

Platte River Recovery Implementation Program
**Second Amendment to the agreement between the Nebraska
Community Foundation, Inc., Platte River Recovery
Implementation Program, and The Flatwater Group, Inc.,
Private Consultant**

This Second Amendment to the Agreement between the Nebraska Community Foundation, Inc. ("Foundation") of Lincoln, Nebraska and The Flatwater Group, Inc. Corporation ("Consultant"), a private consultant of Lincoln, Nebraska is made and entered into effective on the date of signing below and the final date of this Amendment will be December 31, 2011.

The purpose of this amendment is to:

- (1) Extend the contract between Foundation and Consultant for permitting services from the effective date of the contract to December 31, 2011 to provide the services as described in Exhibit A
- (2) To provide Consultant with a budget of \$200,000 to perform the services, with the budget to be expended in general conformance with the estimate and description provided in Exhibit B.
- (3) To modify billable labor rates and direct expense unit rates as described in Exhibit C.

All other terms of the original agreement remain in effect as originally written.

The following parties agree to the terms of this Agreement.

For the Consultant:

Thomas E. Riley
President
The Flatwater Group, Inc.

For the Foundation:

Diane M. Wilson
Chief Financial & Administrative Officer
Nebraska Community Foundation, Inc.



EXHIBIT A

Platte River Recovery Implementation Program for Permitting Regional General Permit and Programmatic Agreement Development and General Permitting Assistance Scope of Services

TASK SERIES 100 - DEVELOPMENT OF REGIONAL GENERAL PERMIT

The Program intends to implement various projects that will involve work within Waters of the U.S. These projects include in-channel habitat projects and activities associated with sediment augmentation and flow consolidation within the Platte River. Due to the nature of these projects, the United States Army Corps of Engineers (USACE) has expressed their opinion that these types of in-channel projects do not meet the requirements for a Nationwide Permit authorization. Therefore, the discharge will need to be authorized under either individual permits or under a new regional general permit. Because projects will be on-going activities during the first increment of the Program, the Program proposes to pursue the development of a Regional General Permit (GP) that would address these projects and provide an efficient means of meeting Section 404 requirements. The following tasks will be performed as part of the development of a Regional General Permit:

Objective: Coordinate and develop a Regional General Permit for Program in-channel habitat, sediment augmentation, and flow consolidation activities.

Activity: Task 101 - Agency Coordination
Agency coordination will be required with USACE and other resources agencies through the development of a GP. A series of USACE Pre-Application Meetings will be necessary during the development of the GP. Program, USACE, and other agencies (such as USFWS and NDEQ) as determined by USACE will meet to discuss the approach for GP development.

Meetings: Four coordination meetings (two HDR professionals to attend each meeting):

- Initial pre-application
- Two meetings during draft GP development
- One meeting post-public notice and USACE review of submitted GP

Deliverables: Agenda, meeting materials, and meeting notes for each meeting.

Key Understandings:

- Two HDR attendees will participate in each meeting
- Meetings are anticipated to be face-to-face. Two of which would be in Kearney, two in Omaha. Kearney meetings are anticipated to be held at Program office and Omaha meetings are anticipated to be held at the Lake Wehrspann Field Office.

Activity: Task 102 – Regional General Permit Development

- Review of Program documents to identify compliance with NEPA and ESA requirements
- Definition and establishment of purpose and need
- Identification of the nature of the activities to be covered by the GP
- Discussion of the range of alternatives available to the Program
- Practicability screening of the range of alternatives and a discussion of Program's interpretation for compliance with Section 404(b)(1) guidelines
- Identification of the nature and type of impacts associated with the activities
- Review of avoidance and minimization measures available and/or process to apply for identification of these measures
- Description of the conditions associated with the activities to be covered under the GP, including the submittal and review process of activities prior to implementation
- Description of the monitoring activities associated with the Program
- Response to comments from GP public notice

Meetings: Three Program staff coordination meetings in Kearney

Deliverables:

- Preliminary, Draft, and Final GP
- Response to public notice comments on GP

Key Understandings:

- Purpose and need will be reviewed from the NEPA documents.
- The Biological Opinion will be used as the basis for compliance with Section 7 of the ESA. No in-formal 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. A detailed 404(b)(1) showing document is not anticipated, but rather a discussion of compliance with the guidelines.
- Description of nature of activities will use existing information from the Preconstruction Notifications developed for the Cottonwood Ranch and Elm Creek in-channel habitat projects.
- Monitoring activities will be developed in conjunction with existing monitoring activities planned for the Program
- No new functional assessment methodologies for assessing functional impacts to wetlands or other aquatic resources are anticipated. The functional assessment methodology developed for the Cottonwood Ranch and Elm Creek in-channel habitat projects is assumed to be applicable for future Program in-channel habitat projects.

