

WATER USE LEASE AGREEMENT

This Water Use Lease Agreement is made and entered into this ____ day of ____ 2012, between the Central Platte Natural Resources District ("CPNRD"), a political subdivision of the State of Nebraska, and the Nebraska Community Foundation ("Foundation") representing all signatories to the Platte River Recovery Implementation Program ("Program"); collectively referred to as the "Parties".

RECITALS

WHEREAS, CPNRD is a political subdivision of the State of Nebraska, duly authorized to acquire, hold, dispose of and lease rights and appropriations to use the waters of the State of Nebraska;

WHEREAS, CPNRD desires to provide water to the Platte River to achieve state and local objectives;

WHEREAS, Foundation is a Nebraska non-profit corporation, duly authorized to enter into lease agreements for the use of water to enhance, increase, and augment the flows of the Platte River pursuant to the Platte River Recovery Implementation Program ("Program");

WHEREAS, Foundation desires to enter into a lease agreement with CPNRD for the use of water to enhance the flows of the Platte River pursuant to the Program;

NOW THEREFORE, the Parties mutually agree as follows:

1. Water. CPNRD agrees to annually provide water to the Platte River in amounts not to exceed 20,500 acre-feet. CPNRD shall provide the water between Gothenburg, Nebraska and Grand Island, Nebraska.

2. Quantification of Water. CPNRD shall cause water to be diverted from the Platte River into certain canals to which it holds an interest. Water may be provided to the Foundation from a variety of water-related activities including but not limited to natural flow associated with relinquished water and ground water recharge. All quantifications of water provided to the Foundation shall represent the monthly net effect of the water-related activity, resulting in fully consumable water. CPNRD shall provide all monthly surface and ground water quantification information to the Foundation on or before October 15 of each calendar year, including the net effect to the Platte River from prior years' water-related activities and a projection of the upcoming year's activities.

- a. **Surface Water.** All of the surface water returned to the Platte River via canal shall be quantified using a standard flow measuring device as commonly recognized by the United States Geological Survey, equipped with a continuous recorder. Data from the continuous flow measuring device will be reviewed for quality control and adjusted as necessary by

CPNRD in accordance with standards commonly recognized by the United States Geological Survey.

- b. **Ground Water.** Water provided to the Platte River by subsurface return flows (ground water discharge) from water not directly returned to the Platte River via canal shall be annually quantified by CPNRD using the ground water model referred to as the Cooperative Hydrology Study (COHYST), subject to confirmation by the Foundation also using COHYST.

3. Appropriations. CPNRD agrees to obtain all appropriations from the State of Nebraska necessary to provide the desired water. Foundation assumes no responsibility for maintaining or administering the appropriations and holds no rights to the appropriations other than through this Agreement.

4. Amount of Water. CPNRD shall provide a minimum of fifty percent of all available natural flow surface water to the Foundation. CPNRD does not guarantee any minimum amount of ground water recharge. The Foundation shall accept all water offered by CPNRD, subject to the limitation on annual acre feet established in paragraph 1.

5. Price for Water. Foundation agrees to pay CPNRD \$35.00/acre-foot of the total yield of water provided to the Platte River as quantified in Paragraph "2" of this agreement. After the first calendar year of this Agreement, CPNRD may annually increase the acre-foot price of water provided to the Foundation upon written notice. Written notice of a price increase for the water provided in future years shall occur no later than January 1 of each year, and in no case shall CPNRD increase the annual acre-foot price by more than 7.5% of the price for the prior calendar year. CPNRD shall bill the Foundation annually for the water provided in the prior calendar year and the Foundation shall make full payment within 60 days of receiving the bill.

6. Availability of Funds. Each payment obligation of the Foundation is conditioned upon the continuation of the Platte River Recovery Implementation Program and the availability of appropriated funds for the Program. If funds are not allocated and available for the continuance of services provided in this Agreement, the Foundation may terminate the contract at the end of the period for which the funds are available.

7. Duration. This agreement shall expire on December 31, 2019. The Parties may mutually agree to extend this Agreement upon the terms and conditions set forth herein as desired.

8. Assignment. No assignment of this agreement shall be allowed.

9. Governing Law. Parties agree that this Agreement shall be governed, construed and enforced in accordance with the laws of the State of Nebraska.

10. Modification. None of the terms or conditions of this Agreement shall be modified without the written consent of the Parties, and this Agreement contains the entire agreement of the Parties.

IN WITNESS WHEREOF, the Parties hereto have signed this Agreement on the dates indicated.

Central Platte Natural Resources District
Ron Bishop

Date

Nebraska Community Foundation
Diane Wilson

Date