retain all records related to this agreement for a period of three years after completion of the terms of this agreement in accordance with the applicable OMB Circular.

ATTACHMENT B –BUDGET

P-MRNRD NATURAL RESOURCES DISTRICT

PROJECT DISCIPTION	DISTRICT	NRCS
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**STRUCTURES FOR SURVEY AND DESIGN IN SILVER CREEK WATERSHED**

1. SITE: 23	\$25,000	\$25,000
2. SITE: 24	\$25,000	\$25,000
3. SITE: 25	\$25,000	\$25,000
4. SITE: 31	\$25,000	\$25,000
5. SITE: 30	\$25,000	\$25,000
6. SITE: 35	\$25,000	\$25,000
7. SITE: 38	\$25,000	\$25,000
8. SITE: 36	\$25,000	\$25,000
9. SITE: 11	\$25,000	\$25,000
10. SITE: 6	\$25,000	\$25,000

**B. TOTAL CONTRIBUTIONS BEING MATCHED BY NRCS FUNDS:**

DOLLAR VALUE: \$250,000

DOLLAR VALUE: \$250,000

## ATTACHMENT C - PLAN OF WORK

### SCOPE OF SERVICES FOR GRADE STABILIZATION STRUCTURE DESIGN, CONSTRUCTION CONTRACT ADMINISTRATION AND CONSTRUCTION INSPECTION SERVICES (PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT)

#### GENERAL

The work within these services shall consist of performance of the following work items necessary to design, prepare contract construction drawings and specifications, administer the construction contract and provide construction inspection services for a projects(s) as identified in specific task orders. The design and construction inspection shall be done in accordance with planning background information and various NRCS standards, specifications, documentation requirements, manuals, handbooks, technical releases, and other publications.

#### Component A – Preliminary Design

Under Component A the consultant shall develop a preliminary design for the selected grade stabilization project(s) based on background data in the planning information, topographic survey and geologic investigation (if applicable) to enable the P-MRNRD, NRCS and landowner to review and evaluate the major structural and vegetation design elements of the project.

The P-MRNRD representative/consultant shall attend a pre-work conference and site visit with a NRCS technical representative prior to beginning the preliminary design to provide an overview of the task order and discuss the proposed project design and project locations identified in planning of the structures in order to resolve questions. Any planning documents or survey data will be provided to the P-MRNRD representative/consultant. The NRCS provided planning data will be verified for accuracy and adequacy. The design data utilized in the preliminary design can be the verified planning data to avoid duplication of effort. The P-MRNRD will negotiate with the consultant to determine if topographic surveys are to be included in the task order. The pre-work conference may be waived only if a pre-contract site showing has been held.

A design folder for the project shall be prepared in accordance with the National Engineering Manual, Section 511.11 and Field Office Technical Guide (FOTG) practice documentation requirements. This folder shall contain all data pertinent to the design which includes but is not limited to:

- a. Drawings and sketches sufficient to define essential elements of the design if not detailed on construction drawings.
- b. Construction drawings, specifications, bid schedule, cost estimate, design report, geological investigation and soil mechanics report (if applicable), raw survey data, computations, design notes and fully documented input and output files of computer programs used in design.
- c. Operation & Maintenance plan.



The consultant will perform field topographic surveys, if survey data is not provided by the NRCS, to establish horizontal and vertical control points to determine the location and elevations of all features of the structure which may include buildings, houses, fences and roads etc. and other practices associated with the plan. Elevations do not necessarily need to be referenced to an established national vertical datum. The NRCS will provide meta data requirements if the survey is to be referenced to a national datum. The participant will include a hard copy of the raw survey data with point descriptions in the design folder. The consultant will use the same survey reference data as the topographic survey developed for each site for all components of the project.

The consultant will need to ascertain the project site soil/geologic conditions of the project site to determine the functionality of the structure. The consultant will drill an adequate number of test borings or dig test pits to document design features such as but not limited to: seepage control, principal spillway settlement, structure settlement, soil properties, slope stability, depth to water table, borrow quantities. The consultant will provide a field survey which shall establish the location and elevation of all drill holes and test pits of a geologic investigation. Raw survey data shall be provided in electronic files or in manually recorded, bound survey books and included in the design folder. The consultant shall include a copy of a geology report in accordance with NEM, Section 531.15 in the design folder. The geology report shall include but is not limited to:

- (1) All on-site investigation data and information, including information on all borrow areas investigated including those which have been classified as being unsuitable.
- (2) Narrative discussion including interpretations, conclusions and recommendations for design of geologic conditions pertinent to laboratory testing, design, construction, and performance of the works.
- (3) Recorded logs of investigations.
- (4) Drawings showing the location of all test holes and pits.
- (5) Plotted profiles and cross sections as necessary to show subsurface conditions, locations, and elevations of samples, penetration test locations and results, and ground water elevations and date of measurement.

Correlation of data gathered in the geology investigation and soil mechanics evaluations of the site relating to borrow area(s) for earth fill or foundation and seepage concerns and can be made, if applicable, to not duplicate effort if the designer will assume responsibility for the structure with this data.

