

INTERLOCAL COOPERATION AGREEMENT
PRAIRIE CORRIDOR ON HAINES BRANCH

This Cooperation Agreement ("Agreement") is made and entered into on this _____ day of 2017 by and between the City of Lincoln, Nebraska, a municipal corporation ("City") and the Lower Platte South Natural Resources District, a political subdivision of the State of Nebraska ("NRD").

WHEREAS, all parties are authorized by the statutes of the State of Nebraska, including the Interlocal Cooperation Act, Neb. Rev. Stat. §13-801 et. seq., as amended, to enter into cooperative agreements for the mutual benefit of the parties and to provide services in a manner that will accord best with geographic, economic, population, and other factors influencing the needs and development of local communities; and

WHEREAS, all parties have an interest in the management of Nebraska's wildlife habitat and the wildlife resource; and

WHEREAS, the parties agree that habitat in Nebraska, particularly the rare and unique tallgrass prairie, needs to be appropriately protected, restored, and managed on both public and private lands; and

WHEREAS, the parties agree that establishment of a prairie corridor and trail connection along the Haines Branch of Salt Creek from Pioneers Park to the Spring Creek Prairie Audubon Center with a connection to Conestoga Lake will support recreational benefits and economic opportunities; and

WHEREAS, in 2012, City and NRD partnered on a project to complete the Salt Valley Greenway and Prairie Corridor Master Plan ("Plan") that laid the foundation for this project, with the Executive Summary of the Plan found at https://lincoln.ne.gov/city/parks/programs/info/links/4.FinalExecSummary_Aug.pdf; and

WHEREAS, in 2013 and 2016, City obtained Nebraska Environmental Trust grants for the Prairie Corridor on Haines Branch Implementation Project ("Project"), which was supported by the Prairie Corridor Partnership ("Partnership"), a collaboration of public and private funding and project partners, which includes the NRD; and

WHEREAS, since 2014, City and NRD have been working together formally through annual interlocal agreements; and

WHEREAS, since the Project's inception, the Partnership has been successful in completing approximately 2.4 miles of trail, conserving over 800 acres through the purchase of

land and easements, and re-establishing over 100 acres of tallgrass prairie, and has continued to increase the number of public and private partners in the Project; and

WHEREAS, the parties desire to work together with the Partnership in support of the Project in accordance with the terms and conditions of this Agreement.

NOW, THEREFORE, it is mutually agreed between the parties as follows:

1. Purpose.

The purpose of this Agreement is to further the interests of both City and NRD through cooperative exercise of authority among the parties without creating a joint separate entity. This Agreement provides a mechanism for the cooperative planning, development, administration, implementation, management, operation and maintenance and evaluation of the “Salt Valley Greenway and Prairie Corridor Master Plan,” beginning with, and limited to, the Prairie Corridor on Haines Branch Implementation Project. The Prairie Corridor on Haines Branch is a tallgrass prairie passage and trail that will link two of Lincoln and Lancaster County’s premier environmental resource and education centers. It will generally follow the Haines Branch of Salt Creek from the Pioneers Park Nature Center, to the Conestoga Lake State Recreation Area, extend down through the Village of Denton, and on to the Spring Creek Prairie Audubon Center, and as may be expanded further in the future. The Corridor will support economic development, build on the City’s nationally recognized trail system, support environmental education, reflect the community’s natural heritage, and promote the enhancement and preservation of one of Nebraska's most valuable resources--tallgrass prairie.

Other projects within the Plan may be the subject of future amendments to this Agreement.

No separate legal or administrative entity is created under this Agreement.

2. Duration.

This Agreement shall be for a term of twenty (20) years, beginning as of the date of execution of this Agreement. The parties may renew the Agreement for additional five (5) year periods by written amendment or agreement.

