



PLATTE RIVER RECOVERY IMPLEMENTATION PROGRAM

Professional Services Contract Amendment

1. **Amendment.** This is the Second Amendment to the Contract, dated June 27, 2022, between the Nebraska Community Foundation (“Foundation”), representing all Signatories to the Platte River Recovery Implementation Program (“Program”), and David Galat (“Consultant”) for the Consultant’s service as a Member of the Program’s Independent Scientific Advisory Committee (“ISAC”). The following persons are authorized to represent the parties through this Amendment: Jason Kennedy of the Foundation; Jason Farnsworth of the Program; and David Galat of the Consultant.

2. **Purpose.** This Contract Amendment is being made:
 - A) To extend the term of the Contract between the Foundation, the Program, and the Consultant for ISAC Member service from *July 1, 2024 through September 30, 2024*.

 - B) To provide the Consultant with a stipend of **\$8,100.00** for ISAC Member service during this term including:
 - **July through September** – participation in the 2024 Summer ISAC Meeting in Kearney, NE (July 16-18, 2024); document review, comment development, ISAC coordination, virtual meetings, additional ISAC Member expert advice as requested, onboarding discussions with new ISAC member = **\$8,100.00**

 - C) To authorize the Consultant to be reimbursed for travel expenses (airfare, hotel, meals, airport expenses, rental vehicle, and other associated travel costs) associated with the 2024 Summer ISAC Meeting in Kearney, NE. Travel expenses will be reimbursed at actual cost based on submitted receipts.

3. **Payment.** Under this Contract Amendment the Consultant shall send two (2) invoices to the Program:
 - **Invoice #1** – reimbursable travel expenses for the 2024 Summer ISAC Meeting; include all receipts; *submit to the Program by July 31, 2024*.
 - **Invoice #2** – stipend invoice; \$8,100.00; *submit to the Program by September 30, 2024*.

4. **Terms.** All other terms of the original Contract, attached as **Exhibit A – Original Contract**, remain in effect as written and fully executed on June 27, 2022.



5. **Signatures.** By signing this Amendment, the undersigned certify that they have read and understood it, that they have the authority to sign it, and that their respective Party agrees to be bound by the terms of the Amendment and by the terms of the original Contract.

NEBRASKA COMMUNITY FOUNDATION:

Jason D. Kennedy
Chief Financial and Administrative Officer

Date

CONSULTANT:

David L. Galat

Date

PLATTE RIVER RECOVERY IMPLEMENTATION PROGRAM ACKNOWLEDGEMENT

I hereby certify that the Governance Committee of the Platte River Recovery Implementation Program (Program) has authorized the Nebraska Community Foundation, acting as contracting agent for the Governance Committee of the Program, to enter into this Amendment.

Jason M. Farnsworth
Executive Director

Date



PLATTE RIVER RECOVERY IMPLEMENTATION PROGRAM
Professional Services Contract Amendment
Exhibit A – Original Contract



PRRIP – EDO Final

05/31/2023

Dr. David L. Galat
3951 County Road 259
Fulton, MO 65251-3042

Nebraska Community Foundation
PO Box 83107
Lincoln, NE 68501-3107
FEIN 47-0769903

PLATTE RIVER RECOVERY IMPLEMENTATION PROGRAM

FIRST AMENDMENT

To the Agreement between the Nebraska Community Foundation, Inc., Platte River Recovery Implementation Program, and David L. Galat

Independent Scientific Advisory Committee

1. Parties.

This is the First Amendment to the Agreement entered into by and between the Nebraska Community Foundation, Inc. ("Foundation") of Lincoln, Nebraska, representing all signatories to the Platte River Recovery Implementation Program ("Program"), and David L. Galat ("Consultant"), a private consultant, dated June 27, 2022. This First Amendment is made and entered into effective on the date of signing below and the final date of this Amendment will be June 30, 2024. The following persons are authorized to represent the parties through this Amendment: Jason Kennedy of the Foundation, Jason Farnsworth of the Program, and David Galat of the Consultant.

