

AGREEMENT

This agreement, made and entered into this 23rd day of September, 1965, by and between Salt-Wahoo Watershed District, hereinafter called "District," the City of Lincoln, Nebraska, hereinafter called "City," and the County of Lancaster, Nebraska, hereinafter called "County," witnesseth:

Form of Agreement

- A. The portion of this agreement relating to County is set out in Exhibit C, hereto attached and by this reference made a part hereof. The explanation for this manner of organizing this agreement is as follows: After extensive negotiations between District and City, resulting in a completed draft of this agreement between those two parties, it was decided that County should also be included as a party with regard to the area lying within the three-mile zoning limits of City. Solely for the convenience of those having the responsibility for drafting this agreement, the provisions relating to County have been added as Exhibit C.
- B. This agreement is intended only to establish the framework of responsibility and cooperation among the parties, and is not intended to be complete in the sense that all details of responsibility and of relationship among the parties are spelled out herein. It is anticipated that the friendly cooperation now existing among the parties will continue in regard to details and interpretations that are not created specifically in this agreement.

Recitals

- a. District is a political sub-division of the State of Nebraska, its boundaries including parts of six counties. District is authorized to enter into this agreement by the provisions of Section 31-823, Revised Statutes Supplement, 1963.
- b. City is a municipal corporation located entirely within the boundaries of District, and is authorized to enter into this agreement.
- c. The City is authorized to discharge responsibilities for flood control (also called storm drainage) within its City limits. District is authorized under Section 31-801, R.R.S. 1943, to discharge re-

sponsibilities for flood control within its boundaries which include the area of City.

- d. An agreement entered into between City, District and Sanitary District I under date of June 15, 1962, provided in part as follows: "The obligations of the Watershed District shall include drainage and flood control both inside and outside the City of Lincoln to the same extent as the Sanitary District was heretofore obligated." The obligations of Sanitary District I with regard to drainage and flood control were not fixed by law and had never been defined by agreement. Sanitary District I has been dissolved.
 - e. With regard to channel improvements on Salt Creek within the City limits, as now being carried out by the U.S. Army Corps of Engineers, a resolution was adopted on February 15, 1963, by the Directors of District, and said resolution was approved and accepted by the City Council on March 11, 1963. This resolution apportioned the non-federal costs of said channel improvements as follows: The City would be responsible for costs of street, bridge and utility alterations in connection with channel improvements on Salt Creek within the City limits; District would be responsible for acquiring necessary rights-of-way, for holding and saving the United States free from damages, for maintaining and operating the channel improvements, and for paying the land enhancement costs (enhancement costs as fixed by congressional authorization will exceed \$100,000).
 - f. Under date of August 13, 1963, District's President submitted a letter to City's Mayor on the subject of "Long Range Policy, flood plains in which building construction has not yet occurred." A copy of said letter is hereto attached, marked Exhibit A, and by this reference made a part hereof. Both parties to this agreement agree that the basic approach expressed in said letter is sound and should be implemented.
 - g. The "Comprehensive Regional Plan for the Lincoln City-Lancaster County Metropolitan Area (April 12, 1961)" states under the heading of "Storm Drainage" that, "As a general policy for the Lincoln urban area, all storm water should be carried off in pipes until
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one of the four major drainage channels is reached." The foregoing comprehensive regional plan defines the four major drainage channels as Salt Creek, Antelope Creek, Dead Mans Run and Beals Slough. The same section of this comprehensive regional plan lists as one of the principal problems of storm drainage the "protection and utilization of major streams, including progress toward completion of an area wide flood control program."

- h. District has now entered into an agreement with County. As herein before stated, this agreement is attached hereto as Exhibit C.
- i. City's Acting Director of Public Works under date of October 8, 1964, submitted a letter to District's Directors. A copy of said letter is attached hereto, marked Exhibit B, and by this reference made a part hereof. Said letter requests District to participate financially in three projects, the total amount of District's contribution to be \$44,500. Notwithstanding that District hereafter covenants to make the requested financial contribution to these projects, it is understood that the three drainage courses affected by said projects are in the classification which by the terms of this agreement will not hereafter be the responsibility of District.
- j. It is desirable that City and District at this time agree with regard to the responsibilities of each for flood control and storm drainage within the City limits. Unless such an agreement is reached, some serious problems may be neglected because of uncertainty as to whether the responsibility is City's or District's. In the absence of an agreement neither City nor District can properly budget for future expenditures or develop long range plans.

Covenants

THEREFORE, in consideration of the promises and covenants of each, District and City do hereby covenant and agree as follows:

- 1. District will participate, by financial contribution only, in the three projects described in Recital i. above, and in the amounts designated in the October 8, 1964, letter hereto attached as exhibit B. It is understood that District's participation in these projects represents an exception to

the pattern established by the following paragraphs of this agreement, and that it is intended that there shall be no future exception.

2. District shall be responsible for, and its responsibility within our City limits shall be limited to, the following major drainage channels (but not the tributaries thereof): Salt Creek, Beals Slough, Dead Mans Run, Oak Creek, Antelope Creek below Holmes Park Dam, Lynn Creek, and in addition those portions of the following channels which in the future may lie within the City limits: Middle Creek, Haines Branch, Cardwell Branch, Little Salt Creek, and Stevens Creeks.

- a. "City limits" as used in this agreement shall mean the existing City limits and any future extensions of the City limits.
- b. That portion of Antelope Creek which now flows in an enclosed conduit from N Street to Vine Street is now and has been the responsibility of City, and District does not by this agreement assume any responsibility for that portion of Antelope Creek. It is understood that Antelope Creek from N Street to Vine Street represents exceptional problems which may involve very high costs, and that future discussions between the parties to this agreement with regard to that part of Antelope Creek are contemplated.
- c. With regard to the above described portions of major drainage channels, District shall be solely responsible for planning, engineering, land acquisition, construction and maintenance, subject only to the three qualifications set out in the following three sub-paragraphs.