3. Project Components.

The major Project components to be undertaken by this Agreement include:

- a. *Economic Opportunity.* Support of economic development efforts by celebrating the natural heritage of the “Prairie Capital” with an outstanding tallgrass prairie experience and trail ride that will attract visitors and/or encourage them to stay another day in Lincoln.
- b. *Conservation.* Preservation of natural resources, floodplains, and open space through land and easement acquisition. The resources to preserve and/or restore include tallgrass prairie, riparian woodlands, wetlands, floodplains and the stream corridor.
- c. *Habitat Development.* Preservation and enhancement of native prairie and grassland areas, re-establishment of native prairie, riparian woodland plantings, freshwater and saline wetland enhancement and ensuring habitat connectivity and land management along the corridor.
- d. *Trail Corridor.* Establishment of a trail connection from Pioneers Park west to Conestoga Lake, and south through the Village of Denton to Spring Creek Prairie.
- e. *Education/Outreach and Research.* Development and implementation of an education/outreach plan, materials and interpretive signage, and cooperation with the University of Nebraska-Lincoln and other partners to increase the knowledge base regarding the preservation and enhancement of a species-rich, resilient tallgrass prairie.

4. City Responsibilities.

City shall:

- a. Serve as the lead agency for implementation of the Project and be responsible for coordinating Partnership activities, including annual reporting on project progress and accomplishments.
- b. Provide leadership in developing and implementing natural resource plans, including the “Salt Valley Greenway and Prairie Corridor” Master Plan.
- c. Pursue grants and private funding opportunities to assist in funding the Project.
- d. Serve as the primary agency to oversee contracts for implementation of the Project as they may relate to research, restoration, enhancement, or re-establishment of natural resources, and trail design and construction.
- e. Provide support for implementation of the Project by supplying annual cash match and in-kind services for Nebraska Environmental Trust grants and other grants.
- f. Provide support for long-term management of the Project as described in section 6(e), below.

5. NRD Responsibilities.

NRD shall:

- a. Serve as a primary Project partner with City, and contribute staff time toward all major project components, including but not limited to Partnership coordination, plan refinement, resource evaluation, site visits, land purchases, drafting and review of conservation easements, scientific studies, trail design and construction, and/or other Project activities as may be agreed upon by the parties.
- b. Oversee contracts where appropriate and as agreed upon by the parties, such as contracts for work to survey boundaries, to conduct resource assessments, to re-establish natural resources, and/or for long-term management of the Project as it relates to land management and trail operation and maintenance.
- c. Assist in the preparation of grants or the pursuit of private funding sources for the Project as requested by City.
- d. Provide support for implementation of the Project by supplying annual cash match and in-kind services for Nebraska Environmental Trust grants and other grants.
- e. Provide support for long-term management of the Project as described in section 6(e), below.

6. Mutual Responsibilities.

The parties shall, in cooperation with the Partnership:

- a. Cooperate and provide financial, technical, and administrative assistance for conservation, habitat development, a trail and trail corridor, and education/outreach for the Project.
- b. Each designate a Project Administrator to be the primary person responsible for administration of the Project on behalf of their agency.
- c. Develop measurable goals for natural resource conservation and re-establishment, with an emphasis on tallgrass prairie.
- d. Implement the conservation, habitat development, and trail corridor goals outlined in this Agreement via land and easement purchases, habitat development, trail construction, and land management practices.

e. Support the long-term management of the Project by committing to share equally in the cost of land management, coordination/oversight, and trail operation and maintenance, which activities are described below.

i. Land Management. Land Management means applying practices for the long-term maintenance of the integrity and diversity of prairie, woodlands, wetlands or other natural areas following an establishment period where the natural area is restored, enhanced, or reestablished as part of the project implementation. NRD will serve as the primary agency in charge of Land Management. In lieu-of-taxes, if required by grant funds for property acquisition, will also be shared equally between the parties.

ii. Coordination/Oversight. Coordination/Oversight means providing a leadership role in project implementation, including the coordination of a public-private partnership to meet the goals and objectives described in the Plan, evaluating projects, and seeking additional grants and private funding to support the Project. City will serve as the primary agency in charge of Coordination/Oversight.

iii. Trail Operation and Maintenance. Trail Operation and Maintenance means clearing obstructions, mowing, weed control, litter pick up, periodic addition of crushed limestone, and completing repairs on the trail and trail heads as needed. NRD will serve as the primary agency in charge of Trail Operation and Maintenance, except for the trail within Pioneers Park and Bison Park, for which City will serve as the primary agency in charge.

