



HDR
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Omaha, NE 68114-4098

Nebraska Community Foundation, Inc.
PO Box 83107
Lincoln, NE 68501-3107
TIN# 47-0769903

PLATTE RIVER RECOVERY IMPLEMENTATION PROGRAM
Agreement between Nebraska Community Foundation, Inc., Platte River Recovery Implementation Program, and HDR

2014-2016 Permitting Services

1. Parties. This Agreement is made and entered into by and between the Nebraska Community Foundation, Inc. (“Foundation”) of Lincoln, Nebraska, representing all signatories to the Platte River Recovery Implementation Program (“Program”) and HDR (“Consultant”). The following persons are authorized to represent the parties through this Agreement: Diane Wilson of the Foundation, Dr. Jerry Kenny of the Program; and Matt Pillard of HDR.

2. Purpose of Agreement. The purpose of this Agreement is to allow the Foundation, acting as the fiscal agent for the Governance Committee (GC) of the Program, and the Consultant to enter into an agreement for services for the project “2014-2016 Permitting Services.”

TERMS AND CONDITIONS

3. Term of Agreement and Required Approvals. This Agreement is effective when all parties execute it and all required approvals are been granted. The term of this Agreement is from the date of signing through December 31, 2016. The services to be performed under this Agreement will commence upon receipt of authorization to proceed. All services shall be completed during this term.

4. Payment.

A. Reimbursement of Expenses. The Program agrees to pay the Consultant an amount based on the approved budget depicted in Exhibit B for the services described in Exhibit A, attached to this Agreement and incorporated by reference as part of this Agreement. Total payment for services under the terms of this Agreement shall not exceed one hundred fifty thousand dollars (\$150,000) unless agreed upon by the Program. Billings shall be rendered monthly. Payments of bills are due within 60 days after the billing.

NOTE: This Agreement is for three years (2014-2016) of work. However, the annual budget estimate of \$50,000 per year is subject to review and approval annually by the Governance Committee. Funding is contingent on continued funding of the Program as a whole. This Agreement secures the services of the Consultant for three years but does not constitute an obligation to pay unless the Governance Committee approves each annual budget, the Program retains funding, and The Consultant completes the work as described in Exhibit A.

B. Project Budget. The estimated project budget for tasks outlined in Exhibit A is \$50,000 per year for a total Agreement budget of \$150,000. *Budgets are set annually (calendar year) and are evaluated and approved by the Governance Committee each December for the following calendar year (calendar year = Program fiscal year). The final Total Project Cost will depend on annual scopes of*



work and budgets for each year during the term of the Agreement, which will be negotiated and agreed upon by the Program and the Consultant annually.

C. Billing Procedures. The Consultant shall send billing reports for services performed for the various tasks outlined in Exhibit A to the Executive Director’s Office (“ED Office”; address included below). The Program’s Executive Director, upon receiving the billing report, will approve the bill and submit the bill for payment. The submittal for payment will then be reviewed by the Signatory Parties of the Program who will advise the Foundation of approval. The Foundation will make payment of these funds directly to the Consultant within 30 days of notice of approval by the Signatory Parties. Payments of bills are due within 60 days after billing date of the Consultant.

Billing Point of Contact (Program):

Dr. Jerry F. Kenny, Executive Director
Platte River Recovery Implementation Program
Headwaters Corporation
4111 4th Avenue, Suite 6
Kearney, Nebraska 68845
Phone: (308) 237-5728
Email: kennyj@headwaterscorp.com

D. Money Withheld. If the Program staff and Program partners has reasonable grounds for believing that the Consultant will be unable to perform this Agreement fully and satisfactorily within the time fixed for performance, then the Program may withhold payment of such portion of any amount otherwise due and payable to the Consultant reasonably deemed appropriate to protect the Program against such loss. These amounts may be withheld until the cause for the withholding is cured to the Program’s satisfaction or this Agreement is terminated pursuant to Section 8U. Any amount so withheld will be paid if satisfactory performance is achieved on or before the Effective Date of Termination. This provision is intended solely for the benefit of the Program and no person shall have any right against the Program by reason of the Program’s failure or refusal to withhold monies. No interest shall be payable by the Program on any amounts withheld under this provision. This provision is not intended to limit or in any way prejudice any other right of the Program. In the event of work termination, the Program will remedy with the Consultant and a mutually acceptable resolution will be sought. If the issue cannot be resolved, the Consultant may seek the appropriate legal recourse.

5. Responsibilities of the Consultant.

A. Scope of Services. The Consultant shall perform the specific services required under this Agreement in a satisfactory and proper manner as outlined in Exhibit A. If there is any conflict between this Agreement and the provisions of the specific requirements of Exhibit A, the specific requirements shall prevail.

B. Personnel. All of the services required hereunder will be performed by the Consultant or personnel under its supervision, and all personnel engaged in the work shall be fully qualified and shall be authorized, licensed, or permitted under federal and state law to perform such services, if federal and state law requires such authorization, license, or permit.



