

**Contract
between
Platte River and Basin Cooperative Hydrology Study
And
NEBRASKA COMMUNITY FOUNDATION. and
PLATTE RIVER RECOVERY IMPLEMENTATION PROGRAM**

THIS AGREEMENT made and entered into this ____ day of _____, 2015, by and between **Platte River and Basin Cooperative Hydrology Study** (hereinafter "COHYST"), with its office at 415 Lincoln Street, Holdrege, NE 68949 and the **Nebraska Community Foundation (representing all signatories to the Platte River Recovery Implementation Program)**, a Nebraska non-profit corporation, with its principal address at P.O. Box 83107, Lincoln, Nebraska 68501-3107, hereinafter referred to as "Foundation," and the **Platte River Recovery Implementation Program**, with its principal office located at 4111 4th Avenue, Suite 6, Kearney, Nebraska 68845, hereinafter referred to as "Platte Program," (jointly referred to as "Parties" and individually as "Party.")

WITNESSETH:

WHEREAS, COHYST is developing a groundwater and surface water model of the central Platte River (hereinafter "Model"); and

WHEREAS, Platte Program is willing to support revisions to the model to improve the model, create the user interface and enhance documentation; and

WHEREAS, COHYST is willing to make enhancements to the COHYST model, create a user interface and improve documentation.

NOW, THEREFORE, IN CONSIDERATION of the mutual covenants and agreements herein contained and the terms and conditions hereinafter set forth, it is hereby covenanted and agreed:

1. Scope of Services - COHYST will provide professional services to provide enhancements to the COHYST linked ground and surface water models as identified in Exhibit A.
2. Compensation - For services rendered, the Platte Program will pay to COHYST for completion of the tasks identified in Exhibit A. The maximum payable by the Platte Program for the tasks identified in Exhibit A is \$67,600. Additional information on each task is provided in Exhibit A. COHYST shall invoice the Platte Program for the above charges beginning as soon as invoices from HDR, Inc. or Lee Wilson and Associates are received. Payment shall be due within 60 days of invoice and shall be remitted to Duane Woodward, Treasurer, Cooperative Hydrology Study, 215 Kaufman Avenue, Grand Island, NE 68803, woodward@cpnrd.org.
3. Term - This Contract shall be effective upon endorsement by the Parties and shall terminate on December 31, 2015. If the scope of work is not completed by December 31, 2015 the parties shall consider extension of this contract upon mutually agreeable terms.
4. DATA SHARING. COHYST agrees to share all modeling data generated for the tasks in Exhibit A with the Platte Program.

5. **FORCE MAJEURE.** COHYST shall not be liable for any delay or failure to perform its obligations under this Agreement caused by an event or condition beyond the reasonable control of, and without the fault or negligence of COHYST, including, without limitation, failure of facilities, flood, earthquake, storm, lightning, fire, severe cold or other weather event, epidemic, contamination, war, terrorist act, riot, civil disturbance, labor disturbance, accidents, sabotage, or restraint by court or restrictions by other public authority which delays or prevents performance (including but not limited to the adoption or change in any rule, policy, or regulation or environmental constraints imposed by federal, state or local governments), which COHYST could not reasonably have avoided by exercise of due diligence and foresight. Upon the occurrence of such an event or condition, the obligations of COHYST under this Agreement shall be excused and suspended without penalty or damages, provided that COHYST shall give the Platte Program prompt written notice describing the particulars of the occurrence or condition, the suspension of performance is of no greater scope and of no longer duration than is required by the event or condition, and COHYST proceeds with reasonable diligence to remedy its inability to perform and provides progress reports to the Platte Program describing the actions taken to remedy the consequences of the event or condition.

7. **DEFAULT.** If any Party to this Agreement fails to perform or otherwise breaches any of the terms of this Agreement, then such failure shall constitute a default. In the event of default by any Party, the non-defaulting Party/s shall give written notice of the default to the defaulting Party. Following such written notice, the defaulting Party may cure the default within thirty (30) days. Upon cure, this Agreement shall remain in full force and effect. If the defaulting Party fails to cure, the non-defaulting Party/s shall be entitled to any and all legal and equitable remedies except COHYST's total liability to the Platte Program for any loss or damage, including but not limited to special and consequential damages, arising out of or in connection with the performance of this Agreement shall be limited to payments provided by HDR, Inc. or Lee Wilson and Associates to address the default.

8. **ENTIRE AGREEMENT.** This Agreement contains the entire understanding of the Parties hereto with respect to the professional services contemplated hereby and supersedes all prior agreements and understandings between the Parties with respect to such subject matter.

9. **AMENDMENT.** No amendment to this Agreement shall be valid unless it is in writing and signed by the Parties hereto.

10. **BINDING EFFECT.** This Agreement shall inure to the benefit of and be binding on the Parties, their successors and assigns. This Agreement may not be assigned by the Platte Program without the written consent of COHYST.

11. **GOVERNING LAW.** This Agreement shall be governed by and construed in accordance with the law of the State of Nebraska.

12. **LAWS.** In executing this Agreement, each Party shall be responsible for its compliance with all applicable state and federal laws.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement the date first stated above.

NEBRASKA COMMUNITY FOUNDATION

Date _____ By _____
Diane M. Wilson
Chief Operating Officer/Chief Financial Officer

PLATTE RIVER RECOVERY IMPLEMENTATION
PROGRAM – Office of the Executive Director

Date _____ By _____
Jerry F. Kenny, Ph.D.
Executive Director

PLATTE RIVER AND BASIN COOPERATIVE
HYDROLOGY STUDY,

Date _____ By _____
Don D. Kraus
Chairman

EXHIBIT “A”

**TASK LIST AND BUDGET FOR COHYST 2010
JULY – DECEMBER 2015**

1. Continued improvements to the Graphical User Interface
Work based on user identifications of needs as to functionality, user friendliness, documentation
2. Begin model recalibration
Focus on dry year conditions Brady-Grand Island; develop work plan and begin ‘final’ calibration
3. Begin revisions to model documentation
Define objectives, key needs, responsibilities; includes model clean-up; start writing
4. COHYST support
Training, address any key issues incl. PRRIP, interact with Conjunctive Management, and ...
5. Project oversight
Wilson as project coordinator/senior hydrologist

	Task 1	Task 2	Task 3	Task 4	Task 5	Total
HDR	\$30,000	\$8,000	\$13,000	\$7,000	\$0	\$58,000
TFG	\$2,000	\$8,000	\$12,000	\$7,000	\$0	\$29,000
LWA	\$3,000	\$19,000	\$10,000	\$6,000	\$20,000	\$58,000
Total	\$35,000	\$35,000	\$35,000	\$20,000	\$20,000	\$145,000

Budget assumes model extensions and scenarios are funded by Conjunctive Management

Budget assumes funding of \$67,600 PRRIP, \$77,400 COHYST