2. Purpose and Authority.

This First Amendment to the Agreement between the Foundation and the Consultant is being made for the following purposes:

- (1) To extend the Agreement between the Foundation and the Consultant for service on the Program's Independent Scientific Advisory Committee ("ISAC") from the effective date of the Amendment through June 30, 2024.
- (2) To provide the Consultant with a stipend of **\$32,400** in approved and available FY 2023 Program Budget Line Item ISAC-1 funds under this Amendment for the following services as outlined in the approved FY 2023 Program Work Plan:
 - In-person participation in the 2023 Fall ISAC Meeting in October 2023 in Kearney, NE.
 - In-person participation in the 2024 PRRIP Science Plan Reporting Session in February 2024 in Omaha, NE.
 - Virtual participation in the March 2024 Governance Committee ("GC") Quarterly Meeting.
 - Additional document review, specific ISAC Member input, and/or additional virtual meetings.
 - Total Stipend = \$32,400.00
 - Total Estimated Reimbursable Expenses = \$4,000.00



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05/31/2023

The total stipend amount is not to be exceeded unless authorized in writing by the Program. All other terms of the original signed Agreement, dated June 27, 2022 and attached to this First Amendment as **Exhibit A**, remain in effect as originally written.

3. Signatures.

By signing this Contract Amendment, the undersigned certify they read and understood it, they have the authority to sign it, and their respective Party agrees to be bound by the terms of the Contract Amendment and the associated original Agreement.

FOR THE NEBRASKA COMMUNITY FOUNDATION

DocuSigned by:

A handwritten signature in blue ink that reads "Jason Kennedy".

6/5/2023

16C39FC85281461...
Jason D. Kennedy

Date

Chief Financial and Administrative Officer

FOR THE CONSULTANT

DocuSigned by:

A handwritten signature in blue ink that reads "David Galat".

6/2/2023

ACA18242626F4AA...
David L. Galat

Date

PLATTE RIVER RECOVERY IMPLEMENTATION PROGRAM ACKNOWLEDGEMENT

I hereby certify that the Governance Committee of the Platte River Recovery Implementation Program has authorized the Nebraska Community Foundation, acting as contracting agent for the Governance Committee, to enter into this Contract Amendment.

DocuSigned by:

A handwritten signature in blue ink that reads "Jason Farnsworth".

6/1/2023

7E01F31B619A400...
Jason M. Farnsworth
Executive Director

Date



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05/31/2023

1

EXHIBIT A

2

2022-2024 PRRIP ISAC Agreement – Galat



PRRIP – EDO Final

06/10/2022

David L. Galat
3951 County Road 259
Fulton, MO 65251-3042

Nebraska Community Foundation
PO Box 83107
Lincoln, NE 68501-3107
FEIN 47-0769903

PLATTE RIVER RECOVERY IMPLEMENTATION PROGRAM

Agreement between the Nebraska Community Foundation, Platte River Recovery Implementation Program, and David L. Galat

Independent Scientific Advisory Committee

1. Parties. This Agreement is made and entered into by and between the Nebraska Community Foundation ("Foundation") of Lincoln, Nebraska, representing all signatories to the Platte River Recovery Implementation Program ("Program"), and David L. Galat ("Consultant"), a private consultant. The following persons are authorized to represent the parties through execution of this Agreement: Diane Wilson of the Foundation, Jason Farnsworth of the Program, and Dr. David Galat.

2. Purpose of Agreement and Authority. The purpose of this Agreement is to allow the Foundation, acting as the fiscal agent for the Governance Committee (GC) of the Program, to retain the services of the Consultant as a member of the Program's Independent Scientific Advisory Committee (ISAC). This Agreement describes a **two-year (July 2022 through June 2024) commitment of service** on the part of the Consultant. The two-year term of service is at the discretion of the GC and the amount of the annual payment to the Consultant under this Agreement will be developed through the course of the Program's annual budget process and approved annually by the GC. This Agreement supersedes all previous and current related Agreements and Amendments.

TERMS AND CONDITIONS.

3. Term of Agreement. This Agreement is effective when all parties execute it. The term of this Agreement is from the date of signing through the later of June 30, 2024 or any extension approved in writing. The services to be performed under this Agreement will commence upon signing of this Agreement.