94 **C. Requests from the Program.** The Consultant shall be responsible and responsive
95 to the Program and the ED Office in their requests and requirements related to the scope of this Agreement.
96

97 **D. Reports, Maps, Plans, Models and Documents.** One (1) copy of maps, plans,
98 worksheets, logs, field notes and other reference or source documents prepared for or gathered under this
99 Agreement, and one (1) copy of each unpublished report prepared under this Agreement shall be submitted
100 to the Program. If the Consultant writes any computer program or uses a spreadsheet as a part of this
101 project, the Consultant shall submit to the Program for approval all proposed program names and data
102 formats prior to beginning work on that task. All data shall be submitted to Program in written and digital
103 forms. Digital media shall be labeled by the Consultant to provide sufficient detail to access the information
104 on the media. All user manuals shall be submitted by the Consultant to Program providing complete
105 documentation of computer programs developed under this Agreement. The user manual shall also specify
106 the source code language and the type of computer equipment necessary to operate the program(s). Any
107 spreadsheet, documents, or computer software generated as a part of this Agreement shall be the sole
108 property of the Program.
109

110 **E. Inspection and Acceptance.** All deliverables furnished by the Consultant shall be
111 subject to rigorous review by the Program's ED Office prior to acceptance.
112

113 **6. Responsibilities of the Program.**

114

115 **A. Designated Representative.** The Executive Director of the Program shall act as
116 the Program's administrative representative with respect to the Consultant's service to be performed under
117 this Agreement and shall have complete authority to transmit instructions, receive information, and interpret
118 and define the Program's policies and decisions with respect to services covered by this Agreement.
119

120 **B. Data to be furnished to the Consultant.** All information, data, reports, and maps
121 as are available to the Program and necessary for the carrying out of the Scope of Services set forth herein
122 shall be furnished to the Consultant without charge and the ED Office shall cooperate with the Consultant
123 in the carrying out of the project.
124

125 **C. Review Reports.** The ED Office shall examine all studies, reports, sketches, and
126 other documents presented by the Consultant to the Program and shall promptly render in writing the
127 Program's decisions pertaining thereto within the time periods specified in Exhibit A.
128

129 **D. Provide Criteria.** The ED Office shall provide all criteria and full information
130 regarding its requirements for the project.
131

132 **7. Special Provisions.**

133

134 **A. No Finder's Fees.** No finder's fee, employment agency fee, or other such fee
135 related to the procurement of this Agreement shall be paid by either party.
136

137 **B. Publication.** It is understood that the results of this work may be available to the
138 Consultant for publication and use in connection with related work. Use of this work for publication and
139 related work by the Consultant must be conducted with prior authorization from the Program's Technical
140 Point of Contact.



141 **C. Publicity.** Any publicity or media contact associated with the Consultant's
142 services and the result of those services provided under this Agreement shall be the sole responsibility of
143 the Program. Media requests of the Consultant should be directed to the Director of Outreach and
144 Operations in the ED Office.

145
146 **D. Monitor Activities.** The Program shall have the right to monitor all Agreement
147 related activities of the Consultant and all its contractors. This shall include, but not be limited to, the right
148 to make site inspections at any time, to bring experts and the Consultant on site to examine or evaluate
149 completed work or work in progress, and to observe all Consultant personnel in every phase of performance
150 of Agreement related work. Program monitoring of activities will be at the Program's expense.

151
152 **D. Kickbacks.** The Consultant certifies and pledges that to the best of its knowledge
153 and belief no gratuities, kickbacks or contingency fees were paid in connection with this Agreement, nor
154 were any fees, commissions, gifts, or other considerations made contingent upon the award of this
155 Agreement. If the Consultant breaches or violates this pledge, the Program may, at its discretion, terminate
156 this Agreement without liability to the Program, or deduct from the Agreement price or consideration, or
157 otherwise recover, the full amount of any commission, percentage, brokerage, or contingency fee.

158
159 **E. Office Space, Equipment, and Supplies.** The Consultant will supply its own
160 office space, equipment, and supplies unless other mutually accepted agreements are made.

161
162 **8. General Provisions.**

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164 **A. Amendments.** Any changes, modifications, revisions or amendments to this
165 Agreement which are mutually agreed upon by the parties to this Agreement shall be incorporated by
166 written instrument, executed and signed by all parties to this Agreement.

167
168 **B. Applicable Law/Venue.** The construction, interpretation and enforcement of this
169 Agreement shall be governed by applicable federal and Nebraska law. The Federal Courts of the State of
170 Nebraska shall have jurisdiction over this Agreement and the parties.

171
172 **C. Assignment/Agreement Not Used as Collateral.** Neither party shall assign or
173 otherwise transfer any of the rights or delegate any of the duties set forth in this Agreement without the
174 prior written consent of the other party. The Consultant shall not use this Agreement, or any portion thereof,
175 for collateral for any financial obligation, without the prior written permission of the Program.

176
177 **D. Audit/Access to Records.** The Program and any of its representatives shall have
178 access to any books, documents, papers, and records of the Consultant which are pertinent to this
179 Agreement. The Consultant shall, immediately upon receiving written instruction from the Program,
180 provide to any independent auditor, accountant, or accounting firm, all books, documents, papers and
181 records of the Consultant which are pertinent to this Agreement. The Consultant shall cooperate fully with
182 any such independent auditor, accountant, or accounting firm, during the entire course of any audit
183 authorized by the Program.

184
185 **E. Availability of Funds.** Each payment obligation of the Program is conditioned
186 upon the availability of funds and continuation of the Platte River Recovery Implementation Program. If
187 funds are not allocated and available for the continuance of the services performed by the Consultant, the
188 Agreement may be terminated by the Program at the end of the period for which the funds are available.