- No field data collection is anticipated.
- In addition to the three Program staff coordination meetings, it is anticipated that other coordination meetings via conference call will be conducted as needed.
- After submittal of the GP request, it is anticipated that USACE will publish a 30 day public notice. Effort for response to comments is expected to be a maximum of 24 hours.
- A joint public notice to include NDEQ 401 Water Quality Certification is anticipated.

TASK SERIES 200 - DEVELOPMENT OF PROGRAMMATIC AGREEMENT

The Record of Decision signed by the Secretary of Interior committed to the development of a Section 106 Programmatic Agreement (PA) for the Program. HDR will provide professional cultural resource support to the Program and the Governance Committee (GC) to develop the PA. Because of the complexities and competing priorities associated with obtaining multiple parties reviews, comments and ultimately obtaining consensus on the specific language of the PA, HDR has identified several sub-tasks that will be undertaken in a linear fashion. If possible HDR will evaluate the potential for combining some of the steps, but in general envision that the services provided under this task will take approximately one year to complete.

Objective: Coordination and development of a Section 106 PA.

Activity: Task 201 – Agency Coordination Meetings

The first step in the development of the PA is to hold a series of meeting and discussions with the Bureau of Reclamation (BOR), United States Fish and Wildlife Service (USFWS), United States Army Corps of Engineers (USACE), Program Governance Committee (GC), and staff to identify points of contact, agreement to the roles and responsibilities of each entity, and approach for development of the PA.

Meetings: HDR will coordinate and attend three meetings with agencies identified above.

Deliverables: Agenda, meeting materials, and meeting notes for each meeting.

Key Understandings:

- Two HDR attendees will participate in each meeting.
- Meeting location to be determined via coordination with agencies. It is anticipated that meetings may be held in conjunction with regularly scheduled GC meetings.
- Meeting location will be identified by HDR, but securing (payment) for meeting site is anticipated to be directly administered by the Program.

111 **Activity:** **Task 202 – Advisory Council on Historic Preservation Notification**
112 Once the GC, BOR, and the FWS decide roles, responsibilities, and expectations,
113 the Advisory Council on Historic Preservation (ACHP) must be notified of their
114 intent to develop a PA. This should be accompanied with appropriate
115 information and documentation about the Program. The ACHP may chose to
116 participate in the consultation, or decline. With the complexities likely to
117 emerge due to three participating State Historic Preservation Offices (SHPO), it
118 would be advantageous for the ACHP to participate.

119 **Deliverables:** HDR will draft the letter to the ACHP and assemble the relevant documents for
120 ACHP review.

121 **Activity:** **Task 203 – SHPO Notification**
122 HDR will prepare a notification to the Nebraska, Colorado, and Wyoming SHPOs
123 which will be sent concurrently with the ACHP notification, and will contain the
124 same documentation. In addition, the SHPO coordination letters will request
125 information from SHPOs regarding any interested parties who may wish to
126 participate, along with identification of any parties identified as a consulting
127 party, including any interested tribes who may wish to participate. In advance of
128 sending out the coordination letters, HDR will confirm with SHPOs the tribal
129 entities that may be interested in the PA. HDR will prepare the draft letter of
130 notification to tribes which will be sent at the same time that notification is sent
131 to the SHPOs and ACHP.

132 **Deliverables:** Three SHPO letters and Tribal Coordination.

133 **Key Understandings:**
134 • HDR understands that the decisions on which entity will sign the letters, and
135 the timing of the letters will be made as part of the decisions reached during
136 the coordination meeting held as part of Task 201.
137 • HDR anticipates a maximum of 30 tribal entities for initial notification.

138 **Activity:** **Task 204 – Public Notification of PA**
139 HDR will work with the Program and the SHPOs to draft a public announcement
140 of the intent to prepare a PA.