4. Payment.

A. **Stipend.** The Program agrees to pay the Consultant a flat-rate stipend of **\$32,400** for the following services to be performed in during Year 1 (2022-2023) of this Agreement:

ISAC Cost Item	Estimated FY22 Cost
2022 ISAC Fall Meeting (in-person meeting in September 2022 in conjunction with GC Quarterly Meeting) <ul style="list-style-type: none"> In-person meeting in Kearney, NE to discuss status of Science Plan implementation and to support ISAC member field trips to PRRIP management and science activities on the ground 4-day meeting (1.5 day GC meeting, 1.5 day ISAC meeting, 1 day travel) = \$225/hour x 8-hour day x 4 days = \$7,200 Meeting prep & post-meeting discussion = \$225/hour x 8-hour day x 2 days = \$3,600 	\$10,800
2023 PRRIP Science Plan Reporting Session (in-person meeting in Feb. 2023) <ul style="list-style-type: none"> In-person meeting in Omaha, NE to discuss status of Science Plan implementation and annual State of the Platte Report 4-day meeting (3 days meeting, 1 day travel) = \$225/hour x 8-hour day x 4 days = \$7,200 Meeting prep & post-meeting discussion = \$200/hour x 8-hour day x 2 days = \$3,600 	\$10,800
March 2023 PRRIP GC Quarterly Meeting <ul style="list-style-type: none"> ISAC members virtually attend GC Quarterly Meeting to discuss recommendations and guidance from 2023 Science Plan Reporting Session; Chair and Vice Chair make presentation to GC on behalf of ISAC 1-day meeting = \$225/hour x 8-hour day = \$1,800 	\$1,800
Additional Document Review and/or Specific ISAC Member Input <ul style="list-style-type: none"> Review Program documents/products and provide specific guidance as requested by GC and EDO 5 days review x \$225/hour x 8-hour day = \$9,000 	\$9,000
Total	\$32,400

The stipend amounts for each task are not to be exceeded unless authorized in writing by the Program. The Agreement total amount is controlling and is a ceiling price that Consultant exceeds at its own risk. Payment shall be made directly to Consultant.

B. **Expenses.** The Program agrees to pay the Consultant actual, documented, out-of-pocket expenses associated with travel for two (2) in-person ISAC meetings during Year 1 (2022-2023) of this Agreement. Such expenses incurred by the Consultant in performing the services described in 4(A) will be reimbursed unless the Consultant is reimbursed by his/her respective agency or institution. Reimbursement is conditioned on Consultant providing original receipts. Reimbursements will be paid according to the following guidelines:

- **Mileage** – Paid according to the prevailing Federal rate.
- **Airfare and Baggage Fees** – Actual expenses at a reasonable and prudent rate verified by receipts.
- **Lodging** – Actual expenses at a reasonable and prudent rate verified by receipts.
- **Rental Car** – Actual expenses at a reasonable and prudent rate verified by receipts.
- **Meals, Taxis, Parking, and Other Associated Travel Expenses** – Actual expenses at a reasonable and prudent rate verified by receipts.



C. Invoices. Consultant shall submit four (4) quarterly invoices during each year of membership on the ISAC for the services and expenses described in 4(A) and 4(B). Invoices for Year 1:

- **Invoice #1** – Submit on September 30, 2022; \$8,100 (25% of the flat-rate stipend) plus actual expenses verified by receipts.
- **Invoice #2** – Submit on December 31, 2022; \$8,100 (25% of the flat-rate stipend) plus actual expenses verified by receipts.
- **Invoice #3** – Submit on March 31, 2023; \$8,100 (25% of the flat-rate stipend) plus actual expenses verified by receipts.
- **Invoice #4** – Submit on June 30, 2023; \$8,100 (25% of the flat-rate stipend) plus actual expenses verified by receipts.

D. Billing Procedures. Consultant shall submit invoices as described in 4(C) to the Program's Executive Director (ED). Upon receiving an invoice, the ED will review and approve the invoice and advise the Foundation of approval. The Foundation will make payment of these funds directly to Consultant within 30 days of receiving notice of approval. Payments are due within 60 days after the billing date.