The Program shall notify the Consultant at the earliest possible time of the services which will or may be affected by a shortage of funds. No penalty shall accrue to the Program in the event this provision is exercised, and the Program shall not be obligated or liable for any future payments due or for any damages as a result of termination under this section. This provision shall not be construed to permit the Program to terminate this Agreement to acquire similar services from another party.

F. Award of Related Contracts. The Program may undertake or award supplemental or successor contracts for work related to this Agreement. The Consultant shall cooperate fully with other contractors and the Program in all such cases.

G. Certificate of Good Standing. The Consultant shall provide Certificate of Good Standing verifying compliance with the unemployment insurance and workers' compensation programs prior to performing work under this Agreement.

H. Compliance with Law. The Consultant shall keep informed of and comply with all applicable federal, state and local laws and regulations in the performance of this Agreement.

I. Confidentiality of Information. All documents, data compilations, reports, computer programs, photographs, and any other work provided to or produced by the Consultant in the performance of this Agreement shall be kept confidential by the Consultant unless written permission is granted by the Program for its release.

J. Conflicts of Interest

(i) The Consultant shall not engage in providing consultation or representation of clients, agencies or firms which may constitute a conflict of interest which results in a disadvantage to the Program or a disclosure which would adversely affect the interests of the Program. The Consultant shall notify the Program of any potential or actual conflicts of interest arising during the course of the Consultant's performance under this Agreement. This Agreement may be terminated in the event a conflict of interest arises. Termination of the Agreement will be subject to a mutual settlement of accounts. In the event the Agreement is terminated under this provision, the Consultant shall take steps to insure that the file, evidence, evaluation and data are provided to the Program or its designee. This does not prohibit or affect the Consultant's ability to engage in consultations, evaluations or representation under agreement with other agencies, firms, facilities, or attorneys so long as no conflict exists.

(ii) A conflict of interest warranting termination of the Agreement includes, but is not necessarily limited to, representing a client in an adversarial proceeding against the Platte River Recovery Implementation Program, its signatories, boards, commissions or initiating suits in equity including injunctions, declaratory judgments, writs of prohibition or *quo warranto*.

K. Entirety of Agreement. This Agreement, consisting of nine (9) pages, Exhibit A, consisting of three (3) pages, and Exhibit B, consisting of eleven (11) pages, represents the entire and integrated Agreement between the parties and supersedes all prior negotiations, representations, and agreements, whether written or oral.

L. Force Majeure. Neither party shall be liable for failure to perform under this Agreement if such failure to perform arises out of causes beyond the control and without the fault or negligence of the nonperforming party. Such causes may include, but are not limited to, acts of God or the public enemy, fires, floods, epidemics, quarantine restrictions, freight embargoes, and unusually severe



weather. This provision shall become effective only if the party failing to perform immediately notifies the other party of the extent and nature of the problem, limits delay in performance to that required by the event, and takes all reasonable steps to minimize delays. This provision shall not be effective unless the failure to perform is beyond the control and without the fault or negligence of the nonperforming party.

M. Consultant Liability. The Consultant agrees to be responsible for damage to persons or property caused by the negligent or wrongful acts or omissions of the Consultant employees or its contractors acting within the scope of their employment.

N. Independent Consultant. The Consultant shall function as an independent The Consultant for the purposes of this Agreement, and shall not be considered an employee of the Program, Foundation or ED Office for any purpose. The Consultant shall assume sole responsibility for any debts or liabilities that may be incurred by the Consultant in fulfilling the terms of this Agreement, and shall be solely responsible for the payment of all federal, state and local taxes which may accrue because of this Agreement. Nothing in this Agreement shall be interpreted as authorizing the Consultant or its agents and/or employees to act as an agent or representative for or on behalf of the Foundation or the Program, or to incur any obligation of any kind on the behalf of the Foundation or the Program. The Consultant agrees that no health/hospitalization benefits, workers' compensation and/or similar benefits available to Foundation or Program employees will inure to the benefit of the Consultant or the Consultant's agents and/or employees as a result of this Agreement.

O. Notices. All notices arising out of, or from, the provisions of this Agreement shall be in writing and given to the parties at the address provided under this Agreement, either by regular mail, facsimile, e-mail, or delivery in person.

P. Notice and Approval of Proposed Sale or Transfer of the Consultant. The Consultant shall provide the Program with the earliest possible advance notice of any proposed sale or transfer or any proposed merger or consolidation of the assets of the Consultant. Such notice shall be provided in accordance with the notice provision of this Agreement. Internal redistributions of stock do not require disclosure.

Q. Ownership of Documents/Work Product/Materials. All documents, reports, records, field notes, data, samples, specimens, and materials of any kind resulting from performance of this Agreement are at all times the property of the Program.

R. Patent or Copyright Protection. The Consultant recognizes that certain proprietary matters or techniques may be subject to patent, trademark, copyright, license or other similar restrictions, and pledges that no work performed by the Consultant or its contractors will violate any such restriction.

S. Proof of Insurance. The Consultant shall provide the Program with proof of insurance as part of finalizing this Agreement. Minimum insurance requirements will include \$1,000,000 general liability per occurrence. To the extent authorized by law, the Consultant shall indemnify, save, and hold harmless the Nebraska Community Foundation; the states of Colorado, Wyoming, and Nebraska; the Department of the Interior; members of the Governance Committee; and the Program Executive Director's Office, their employees, employers, and agents; against all claims, damages, liability, and court awards including costs, expenses, and attorney fees incurred as a result of any negligent act or omission by the Consultant or its employees, agents, subcontractors, or assignees pursuant to the terms of this project.