141 **Deliverables:** Draft and final public announcement.

142 **Key Understandings:**
143 Meetings may be needed to provide an adequate opportunity for members of
144 the public and to voice concerns and advice. If public meetings are required HDR
145 will coordinate the meeting times, location and venues and prepare the
146 appropriate public information and announcements for the meetings. Public
147 meeting preparation and participation are not included in this scope of work. If

148 required, HDR would prepare an addendum for Program approval to complete
149 these activities.

150 **Activity: Task 205 – Coordination of Consulting Parties**

151 The consultation effort needs to encourage active participation of the consulting
152 parties, and can be very difficult to schedule or predict. HDR will coordinate two
153 meetings of the consulting parties to review positions and views, discuss
154 procedures and measures to accommodate concerns, and generally develop the
155 kind of rapport that is needed to gain a comfort level that promotes effective
156 communication.

157 **Meetings:** HDR will coordinate and attend two meetings with consulting parties.

158 **Deliverables:** Agenda, meeting materials, and meeting notes for each meeting.

159 **Key Understandings:**

- 160
 - Two HDR attendees will participate in each meeting.
 - Follow-up phone conversations will be held with each party to ensure that
 - 162 concerns and positions are clearly understood.

163 **Activity: Task 206 – Draft PA**

164 HDR will develop a draft PA describing the agreed upon measures and
165 procedures in a logical manner consistent with ACHP guidance and the purposes
166 of Section 106 PAs.

167 **Deliverables:** Preliminary Draft PA for Program review. Draft and Final Draft PA for circulation.

168 **Key Understandings:**

169 HDR assumes that the consulting parties will prefer at least two rounds of draft
170 PA review before they are satisfied with the product and have included these
171 efforts in this scope.

172 **Activity: Task 207 – Circulation of Final PA**

173 HDR will prepare a cover letter and circulate the PA for signature. The PA is
174 executed when signed by the ACHP (if participating), the responsible agency(s),
175 and SHPOs.

176 **Deliverables:** Letter for PA circulation and PA circulation

177 **Key Understandings:**

178 Tribal Historic Preservation Officers may be invited to sign as concurring parties
179 (provided no Trust lands are involved), and other parties may be invited to sign
180 as appropriate, but invited signatories cannot prevent the execution of the PA.

Activity: Task 208 – Notification of Executed PA

Once the PA is finalized HDR will prepare a letter to each of the consulting parties and a public news release announcing the finalization of the PA. HDR will also provide the Program with a flowchart or brief descriptions of the steps that will be required for the Program to follow so that individual projects comply with the terms of the PA.

Deliverables: Letter to consulting parties and press release.

Key Understandings: No paid advertisements for local news media are anticipated.

TASK SERIES 300 – ON-CALL PERMITTING SUPPORT

The Platte River Recovery Implementation Program (Program) is undertaking activities to recover certain species on the Platte River. Some of the activities undertaken by the Program include the discharge of dredged or fill material into the Platte River or other waters of the U.S. and therefore trigger the requirement for permitting under Section 404 of the Clean Water Act, and possible evaluation under the National Environmental Policy Act (NEPA). Because of complexities associated with the permitting process the Program is looking to obtain the services of HDR, and specifically Mr. John Morton of HDR, to provide an additional resource for a potential array of technical matters and to fill potential gaps in expertise in support of permitting efforts.

Objective: Provide professional engineering and consulting services to the Program to support the acquisition of Corps of Engineers' Section 404 permits and other related federal and state authorizations for various Program activities.

Activity: Task 301 – Develop Permit Strategy

- Meet with Program staff to evaluate future Program activities and related permitting efforts.
- Update the general inventory of permits potentially required for future program related activities, which was prepared in support of the March 2010 USACE/agency coordination site visit.
- Based on the updated inventory, HDR will prepare a draft permit strategy for review by the Program staff. The permit strategy will identify the potential program activities that may require permits, will discuss the potential permit type (nationwide or individual permit), will describe the regional general permit application data requirements, provide a format for regional general permit applications, provide the schedule for permit acquisition, and describe any related federal requirements that may need to be addressed as part of the permit effort.
- Based on the comments received the strategy will be updated and finalized.