Billing Point of Contact (Program):

Mr. Jason Farnsworth, Executive Director
 Platte River Recovery Implementation Program
 Headwaters Corporation
 4111 4th Avenue, Suite 6
 Kearney, Nebraska 68845
 Phone: (308) 237-5728
 Email: farnsworthj@headwaterscorp.com

E. Withholding of Payment. If a work element has not been received by the Program by the dates established in this Agreement, the Program may withhold all payments beginning with the month following that date until such deficiency has been corrected.

F. Final Completion and Payment. Final payment shall be made upon receipt of the final invoice and, if applicable, execution of the final amendment to the Agreement documenting the final contract amount.

5. Responsibilities of Consultant.

A. Scope of Services. The Consultant shall perform the specific services required under this Agreement in a satisfactory and proper manner.

B. Personnel. All services required hereunder will be performed by Consultant and Consultant shall be fully qualified and authorized, licensed, or permitted under state law to perform such services, if state law requires such authorization, license, or permit.

C. Subcontracts. Consultant may not engage any subcontractors, outside associates, or consultants for any part of the work to be performed pursuant to this Agreement.



97 **D. Requests from the Program.** The Consultant shall be responsible and responsive to the Program and
98 the ED Office in their requests and requirements.

99
100 **E. Presentation of Information.** The Consultant shall compile and present all information clearly and
101 concisely in a professional manner.

102
103 **F. Inspection and Acceptance.** All deliverables furnished by the Consultant shall be subject to rigorous
104 review by the Program and the ED Office prior to acceptance.

105
106 **6. Responsibilities of the Program.**

107
108 **A. Designated Representative.** The Executive Director of the Program shall act as the Program's
109 administrative representative with respect to the Consultant's service to be performed under this
110 Agreement and shall have complete authority to transmit instructions, receive information, and
111 interpret and define the Program's policies and decisions with respect to services covered by this
112 Agreement.

113
114 **B. Information to be furnished to the Consultant.** All information as is available to the Program and
115 necessary for the carrying out work under this Agreement shall be furnished to the Consultant without
116 charge and the ED Office shall cooperate with the Consultant in the carrying out of the project.

117
118 **C. Review of Information.** The ED Office shall examine all information presented by the Consultant and
119 shall promptly render in writing the Program's decisions pertaining thereto within specified time
120 periods.

121
122 **D. Provide Criteria.** The ED Office shall provide all criteria and full information regarding its requirements
123 for the services.

124
125 **7. Special Provisions.**

126
127 **A. No Finder's Fees.** No finder's fee, employment agency fee, or other such fee related to the
128 procurement of this Contract shall be paid by either party.

129
130 **B. Publication.** It is understood that the results of this work may be available to the Consultant for
131 publication and use in connection with related work. Use of this work for publication and related work
132 by the Consultant must be conducted with prior authorization from the Program's Technical Point of
133 Contact.

134
135 **C. Publicity.** Any publicity or media contact associated with the Consultant's services and the result of
136 those services provided under this Agreement shall be the sole responsibility of the Program. Media
137 requests of the Consultant should be directed to the Director of Operations, Administration, and
138 Human Dimensions in the EDO.

139
140 **D. Monitor Activities.** The Program shall have the right to monitor all Contract-related activities of
141 Consultant. This shall include, but not be limited to, the right to make site inspections at any time, to



bring experts and consultants on site to examine or evaluate completed work or work in progress, and to observe all Consultant personnel in every phase of performance of Contract-related work.

E. Kickbacks. The Consultant certifies and warrants that no gratuities, kickbacks or contingency fees were paid in connection with this Contract, nor were any fees, commissions, gifts, or other considerations made contingent upon the award of this Contract. If the Consultant breaches or violates this warranty, the Program may, at its discretion, terminate this Contract without liability to the Program, or deduct from the Contract price or consideration, or otherwise recover, the full amount of any commission, percentage, brokerage, or contingency fee.