T. Taxes. The Consultant shall pay all taxes and other such amounts required by federal, state and local law, including but not limited to federal and social security taxes, workers' compensation, and unemployment insurance.

U. Termination of Agreement. This Agreement may be terminated, without cause, by the Program upon fifteen (15) days written notice. This Agreement may be terminated immediately for cause if the Consultant fails to perform in accordance with the terms of this Agreement. The Consultant shall likewise have the right to unilaterally terminate the agreement for good cause.

V. Third Party Beneficiary Rights. The parties do not intend to create in any other individual or entity the status of third party beneficiary, and this Agreement shall not be construed so as to create such status. The rights, duties and obligations contained in this Agreement shall operate only between the parties to this Agreement, and shall inure solely to the benefit of the parties to this Agreement. The provisions of this Agreement are intended only to assist the parties in determining and performing their obligations under this Agreement.

W. Time. The Consultant agrees to adhere to Agreement schedules for accomplishing the tasks called for under the Agreement.

X. Titles Not Controlling. Titles of paragraphs are for reference only, and shall not be used to construe the language in this Agreement.

Y. Waiver. The waiver of any breach of any term or condition in this Agreement shall not be deemed a waiver of any prior or subsequent breach.



9. Contacts.

Administrative Point of Contact (Foundation):

Diane M. Wilson
Chief Financial and Administrative Officer
Nebraska Community Foundation
PO Box 83107
Lincoln, Nebraska 68501-3107
Phone: (402) 323-7330
Email: dwilson@nebcommfound.org

Technical Point of Contact (Program):

Chadwin Smith
Director of Natural Resources Decision Support
Platte River Recovery Implementation Program
Headwaters Corporation
4111 4th Avenue, Suite 6
Kearney, Nebraska 68845
Phone: (402) 432-7950
Email: smithc@headwaterscorp.com

Administrative and Technical Point of Contact (Consultant):

Admin. Point of Contact (Program):

Dr. Jerry F. Kenny, Executive Director
Platte River Recovery Implementation Program
Headwaters Corporation
4111 4th Avenue, Suite 6
Kearney, Nebraska 68845
Phone: (308) 237-5728
Email: kennyj@headwaterscorp.com

Media Point of Contact (Program):

Dr. Bridget Barron
Director of Outreach
Platte River Recovery Implementation Program
Headwaters Corporation
4111 4th Avenue, Suite 6
Kearney, Nebraska 68845
Phone: (308) 237-5728
Email: barronb@headwaterscorp.com



10. Signatures. By signing this Agreement, the parties certify that they have read and understood it, that they agree to be bound by the terms of the Agreement, and that they have the authority to sign it.

NEBRASKA COMMUNITY FOUNDATION

Diane M. Wilson
Chief Financial and Administrative Officer

Date

HDR (Consultant)

Date



EXHIBIT A

**PRRIP 2014-2016 Permitting Services
Scope of Work**



SCOPE

Implementation of the Program's Adaptive Management Plan (AMP) includes management actions in the channel of the central Platte River intended to test hypotheses related to habitat creation and maintenance and subsequent use by the target species. Three primary actions require permitting authority:

1) Sediment Augmentation

Several AMP hypotheses relate to restoration of sediment balance in the central Platte River. The Program completed a sediment augmentation pilot study in 2014 comparing the effectiveness of two types of augmentation activities. That pilot study was conducted under a Section 404 permit from the U.S. Army Corps of Engineers that included Section 401 Water Quality Certification from the Nebraska Department of Environmental Quality. A final pilot study report was made publicly available in July 2014. The results of the pilot study indicate that the most effective means of augmentation for the Program in the near term will be through mechanical placement of sediment in the channel, either directly into the channel during periods of adequate flow or through stockpiling and placement for mobilization during subsequent high flow events. All sediment can be accessed and prepared on Program lands along the central Platte River. This augmentation is expected to begin in late 2014 and occur annually as directed by the Governance Committee and in accordance with implementation of the AMP. Augmentation planning and oversight of implementation will be conducted by the Program's Executive Director's Office. However, the Program is seeking expert contractor assistance to secure necessary federal and state permits for augmentation activities.

2) In-channel island construction

Nesting habitat for interior least terns and piping plovers in the central Platte River channel is generally considered to be bare sand islands moated by river flow. Since 2011, the Program constructed islands on certain Program properties according to habitat criteria developed by the Program's Technical Advisory Committee (TAC). While some of those islands persist, many have been largely or completely eroded or otherwise degraded by several high flow events on the central Platte. Those islands were constructed under permitting authority from the U.S. Army Corps of Engineers. Additionally, more islands will be constructed over time to continue investigations into habitat selection by terns and plovers. The Program is seeking expert contractor assistance to secure necessary federal and state permits for new island construction and ongoing maintenance.

3) Wetland restoration and enhancement

The Program committed to acquiring and maintaining approximately 400 acres of off-channel palustrine wetland habitat. The Program acquired a portion of the required palustrine wetland habitat and is considering restoration and enhancement activities to improve habitat suitability for whooping cranes. Activities may include excavation, construction of water control structures, and other construction activities to increase wetland area and improve function.