217 **Meetings:** Two meetings with Program staff in Kearney and two conference calls.

218 **Deliverables:** Draft and final permit strategy.

219 **Key Understandings:**

- 220
- Two HDR attendees will participate in each meeting.
 - Meeting location to be determined via coordination with agencies. It is anticipated that meetings may be held in conjunction with regularly scheduled GC meetings.
- 221
- 222
- 223

224 **Activity:** **Task 302 – On-Call Support**

225 HDR will provide on-call support by permitting professionals at the request of

226 the Program. Specifically, Mr. John Morton will be available on a case-by-case

227 basis to respond to specific permitting and NEPA compliance requests by the

228 Sponsors. On an as-needed basis, the Program will discuss an issue or topic with

229 Mr. Morton and provide their requests to him for technical support. Consulting

230 services to be provided includes the development of permitting strategies,

231 reviewing and commenting on the completeness of permit applications and

232 drawings, and preparing advice on applicability of Corps of Engineers' regulations

233 and permits on specific Program activities. HDR understands that, at the

234 discretion of the Program, services under this task could include preparing

235 permit applications, functional assessments, wetland delineations, and drawings

236 for Program related activities. This agreement will be supplemented if the

237 Program requires the permitting services. The Program will advise HDR if it

238 perceives that preparing a permit application, or providing guidance on permit

239 related issues would present a conflict of interest in HDR pursuing future

240 engineering and design work.

241 **Key Understandings:**

242 It is envisioned that on-call advice and support will require up to ten hours of

243 services per month from Mr. Morton, and ten hours per month for support staff.

244 Activities requiring greater than 10 hours per month shall be described and set

245 forth in separate, numbered Task Authorizations, issued pursuant to the terms of

246 this Agreement. HDR anticipates that services will be preformed over the next 9

247 to 12 months.

Platte River Recovery Implementation Program Regional General Permit and Progammatic Agreement Development and General Permitting Assistance EXHIBIT B																	
TASKS		Project Manager - Pillard	Sr. Env. Engineer - Morton	Sr. Scientist - Pillard	Sr. Water Resources Engineer - Englebert/ Engel	Senior Archaeologist - Stanfill	Project Archaeologist - Madsen	Envir. Scientist - Hall	Technician - Mertz	Admin. - Gruwell	Total Hours	Total Labor Cost	Printing	Travel	Misc.	Total Expenses [1]	Est. Total Cost
TASK SERIES 100 - Development of Regional General Permit																	
Task 101	Agency Coordination		28	28				16	8	8	88	\$13,620		\$420	\$326	\$746	\$14,366
Task 102	Regional General Permit Development																
	a) Program Document Review		2	12	2						16	\$2,594			\$59	\$59	\$2,653
	b) Purpose and Need/Alternatieves		4	8	4						16	\$2,868			\$59	\$59	\$2,927
	c) Range of Alternatives/Practicability Screening		8	16	8			16	4		52	\$7,436			\$192	\$192	\$7,628
	d) Environmental Impact		4	16	4			8	4		36	\$5,048			\$133	\$133	\$5,181
	e) Avoidance/Minimization, Conditons, Monitoring		2	8							10	\$1,660			\$37	\$37	\$1,697
	f) Permit Assembly		2	8				16	4	4	34	\$3,620	\$50		\$126	\$176	\$3,796
	g) Response to Comments		8	12				4			24	\$4,080			\$89	\$89	\$4,169
	h) Program Staff Meetings		24	24	8			8			64	\$11,576		\$725	\$237	\$962	\$12,538
Estimated Task Hours Subtotal		0	82	132	26	0	0	68	20	12	340	\$52,502					
Estimated Task Cost Subtotal		\$0	\$20,500	\$19,140	\$4,602	\$0	\$0	\$5,780	\$1,700	\$780		\$52,502	\$50	\$1,145	\$1,258	\$2,453	\$54,955
TASK SERIES 200 - Development of Programmatic Agreement																	
Task 201	Agency Coordination Meetings			8		30	24			4	66	\$9,640		\$850	\$244	\$1,094	\$10,734
Task 202	Advisory Council on Historic Preservation Notification					10	2			4	16	\$2,220			\$59	\$59	\$2,279
Task 203	SHPO Notification					20	4			8	32	\$4,440			\$118	\$118	\$4,558
Task 204	Public Notification of PA					10	2			2	14	\$2,090	\$25		\$52	\$77	\$2,167
Task 205	Coordination of Consulting Parties					24	32			16	72	\$9,280		\$850	\$266	\$1,116	\$10,396
Task 206	Draft PA		8			120	80			24	232	\$34,360	\$25		\$858	\$883	\$35,243
Task 207	Coordination of Final PA					24	24			8	56	\$7,720			\$207	\$207	\$7,927
Task 208	Notification of Executed PA					4	8			2	14	\$1,850	\$50		\$52	\$102	\$1,952
Estimated Task Hours Subtotal		0	8	8	0	242	176	0	0	68	502	\$71,600					
Estimated Task Cost Subtotal		\$0	\$2,000	\$1,160	\$0	\$41,140	\$22,880	\$0	\$0	\$4,420		\$71,600	\$100	\$1,700	\$1,857	\$3,657	\$75,257
TASK SERIES 300 - SUPPLEMENTAL DATA COLLECTION																	
Task 301	Develop Permit Strategy		20	40							60	\$10,800	\$20	\$369	\$222	\$611	\$11,411
Task 302	On-Call Suport		120	120	3						243	\$47,931			\$899	\$899	\$48,830
Estimated Task Hours Subtotal		0	140	160	3	0	0	0	0	0	303	\$58,731					
Estimated Task Cost Subtotal		\$0	\$35,000	\$23,200	\$531	\$0	\$0	\$0	\$0	\$0		\$58,731	\$20	\$369	\$1,121	\$1,510	\$60,241
TOTAL HOURS		0	230	300	29	242	176	68	20	80	1,145						
FEE TOTAL (ROUNDED)		\$0	\$57,500	\$43,500	\$5,133	\$41,140	\$22,880	\$5,780	\$1,700	\$5,200		\$182,833	\$170	\$3,214	\$4,237	\$7,621	\$190,454