The estimated cost of these items over a 20-year period (beginning with Project inception in fiscal year 2012-2013) for planning and budgeting purposes is shown in Attachment A. The parties agree that the costs shown on Attachment A are rough estimates which are subject to change without requiring amendment to this Agreement. City and NRD will develop an annual work plan which shall serve as the basis for both parties budgeting an equal share of the cost for these activities.

f. Develop and implement an education/outreach plan.

g. Develop a plan and funding strategy for long-term management of the Project.

7. Terms

a. The parties shall indemnify, defend and hold harmless each other and its officers, agents and employees from and against claims, damages, losses and expenses, including but not limited to attorney's fees arising out of or resulting from performance of this Agreement, that

results in any claim for damage whatsoever to the other party, including without limitation, any bodily injury, sickness, disease, death or any injury to or destruction of tangible or intangible property, including any loss of use resulting therefrom, and that are caused in whole or in part by the intentional or negligent act or omission of the party or the party's employees, or anyone directly or indirectly employed by the party, or anyone for whose acts any of them may be liable.

b. The parties shall share equipment and staff for the management of all publicly owned areas within the Project as determined necessary and mutually agreed upon.

c. The parties shall financially contribute to the payment of expenses associated with land acquisitions and land management activities, including costs for land appraisals and supplies for land management activities other than equipment. Use of grant dollars will be actively pursued to assist in supporting these Project costs.

d. Either party has the right to terminate this Agreement if the other party fails to perform as required by this Agreement. Termination for failure to perform shall be effective only after the non-breaching party provides written notice to the breaching party of the failure to perform ninety (90) days in advance of termination and allows the breaching party an opportunity to cure during that time period. If one or more of the parties lacks sufficient funding for this Project, each party has the right to terminate this Agreement. Either party may also terminate this Agreement for any reason for its own convenience. Termination for convenience or lack of funding shall be effective only after terminating party provides written notice six (6) months in advance of the effective date and after the parties meet to discuss options for termination of the Agreement. Termination shall require a formal vote by the board of the party initiating the termination in order to be effective. Each party shall be responsible for its share of accumulated cost of the Project up to the time of termination.

e. Upon termination of this Agreement, all personal property and support equipment used in the management of land within the Project shall be divided as nearly as possible in proportion to the funds provided by the parties according to this Agreement. If some or all of the personal property is not divisible, City or NRD shall have the option to acquire it by paying the other party the then market value of the personal property reduced by the proportional amount of the other party's original purchase contribution, unless otherwise mutually agreed by the parties.

f. Should this Agreement be terminated and one of the parties elects to continue the Project at that time, the parties agree that the land rights acquired in support of the Project shall automatically be conveyed or re-assigned to the party continuing the Project without

compensation, provided that the requirements of any grant funds received for the purchase of land rights are met. If neither party accepts the conveyance or re-assignment of the land in furtherance of the Project, other nonprofit or public entities authorized to hold such land rights or interest in land under the conservation principles of the Project shall be solicited. If another appropriate entity is not willing to hold the land, the parties will work together to place reservations or easements on the land to ensure the conservation of the resources acquired and to sustain the integrity of the completed portions of the Project, at which time, the land may be sold. If a public access easement for a trail held by one of the parties no longer serves the purpose for which it was acquired, the parties will work together to determine if it is appropriate to release the easement, provided that the requirements of any grant funds received for the purchase of the easement are met.