In all instances, general activities under this RFP include:

- Meet with Executive Director's Office staff in Kearney, Nebraska to discuss planned activities, necessary permits, and strategies for securing those permits.
- Coordinating and completing all necessary permit application documentation.
- Coordinating meetings between the Corps, Nebraska Department of Environmental Quality, and Program as necessary.
- Ensuring permit requirements are met and all required reporting is completed in full and on schedule.



409 Permitting activities conducted under this RFP will be contracted through a Master Service Agreement.
410 The EDO will develop and execute Task Orders for specific permitting tasks as necessary. Detailed costs
411 and scopes of work for each permitting task will be developed for each Task Order and that process will
412 include appropriate review by the EDO and the Program's Technical Advisory Committee and Finance
413 Committee as necessary.



EXHIBIT B

**FY14 Consultant Scope, Budget, Hourly Rates, and Hours
(Updated annually)**



Platte River Recovery Implementation Program 2014-2016 Permitting Services

The Platte River Recovery Implementation Program's (Program) Adaptive Management Plan (AMP) includes management actions in the channel of the central Platte River intended to test hypotheses related to habitat creation and maintenance and subsequent use by the target species. To test hypotheses, Program management actions include: 1) sediment augmentation; 2) in-channel island construction; and 3) wetland restoration and enhancement. These actions require coordination with and approval from the U.S. Army Corps of Engineers (USACE) under Section 404 of the Clean Water Act (Section 404) and from the Nebraska Department of Environmental Quality (NDEQ) under Section 401 of the Clean Water Act (Section 401). The following tasks have been identified to assist the Executive Directors Office (EDO) in obtaining Section 404 authorizations and Section 401 water quality certifications for Program management actions.

TASK SERIES 100 – PROGRAM COORDINATION

Objective: Coordinate with the EDO to discuss planned activities, develop permitting strategies, and initiate general agency coordination.

Activity: Coordinate and attend meetings with the EDO to discuss the details of 2015 actions requiring Section 404 authorizations and Section 401 water quality certifications. Develop a permitting strategy (memorandum) that includes meeting Section 404 authorizations and Section 401 water quality certification requirements.

Coordinate, assist in material development, and participate in one agency meeting that presents information on pending Program management actions.

Develop and maintain a permitting matrix that outlines the development, submittal, reviews, and approvals of permit applications.

Meetings: Four meetings at the EDO office in Kearney, Nebraska; one multi-agency coordination meeting at the EDO office in Kearney.

Deliverables: EDO Coordination – Agenda, meeting materials, and meeting minutes
Permit Strategy Memorandum – Draft and final permitting strategy memorandum
Agency Coordination – Agenda, meeting materials, and meeting minutes
Permit Matrix – Initial matrix and updates as needed

Key Understandings:

The agency coordination meeting is intended to provide an overview of projects that the Program is initiating in 2015. If possible, site visits to potential project



sites would occur. Meals and transportation for agencies for the site visit is not included in this task, but can be included as additional services. Activity specific coordination is included in each individual project task provided below.

TASK SERIES 200 - DEVELOPMENT OF INDIVIDUAL PERMIT FOR SEDIMENT AUGMENTATION

The Program intends to mechanically augment existing Platte River sediment loads by distributing 150,000 tons of sand that is available from in-channel sources on Program lands (potentially at the Plum Creek and Cottonwood Ranch Complexes). The sediment augmentation actions will involve discharge and/or fill into waters of the U.S. The following tasks will be required for Clean Water Act compliance. An Individual Permit (IP) will be required.

Objective: Develop an Individual Permit application for sediment augmentation actions.

Activity: Task 201 – Agency Coordination

Coordinate and attend one pre-application meeting with USACE and NDEQ during permit development. Respond to comments during USACE IP application review.

Meetings: One pre-application meeting with USACE (at Lake Wehrspann field office) to discuss the findings of the wetland delineation (Task 204) and the permit application.

Deliverables: Agenda, meeting materials, and meeting minutes; responses to comments from USACE and/or NDEQ on the IP application

Key Understandings:

It is assumed that the multi-agency coordination meeting identified in Task 100 addresses the need for an on-site meeting with USACE and other agencies. It is assumed that the Environmental Protection Agency (EPA) and/or NDEQ would participate in the pre-application meeting.

Activity: Task 202 – Individual Permit Development

The following components of the IP will be developed:

- Project purpose
- Nature of activity
- Reason for discharge
- Type and amount of discharge
- Impacts on wetlands and other waters of the U.S. (see Task 203)
- Alternatives analysis discussion – This will focus on the alternatives developed in the Environmental Impact Statement (EIS) as well as those considered for sediment augmentation
- Demonstration of compliance with Section 7 of the Endangered Species Act (Section 7)



- Mitigation discussion – This will focus on the fact that the functional assessment leads to the project being a higher and better use of resources and that no mitigation is required.

HDR Engineering, Inc. (HDR) will respond to comments received on the Public Notice, if requested by USACE.