EXHIBIT C
HOURLY RATE AND REIMBURSABLE EXPENSES
PRICE SCHEDULE 2011

HDR Engineering, Inc. Labor Rates			
Name	Title/Responsibility	Office	2011* Billable Rate
<u>Professional</u>			
Pillard, Matt	Project Manager	HDR	\$145.00
<u>Senior Technical</u>			
Engel, John	Senior Water Resources Engineer	HDR	\$177.00
Engelbert, Pat	Senior Water Resources Engineer	HDR	\$177.00
Morton, John	Senior Environmental Engineer	HDR	\$250.00
Stanfill, Alan	Senior Archaeologist	HDR	\$170.00
<u>Project Scientist/Technician</u>			
Pillard, Matt	Senior Scientist	HDR	\$145.00
Madson, Mike	Project Archaeologist	HDR	\$130.00
Hall, Meagan	Scientist	HDR	\$85.00
Mertz, John	Technician	HDR	\$85.00
<u>Clerical</u>			
Gruwell, Lindsey	Administrative	HDR	\$65.00

HDR Estimated Standard Expenses		
Description	Est. Cost	Unit
Lodging per person	\$105	per day
Meals (lunch) per coordination meeting	\$40	per meeting
Rental Car per person	\$55	per day
Ground Travel	\$0.500	per mile
Report Binders and Shipping	\$5	per copy
Printing (HDR Laser B/W, Letter Size)	\$0.10	per sheet
Printing (HDR Laser B/W, 11 x 17 Size)	\$0.20	per sheet
Printing - Print Shop (Color Laser Jet, Letter Size)	\$0.75	per sheet
Printing - Print Shop (Color, 11" x 17" Size)	\$1.50	per sheet
Printing - Print Shop Report Tab Indexes	\$0.65	each
Printing - Print Shop Report 3-Hole Drilling	\$0.01	per sheet
CD-ROM Production + Label and Case	\$25.00	per disc
Presentation Boards (plot and mount)	\$150.00	each
Color Plotting for Maps (E-Size Coated Paper)	\$50	per sheet
Computer time for Engineering work	\$10	per hour
Computer time for CADD/GIS work	\$15	per hour
Film and Photo Processing	\$12	per roll

* Billing rates will be updated January 1st of each year to reflect HDR's annual salary adjustments