- (1) It is understood that wherever in this agreement a responsibility is assigned to a party, such party shall be expected to coordinate its plans for the discharge of such responsibility with the plans of another party or parties, and

Overflow along
Rock Island
"R" St is
dividing line.

the parties shall exchange information and cooperate with each other.

- d. City shall be responsible for planning, engineering, land acquisition, construction and maintenance of streets, bridges and utilities on and across the above described major drainage channels.
- e. Where any of the above described major drainage channels pass through City parks, channel maintenance within the City park shall be the responsibility of City, but District shall reimburse City for costs incurred for such maintenance.
- f. Where land along major drainage channels, as above designated, is acquired by City for park purposes, District will contribute that portion of the acquisition cost that is properly allocable to flood control requirements.

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3. All flood control and storm drainage problems within the City limits, other than those designated in paragraph 2 above, shall be the sole responsibility of City.

- a. Any right-of-way owned by District within the City limits, other than right-of-way on the major drainage channels described in paragraph 2 above, shall be assigned and set over to City by District.
- b. With regard to outlet structures located in the banks of major drainage channels, such channels being listed in paragraph 2 above, the responsibilities of District and City shall be as follows:
 - (1) District shall be responsible for construction, operation and maintenance of those outlet structures which have been or will be constructed in the banks of Salt Creek.
 - (2) City shall be responsible for construction, operation and maintenance of all other outlet structures, provided, however, that the responsibility for structures with capacity as

great or greater than the capacity of a sixty-
inch diameter pipe shall be subject to negotiation
between the parties in each instance when such a
structure must hereafter be constructed.

(3) Wherever a responsibility is assigned to a party
in this part or other parts of this agreement,
there is no intention to prevent such parties from
delegating all or a part of said responsibility to
someone not a party to this agreement. For instance,
City may continue to require real estate developers
to contribute to the cost of outlet structures, and
District may continue to permit the U.S. Army Corps
of Engineers to construct outlet structures.

4. Where any portion of a major drainage channel described in paragraph
2 above passes through right-of-way owned by City, District shall
have and is hereby granted the right to enter upon such City right-
of-way for the purpose of accomplishing such construction, operation
and maintenance as may be necessary for flood control purposes.

5. As soon as reasonably possible City agrees, to the extent that it
is legally authorized to do so, to take measures to prevent undesir-
able developments in flood plain areas in order to reduce or eliminate
the necessity for costly flood protection improvements in the future.

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6. City agrees to complete its storm drainage requirements study as
soon as is reasonably possible, and to make the information from
such study available to District. District agrees that it will
prepare an analysis of needed improvements on the major drainage
channels described in paragraph 2 above, such analysis to be based
on City's storm drainage study and any other information available
to District.

In witness whereof the parties have hereinto affixed their signatures
by and through their authorized representatives.

ATTEST:

Handwritten signature of Harold W. Springer
City Clerk

City of Lincoln

BY

Handwritten signature of Mayor
Mayor

Salt-Wahoo Watershed District

BY *Charles*
President

County of Lancaster

BY *Kenneth Bourne*
Chairman, County Board

EXHIBIT C

(Agreement, Salt-Wahoo Watershed District,
City of Lincoln, County of Lancaster)

This exhibit C is made a part of an agreement among Salt-Wahoo Watershed District, City of Lincoln and County of Lancaster, such agreement being intended generally to outline the flood control responsibilities of each party.

1. County of Lancaster, Nebraska, is a political sub-division of the State of Nebraska, and most of the area of said County lies within the boundaries of District.
2. County has authority as prescribed by law to discharge responsibilities for flood control within the boundaries of the County, and is authorized to enter into this agreement.
3. County adopts the provisions of "form of agreement" and "recitals" of the agreement to which this exhibit is attached, to the extent that such provisions are applicable to County.
4. The provisions of the agreement and this exhibit, as they relate to County, are restricted to the three mile zoning limits of City. This restriction is adopted for convenience in describing the tripartite relationships of the parties with regard to flood control responsibilities. It is understood that in other parts of the County, lying outside the three mile zoning limits of City, both County and District have responsibilities for flood control, and that other municipalities and political sub-divisions may be involved.
5. In the three mile zoning area of City it is agreed that District shall be responsible for, and its responsibility shall be limited to, the same major drainage channels that are named in paragraph 2 of the agreement (wherever in this exhibit "the agreement" is mentioned, reference is made to the agreement of which this exhibit is a part.)
6. In the three mile zoning area of City it is agreed that subparagraphs c., d., e., f., of paragraph 2 shall apply to County, and wherever the word "City" appears the word "County" shall be substituted.

7. Within the three mile zoning area of City all flood control and storm drainage problems, other than those designated in the preceding two paragraphs of this exhibit (5 and 6), shall be the sole responsibility of County. Within said area any right-of-way owned by District, other than right-of-way on the major drainage channels described in paragraph 2 of the agreement, shall be assigned and sent over to County by District. The provisions of sub-paragraph b. of paragraph 3 of the agreement shall apply to County within said three mile zoning area, substituting "County" where "City" appears in said sub-paragraph.
8. Paragraph 4 of the agreement, substituting "County" for "City", shall apply to County.
9. Within said three mile zoning area the provisions of paragraph 5 of the agreement shall apply to County as well as to City. County and City will plan and take action cooperatively to prevent undesirable developments in flood plain areas.
10. All three parties agree to carry forward studies on flood control problems in said three mile zoning area, exchanging information with each other and coordinating their plans and actions.