Deliverables: Draft and final application and response to comments on the public notice

Key Understandings:

- The existing Section 106 of the National Historic Preservation Act (Section 106) reviews in accordance with the land acquisition and land plan reviews combined with State Historic Preservation Office (SHPO) coordination will be sufficient to demonstrate Section 106 compliance.
- The existing Section 7 compliance in accordance with land acquisition and land plan reviews is anticipated to be sufficient for compliance.
- The Biological Opinion will be used as the basis for compliance with Section 7. No informal or formal consultation is anticipated.
- Alternatives development is anticipated to be a general overview of alternatives outlined in the EIS and general description of alternatives available to the Program for in-channel habitat projects. The development of a detailed 404(b)(1) showing document is not anticipated, but rather a general discussion of compliance with the guidelines.
- No new functional assessment methodologies for assessing functional impacts on wetlands are anticipated. The functional assessment methodology developed and implemented for the Cottonwood Ranch and the Elm Creek Pre-Construction Notifications are assumed to be acceptable.
- Adjacent landowner information will be provided by the Program.
- A joint public notice to include Section 401 water quality certification is anticipated.
- Response to comments on the public notice is not anticipated to require more than 24 hours of effort.
- A Section 404 public hearing is not anticipated.

Activity: Task 203 – Environmental Analysis

Develop an environmental analysis suitable for USACE to use in its decision document. A baseline assessment will be performed to update the existing environment relative to the final EIS. The following elements will be discussed:

- Wetlands and other waters of the U.S.
- Fish and wildlife
- Threatened and endangered species
- Water quality
- Floodplain

- 114
- Regulated materials

115 In addition, a general discussion of the following Public Interest Review factors
116 will be provided:

- 117
- Land use
 - 118 • Economics
 - 119 • Prime and unique farmland
 - 120 • Recreation
 - 121 • Air quality
 - 122 • Noise
 - 123 • Historic and archeological properties
 - 124 • Short-term, secondary, and cumulative impacts

125 **Deliverables:** Draft and final environmental analysis

126 **Key Understandings:**

- 127
- Data collection will be limited to a review of existing water quality
128 information and basic census and agricultural census information.
 - 129 • Analysis will be primarily qualitative. No modeling, geographic information
130 system (GIS) analysis, or on-site data collection will be necessary to complete
131 these task elements, other than what has been collected for the project as
132 part of previous tasks.
 - 133 • The deliverable for this task is anticipated to occur concurrently with the
134 submittal of the IP.

135 **Activity: Task 204 – Wetland Delineation and Functional Assessments**

136 Perform wetland delineations in accordance with the 1987 USACE Manual and
137 the Great Plains Regional Supplement. Documentation of wetlands and other
138 waters of the U.S. will be provided on Water of the U.S. Determination Data
139 Forms. Photograph documentation will be taken at all wetlands, sample
140 locations, and identified waters of the U.S. Field work will include two HDR
141 professionals in the field for 2 days. A wetland delineation and functional
142 assessment report will be developed for inclusion in the IP.

143 **Deliverables:** Wetland delineation and functional assessment report

144 **Key Understandings:**

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- Two separate sites will be analyzed. One at the Plum Creek Complex and one
146 at the Cottonwood Ranch Complex.
 - 147 • The functional assessment developed for the Elm Creek In-Channel Nesting
148 Island Project would be implemented. No changes to the functional
149 assessment are anticipated.



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- Wetland delineations are anticipated for the sediment source areas, the area of fill, and any access roads needed.
 - The need for agricultural determinations in accordance with the 1985 Food Security Act is not anticipated.

154 **TASK SERIES 300 - DEVELOPMENT OF INDIVIDUAL PERMIT FOR ELM CREEK**

155 **NESTING ISLANDS**

156 **Objective:** **Develop Individual Permit application for the Elm Creek In-Channel Habitat**

157 **Complex.**

158 **Activity:** **Task 301 – USACE Coordination**

159 Coordinate and attend one pre-application meeting with USACE and NDEQ

160 during permit development. Respond to comments during USACE IP application

161 review.

162 **Meetings:** One pre-application meeting with USACE (at Lake Wehrspann field office) to

163 discuss the findings of the wetland delineation (Task 304) and the permit

164 application.

165 **Deliverables:** Agenda, meeting materials, and meeting minutes

166 **Key Understandings:**

167 It is assumed that the agency coordination meeting identified in Task 100

168 addresses the need for an on-site meeting with USACE.

169 **Activity:** **Task 302 – Individual Permit Development**

170 The IP developed for the existing Elm Creek In-Channel Nesting Island Project will

171 be used for the basis of the IP. The following components of the IP will be

172 developed:

173

- Project purpose
- Nature of activity
- Reason for discharge
- Type and amount of discharge
- Impacts on wetlands and other waters of the U.S. (see Task 304)
- Alternatives analysis discussion – this will focus on the alternatives developed in the EIS as well as those considered for sediment augmentation
- Demonstration of compliance with Section 7
- Mitigation discussion – This will focus on the fact that the functional assessment leads to the project being a higher and better use of resources and that no mitigation is required.

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184 HDR will respond to comments received on the Public Notice, if requested by
185 USACE.

186 **Deliverables:** Draft and final IP application and response to comments on the public notice

187 **Key Understandings:**

- 188 • The Biological Opinion will be used as the basis for compliance with Section
- 189 7. No informal or formal consultation is anticipated.
- 190 • Alternatives development is anticipated to be a general overview of
- 191 alternatives outlined in the EIS and general description of alternatives
- 192 available to the Program for in-channel habitat projects. The development of
- 193 a detailed 404(b)(1) showing document is not anticipated, but rather a
- 194 general discussion of compliance with the guidelines.
- 195 • The functional assessment developed for the Elm Creek In-Channel Nesting
- 196 Island Project would be implemented. No changes to the functional
- 197 assessment are anticipated.
- 198 • Adjacent landowner information will be provided by the Program.
- 199 • A joint public notice to include Section 404 water quality certification is
- 200 anticipated.
- 201 • Response to comments on the public notice is not anticipated to require
- 202 more than 24 hours of effort.
- 203 • A Section 404 public hearing is not anticipated.