8. Acquisition of Land and/or Easements.

The parties agree to cooperatively seek the purchase of land, conservation easements and/or trail easements as may be available and appropriate for conservation, habitat development, and/or trail connections for the Project, based upon the goals identified in the Plan. The Project boundaries and the conservation goals in the Plan are intended to be used as flexible guides to help achieve Project goals and objectives. Priorities for acquisition will be based upon landowner interest, habitat value and corridor connectivity. Decisions about fee simple vs. easement acquisition will be made based both upon landowner interest and the importance of the resource to be protected. The parties agree that land rights acquired in support of the project will not be sold or re-assigned except by mutual consent.

In general, the parties agree that NRD will acquire and hold conservation easements within the Project boundaries, whereas the fee simple acquisition of land will be generally divided as follows: City will acquire and hold land in areas that are within the City's 3-mile extraterritorial jurisdiction (ETJ) as of the date of acquisition, and NRD will acquire and hold land in areas that are outside of City's ETJ as of the date of acquisition. As the lead agency on the Project, City may, with NRD concurrence and involvement, take a leadership role in the negotiations for land or easements that are planned to be acquired and held by NRD, and/or provide assistance on real estate transactions. Notwithstanding this general division of responsibility for land and easement acquisition, City will continue to hold land acquired for the Project prior to the effective date of

this Agreement, unless otherwise expressly agreed to by both parties. In addition, the parties may cooperatively determine, on a case-by-case basis, an alternative arrangement for acquisition and ownership (including, if appropriate, recommending acquisition by another agency or organization). Considerations for alternative approaches may include the resources to be protected, corridor connectivity, funding source, and/or the expected management plan and needs. NRD will take a lead role in land management for land acquisitions, and for easements if and where applicable. A ledger of ownership for land and easements will be maintained by the parties.

9. Trail.

In general, the parties agree that trail easements that are obtained separately from conservation easements will be acquired and held by City in areas that are within City's ETJ as of the date of acquisition, and by NRD in areas that are outside of City's ETJ as of the date of acquisition. The parties may cooperatively determine, on a case-by-case basis, an alternative arrangement for acquiring and holding trail easements (including, if appropriate, recommending acquisition by another agency or organization). Considerations for alternative approaches may include the specific site features of the trail route, proximity to other land or easements with City or NRD ownership, funding source, and/or the relationship to natural resources to be preserved or re-established along the trail. City will take a lead role in route planning, funding requests, design, and construction of the trail in coordination with NRD. As the lead agency on Project implementation, City may, with NRD concurrence and involvement, take a leadership role in the negotiations for trail easements that are planned to be acquired and held by the NRD, and/or provide assistance on real estate transactions. NRD will take the lead role in trail operation and maintenance once established.

10. Amendments.

This Agreement may be amended by mutual consent of both parties. Any amendments to this Agreement must be in writing.

11. Governing Law and Interpretation.

This Agreement shall be subject to the laws of the State of Nebraska and ordinances of the City. Any uncertainty or ambiguity existing herein shall not be interpreted against any party because

such party prepared any portion of this Agreement, but shall be interpreted according to the application of rules and interpretation of contracts generally. The invalidity of any portion of this Agreement shall not invalidate the remaining provisions. This Agreement shall be binding upon and inure to the benefit of the parties hereto, and their respective successors and assigns. The parties agree to comply with fair employment and fair labor standards under Nebraska and federal law and with federal immigration verification system standards under Nebraska law.

12. Capacity.

The undersigned do hereby agree and represent that he or she is legally capable to sign this Agreement and to lawfully bind his or her represented party to this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

CITY OF LINCOLN, NEBRASKA,
A Municipal corporation,

DATED: _____ BY: _____

Chris Beutler, Mayor
City of Lincoln

DATED: _____ BY: _____

Paul Zillig, General Manager
Lower Platte South Natural Resources District