The consultant shall deliver one (1) hard copy to the P-MRNRD and one (1) hard copy to the NRCS technical representative of the design folder for review.

A preliminary design conference will be held after the review if deemed necessary by the P-MRNRD.

### Component B – Final Design

The consultant will address preliminary design review comments, complete the final design and update the design folder.

The final design will be submitted to the P-MRNRD and NRCS for final review prior to acceptance of the final design. A final design conference will be held after the review if deemed necessary by the P-MRNRD.

The consultant shall deliver one (1) hard copy to the P-MRNRD and one (1) copy to the NRCS of any additions to the preliminary/final design folder.

The final design folder shall include the final plans, specifications and design report sealed by a professional environmental, agricultural or civil engineer registered in the State of Nebraska. The final construction drawings and specifications shall be prepared in appropriate contract form for use in the construction contract.

### Component C – Construction Contract Administration

The P-MRNRD representative/consultant is recommended to review the National Engineering Manual, Section 512 which is not limited to the selection of a contractor, site showing, evaluation of a bidder, and construction, which includes provisions for conducting a preconstruction conference, etc.

The consultant shall notify the P-MRNRD of any identified construction contract modifications for concurrence with approval of the modification.

The P-MRNRD representative/consultant shall deliver two (2) hard copies of the construction contract award information to the NRCS. The contract award information shall include but is not limited to: bid abstract, construction contract and selected contractor information.

### Component D – Construction Inspection Services

The consultant shall develop a quality assurance and inspection plan for review prior to construction. Provide all construction quality assurance and inspection services during construction of the project which includes but is not limited to: documentation of applicable construction tests, materials, quantities, material certification by the contractor and/or the participant shall be documented according to National Engineering Handbook, Section 19, Construction Inspection.

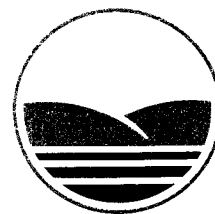
The consultant shall maintain a job diary for each construction project to provide a complete history of the work, listing in chronological order the events having a bearing on the performance of the work and the cause of each event. These include all material tests, which identifies the status of inspection of approved and rejected materials.

Photographic documentation of significant construction conditions, deficiencies, and safety or health violations is required. The consultant shall perform final checkout of the project, develop any final quantities, prepare a construction inspection report and prepare "as built" plans.

The consultant shall deliver one (1) hard copy to the P-MRNRD of a construction quality assurance plan.

The consultant shall deliver two (2) hard copies to the P-MRNRD of the construction inspection report at the final construction conference to be held after the completion of the project.

The construction inspection report includes but is not limited to: final quantities, inspection documentation including job diaries and one set of "as built" drawings.



**MEMORANDUM**

TO: Programs, Projects and Operations Subcommittee

FROM: Ralph Puls, Land & Water Programs Coordinator

SUBJECT: Bids for Construction of Natural Resources Service Center in  
Dakota County

DATE: September 1, 2004

On August 31, 2004 District staff opened sealed bids that were submitted for the construction of a Natural Resources Service Center in Dakota County. (Attached for the Subcommittee's review is a summary of the bids received).

The bids have been reviewed by District staff and by Prochaska and Associates, the Project Architect, and it has been determined that the bid submitted by Halman Construction Inc. from Sioux City, IA, is the apparent lowest and best bid. The Architect's estimated cost for the project is \$963,496.38 (See attached letter of recommendation from Prochaska & Associates).

It is Staff's recommendation that the Subcommittee recommend to the Board of Directors that Halman Construction Inc.'s bid of \$950,855.00 for construction of the Natural Resources Center in Dakota City be accepted and that the General Manager be authorized to execute the necessary contract documents.



September 1, 2004

**VIA FAX**  
402-895-6543

Ralph Puls, Land & Water Programs Coordinator  
Papio-Missouri River Natural Resources District  
8901 S. 154<sup>th</sup> Street  
Omaha, Nebraska 68138-3621

RE: Dakota County Service Center, Dakota City, NE  
Project No. 041601

Dear Ralph:

Bids were opened and read for the above project on August 31, 2004. There were seven bids submitted. Prochaska & Associates has not only reviewed the bid proposals, see enclosed Bid Tabulation sheets, but the references of the apparent low bidder as well.

We would like to at this time recommend that the Papio-Missouri River Natural Resources District accept Halman Construction, Inc's. base bid of \$924,900.00, along with the accompanying add alternate bid numbers 1 & 2 in the amounts of \$21,255.00 and \$4,700.00, respectively. These numbers are below our final estimate of \$939,837.52 for a base bid and \$963,496.38 with both alternates 1 & 2.