204 **Activity:** **Task 303 – Environmental Analysis**

205 Develop an environmental analysis suitable for USACE to use in its decision
206 document. The following elements will be discussed:

- 207 • Wetlands and other waters of the U.S.
- 208 • Fish and wildlife
- 209 • Threatened and endangered species
- 210 • Water quality
- 211 • Floodplain
- 212 • Regulated materials

213 **Deliverables:** Draft and final environmental analysis

214 **Key Understandings:**

- 215 • Data collection will be limited to a review of existing publically available
- 216 information.
- 217 • Analysis will be qualitative. No modeling, GIS analysis, or on-site data
- 218 collection will be necessary to complete these task elements, other than
- 219 what has been collected for the project as part of previous tasks.
- 220 • The deliverable for this task is anticipated to occur concurrently with the
- 221 submittal of the IP.

222 **Activity:** **Task 304 – Wetland Delineation and Functional Assessments**
 223 Perform wetland delineations in accordance with the 1987 USACE Manual and
 224 the Great Plains Regional Supplement. Documentation of wetlands and other
 225 waters of the U.S. will be provided on Water of the U.S. Determination Data
 226 Forms. Photograph documentation will be taken at all wetlands, sample
 227 locations, and identified waters of the U.S. Field work will include two HDR
 228 professionals in the field for 2 days. A wetland delineation and functional
 229 assessment report will be developed for inclusion in the IP.

230 **Deliverables:** Draft and final wetland delineation and functional assessment report

231 **Key Understandings:**

- 232 • In-channel delineations are anticipated. It is assumed that Platte River flows
- 233 will accommodate a pedestrian survey. If flows are at a level that prohibits a
- 234 pedestrian survey, HDR and the EDO office will coordinate on alternative
- 235 methods for survey and/or delaying the survey until conditions are safe.
- 236 • The functional assessment developed for the Elm Creek In-Channel Nesting
- 237 Island Project would be implemented. No changes to the functional
- 238 assessment are anticipated.
- 239 • Wetland delineations are anticipated for the source areas for island building
- 240 material, the area of fill, and any access roads needed.
- 241 • The need for agricultural determinations in accordance with the 1985 Food
- 242 Security Act is not anticipated.

243 **TASK SERIES 400 – WETLAND RESTORATION**

244 **Objective:** **Develop a Pre-Construction Notification to perform a Program developed**
 245 **wetland restoration project**

246 **Activity:** **Pre-Construction Notification Development**
 247 • Pre-application meeting with USACE; it is assumed that an on-site meeting
 248 would be required.
 249 • Preparation of a Pre-Construction Notification

250 **Meetings:** One on-site meeting with USACE (one HDR professional, 1 day meeting).

251 **Deliverables:** Meeting materials and meeting notes. Draft and final Pre-Construction
 252 Notification.

253 **Key Understandings:**

254 It is assumed that the wetland restoration site and associated work activities
 255 would qualify for a Nationwide Permit Number 27. Wetland delineations have



256
257

been completed and no additional field work would be required. EDO will provide all information needed for the Pre-Construction Notification.