Sincerely,

PROCHASKA & ASSOCIATES

William R. Huey III, NCARB  
Vice President

enclosure

Prochaska & Associates  
11317 Chicago Circle  
Omaha, Nebraska 68154-2633  
402 334 0755  
FAX 402 334 0868

Planning Architecture Engineering  
Interiors & Facility Management

Omaha • San Francisco  
Washington DC • Kansas City



# BID TAB

Planning • Architecture • Engineering • Interiors • Facility Management

**PROJECT NAME:** Papio MNRD - Dakota County Service Center, Office Facility, Dakota City, Nebraska

**PROJECT NO.** 041601 **BID DATE:** Tuesday, August 31, 2004

CONTRACTOR	REC'D ADD #1	REC'D ADD #2	REC'D ADD #3	REC'D ADD #4	BASE BID	Add. Grading & Paving Alt #1	Add. Ice & Water Underlayment Alt #2	REMARKS
BROWN CONSTRUCTION P.O. Box 1280 200 S. Derby Lane North Sioux City, SD 57049 Phone: (605) 232-8880	✓	✓	✓	✓	\$1,092,000.00	\$37,000.00	\$4,500.00	\$1,133,500.00
BULAND GROUP CONSTR. SERVICES 5173 Center Street Omaha, Nebraska 68106 Phone: (402) 552-0111	✓	✓	✓	✓	\$1,099,098.00	\$45,229.00	\$5,624.00	\$1,149,951.00
FRANK AUDINO CONSTRUCTION INC. P.O. Box 3685 Sioux City Iowa 51102-3685 Phone: (712) 258-7584	✓	✓	✓	✓	\$ 961,333.00	\$37,692.00	\$3,762.00	\$1,002,787.00
HALMAN CONSTRUCTION INC. 714 Main Street Sioux City, Iowa 51103-4343 Chuck Hoffman Phone: (712) 255-7753	✓	✓	✓	✓	\$ 924,900.00	\$21,255.00	\$4,700.00	\$ 950,855.00
JT BUILDERS, INC. 2620 Greenfield Road #200 Bellevue, NE 68147 Phone: (402) 991-8758	✓	✓	✓	✓	\$ 979,000.00	\$32,614.00	\$3,850.00	\$1,015,464.00

<p><b>L&amp;L BUILDERS CO.</b>                  2205 East Fourth Street                  P.O. Box 197                  Sioux City, IA 51102                  Phone: (712) 255-0657</p>	✓	✓	✓	✓	✓	\$ 926,800.00	\$22,800.00	\$2,600.00	\$ 952,200.00
<p><b>SIOUX CONTRACTORS, INC.</b>                  412 Pavonia Street                  Sioux City, Iowa 51102                  Phone: (712) 256-4505</p>	✓	✓	✓	✓	✓	\$1,077,200.00	\$27,900.00	\$ 3,750.00	\$1,108,850.00

## PROCHASKA & ASSOCIATES

11317 Chicago Circle • Omaha, Nebraska 68154-2633

FAX: (402) 334-0868

Telephone: (402) 334-0755

E-Mail: Mail@Prochaska.us

# MEMORANDUM

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

**Re:** Resolution to the Nebraska Department of Roads Transportation Enhancement Program

**From:** Jim Becic

**Date:** 3 September, 2004

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

The NRD submitted projects have a priority in the order listed: #1) Platte River Trail Phase 3 (Hwy 370 to Springfield); #2) Platte River trail Phase 1 (Hwy 50 to Lied Bridge); and #3) the Missouri River Trail Phase 1 (N.P. Dodge Park north to Ponca Road).

The final applications for these projects must include a resolution from the NRD Board stating that the District will provide a minimum of 20% of the project cost and will operate and maintain the completed project in a safe and attractive manner for public use.

**It is the staff recommendation that the Subcommittee recommend to the Board to approve the following resolution for submittal to the Nebraska Department of Roads Transportation Enhancement Program.**

**WHEREAS, the Papio-Missouri River Natural Resources District (“NRD”) proposes to apply for funding assistance from the Transportation Enhancement Program for the purpose of paying a portion of the cost of constructing segments of the following hiking/biking trails in the NRD, to-wit:**

**Platte River Trail Phase 3 (Hwy 370 to Springfield),  
Platte River Trail Phase 1 (Hwy 5 to Lied Bridge), and  
Missouri River Trail Phase 1 (N.P. Dodge Park north  
To Ponca Road); and,**

**WHEREAS, the NRD has available a minimum of 20% of the cost of such trail construction and has the financial capacity to operate and maintain the completed trails in a safe and attractive manner for public use; and,**

**WHEREAS, the NRD’s application for such assistance has been made available for public review at a properly announced meeting of the Board of Directors of the NRD,**

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT that the Board of Directors of the NRD should apply such funding assistance for the aforesaid three trail segments:**

**Adopted this \_\_\_ day of September, 2004.**



# MEMORANDUM

TO: PPO Subcommittee

SUBJECT: Big Papio Trail (Center to Blondo) Cracking

DATE: August 30, 2004

FROM: Steven G. Oltmans, General Manager

On Friday, August 27<sup>th</sup>, the GM, Marlin Petermann and Gerry Bowen met with representatives of Kirkham Michael and Hawkins Construction Co., to discuss the cracking on the Big Papio Trail from Center to Blondo. At that time the GM asked for their plan for replacing the cracked trail. We are to receive their proposal by September 2, 2004. Both Kirkham Michael and Hawkins were informed that if their plan did not adequately address the situation, the GM would recommend to the Board that legal action be filed.

I will forward their proposal as soon as it is received.