Budget Platte River Recovery Implementation Program 2014-2016 Environmental Permitting Services 2014/2015 Fee Estimate																			
TASKS		Project Manager - Pillard	Sr. Env. Engineer - Morton	Sr. Water Resources Engineer - Englebert/ Engel	Env. Scientist/QC - Damgaard	Env. Scientist 2- Fisher/Hall	Envir. Scientist I - Franco/Fisher	Sr. GIS Analyst - Woehl	GIS Analyst - Mertz	Admin - Wolf	Editor - Hughs	Total Hours	Total Labor Cost	Computer	Printing	Travel	Misc.	Total Expenses	Est. Total Cost
TASK SERIES 100 - Program Coordination													\$3.70						
	EDO Meetings	40	16	16					4	2	8	86	\$15,636	\$318	\$107	\$975		\$1,401	\$17,037
	Permit Strategy	8	2		2							12	\$2,188	\$44				\$44	\$2,232
	Agency Coordination Meeting	16				12				2		30	\$4,040	\$111				\$111	\$4,151
	Permit Matrix	4				8						12	\$1,464	\$44				\$44	\$1,508
Estimated Task Hours Subtotal		68	18	16	2	20	0	0	4	4	8	140	\$23,328						
Estimated Task Cost Subtotal		\$11,288	\$5,310	\$3,296	\$270	\$2,000	\$0	\$0	\$340	\$368	\$456	140	\$23,328	\$518	\$107	\$975	\$0	\$1,600	\$24,928
TASK SERIES 200 - Development of IP for Sediment Augmentation																			
Task 201	Agency Coordination																		
	a) Pre-Application Meeting	4					6					10	\$1,078	\$37		\$17		\$54	\$1,132
	b) Comment Response	8					8					16	\$1,880	\$59				\$59	\$1,939
Task 202	Individual Permit Development																		
	a) Application Development	8			4	8	32	2	6	2	2	64	\$5,904	\$237	\$11			\$247	\$6,151
	b) Comment Response	8					16					24	\$2,432	\$89				\$89	\$2,521
Task 203	Environmental Analysis						8					8	\$552	\$30				\$30	\$582
Task 204	Wetland Delinations/Functional Assessment																		
	a) Field Work	4					40	2	4			50	\$3,984	\$185		\$585		\$770	\$4,754
	b) Report	4			2		40		4			50	\$4,034	\$185	\$21			\$206	\$4,240
Estimated Task Hours Subtotal		36	0	0	6	8	150	4	14	2	2	222	\$19,864						
Estimated Task Cost Subtotal		\$5,976	\$0	\$0	\$810	\$800	\$10,350	\$440	\$1,190	\$184	\$114		\$19,864	\$821	\$32	\$602	\$0	\$1,455	\$21,319
TASK SERIES 300 - Development of Individual Permit for Elm Creek Nesting Islands																			
Task 301	USACE Coordination																		
	a) Pre-Application Meeting	4					6					10	\$1,078	\$37		\$17		\$54	\$1,132
	b) Comment Response	8					8					16	\$1,880	\$59				\$59	\$1,939
Task 302	Individual Permit Development																		
	a) Application Development	8			4	8	24	2	6	2	2	56	\$5,352	\$207	\$9			\$216	\$5,568
	b) Comment Response	4					16					20	\$1,768	\$74				\$74	\$1,842
Task 303	Environmental Analysis						4					4	\$276	\$15				\$15	\$291
Task 304	Wetland Delinations/Functional Assessment																		
	a) Field Work	4					40	2	4			50	\$3,984	\$185		\$585		\$770	\$4,754
	b) Report	4			2		40		4			50	\$4,034	\$185	\$18			\$203	\$4,237
Estimated Task Hours Subtotal		32	0	0	6	8	138	4	14	2	2	206	\$18,372						
Estimated Task Cost Subtotal		\$5,312	\$0	\$0	\$810	\$800	\$9,522	\$440	\$1,190	\$184	\$114		\$18,372	\$762	\$9	\$17	\$0	\$418	\$19,762
TASK SERIES 400 - Wetland Restoration																			
	Pre-Application Meeting	10					8		2			20	\$2,250	\$74		\$240		\$314	\$2,564
	Pre-Construction Notification	8			4		24		4			40	\$2,844	\$148	\$16			\$164	\$3,008
Estimated Task Hours Subtotal		18	0	0	4	0	32	0	6	0	0	60							
Estimated Task Cost Subtotal		\$2,988	\$0	\$0	\$540	\$0	\$2,208	\$0	\$510	\$0	\$0		\$5,094	\$222	\$16	\$240	\$0	\$478	\$5,572
TOTAL HOURS		154	18	16	18	36	320	8	38	8	12	628							
FEE TOTAL (ROUNDED)		\$25,564	\$5,310	\$3,296	\$2,430	\$3,600	\$22,080	\$880	\$3,230	\$736	\$684		\$66,658		\$164	\$1,833	\$0	\$3,951	\$71,582

**HOURLY RATE AND REIMBURSABLE EXPENSES
PRICE SCHEDULE 2015**

HDR Engineering, Inc. Labor Rates			
Name	Title/Responsibility	Office	2010 Billable Rate
<u>Professional</u>			
Pillard, Matt	Project Manager	HDR	\$166.00
<u>Senior Technical</u>			
Morton, John	Senior Environmental Engineer	HDR	\$295.00
Engelbert, Pat	Senior Water Resources Engineer	HDR	\$206.00
Engel, John	Senior Water Resources Engineer	HDR	\$204.00
Quinn Damgaard	Senior Scientist/QC	HDR	\$135.00
<u>Project Scientist/Technician</u>			
Pillard, Matt	Senior Scientist	HDR	\$166.00
Ben Fisher	Environmental Scientist II	HDR	\$84.00
Hall, Meagan	Environmental Scientist II	HDR	\$100.00
Jeff Franco	Environmental Scientist I	HDR	\$69.00
Alex Fischer	Environmental Scientist I	HDR	\$68.00
<u>Technical Support</u>			
Ryan Woehl	Sr. GIS Analyst	HDR	\$110.00
John Mertz	GIS Analyst	HDR	\$85.00
<u>Clerical</u>			
Staci Wolf	Administrative	HDR	\$92.00
Ruth Ellen Hughs	Editor		\$57.00

HDR Estimated Standard Expenses		
Description	Est. Cost	Unit
Lodging per person	\$105	per day
Meals (lunch) per coordination meeting	\$30	per day
Rental Car per person	\$75	per day
Fuel	\$3.50	per gallon
Ground Travel	\$1	per mile
Report Binders and Shipping	\$5.00	per copy
Printing (HDR Laser B/W, Letter Size)	\$0.03	per sheet
Printing (HDR Laser B/W, 11 x 17 Size)	\$0.09	per sheet
Printing - Print Shop (Color Laser Jet, Letter Size)	\$0.15	per sheet
Printing - Print Shop (Color, 11" x 17" Size)	\$0.90	per sheet
Printing - Print Shop Report Tab Indexes	\$0.65	each
Printing - Print Shop Report 3-Hole Drilling	\$0.01	per sheet
Presentation Boards (plot and mount)	\$75	each
Color Plotting for Maps (E-Size Coated Paper)	\$50	per sheet