F. Debarment and Suspension. Consultant certifies by signing this Contract that neither Consultant nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency from participation in the transaction covered by this Contract.

G. Anti-Lobbying. Consultant makes the representations set forth on the Certification Regarding Lobbying, which is attached as Exhibit A and incorporated by reference as part of this Contract. Consultant shall execute such Certification at the time of executing this Agreement.

H. Office Space, Equipment, and Supplies. The Consultant will supply its own office space, equipment, and supplies.

8. General Provisions.

A. Amendments. Any changes, modifications, revisions, or amendments to this Agreement which are mutually agreed upon by the parties to this Agreement shall be incorporated by written instrument, executed and signed by all Parties to this Agreement.

B. Applicable Law/Venue. The construction, interpretation and enforcement of this Agreement shall be governed by the laws of the State of Nebraska. The Courts of the State of Nebraska shall have jurisdiction over this Agreement and the parties.

C. Assignment/Agreement Not Used as Collateral. Neither party shall assign or otherwise transfer any of the rights or delegate any of the duties set forth in this Agreement without the prior written consent of the other party. The Consultant shall not use this Agreement, or any portion thereof, for collateral for any financial obligation, without the prior written permission of the Program.

D. Audit/Access to Records. The Program, the Foundation, and any of their representatives shall have access to any books, documents, papers, and records of the Consultant which are pertinent to this Agreement. The Consultant shall, immediately upon receiving written instruction from the Program or Foundation, provide to the Foundation or any governmental entity, independent auditor, accountant, or accounting firm, all books, documents, papers and records of the Consultant which are pertinent to this Agreement. The Consultant shall cooperate fully with the Foundation or any such governmental entity, independent auditor, accountant, or accounting firm, during the entire course of any audit authorized by or required of the Program.



- E. Availability of Funds.** Each payment obligation of the Program is conditioned upon the availability of funds and continuation of the Platte River Recovery Implementation Program. If funds are not allocated and available for the continuance of the services performed by the Consultant, the Agreement and/or applicable task order may be terminated by the Program at the end of the period for which the funds are available. The Program shall notify the Consultant at the earliest possible time of the services which will or may be affected by a shortage of funds. No penalty shall accrue to the Program in the event this provision is exercised, and the Program shall not be obligated or liable for any future payments due or for any damages as a result of termination under this section. This provision shall not be construed to permit the Program to terminate this Agreement to acquire similar services from another party.
- F. Award of Related Contracts.** The Program may undertake or award supplemental or successor contracts for work related to this Contract. The Consultant shall cooperate fully with other contractors and the Program in all such cases.
- G. Compliance with Law.** The Consultant shall keep informed of and comply with all applicable federal, state and local laws and regulations in the performance of this Contract.
- H. Confidentiality of Information.** All documents, data compilations, reports, computer programs, photographs, and any other work provided to or produced by the Consultant in the performance of this Agreement shall be kept confidential by the Consultant unless written permission is granted by the Program for its release.
- I. Conflicts of Interest**
- (i) Consultant shall not engage in providing consultation to or representation of clients, agencies or firms which may constitute a conflict of interest giving rise to a disadvantage to the Program or a disclosure which would adversely affect the interests of the Program. Consultant shall notify the Program of any potential or actual conflicts of interest arising during the course of the Consultant's performance under this Agreement. This Agreement may be terminated in the event a conflict of interest arises. Termination of the Agreement will be subject to a mutual settlement of accounts. In the event the Agreement is terminated under this provision, the Consultant shall take steps to ensure that the file, evidence, evaluation and data are provided to the Program or its designee. This does not prohibit or affect the Consultant's ability to engage in consultations, evaluations or representation under agreement with other agencies, firms, facilities, or attorneys so long as no conflict exists.
- (ii) A conflict of interest warranting termination of the Agreement includes, but is not necessarily limited to, representing a client in an adversarial proceeding against the Platte River Recovery Implementation Program, its signatories, boards, commissions, or the Foundation, or initiating suits in equity including injunctions, declaratory judgments, writs of prohibition or *quo warranto*.
- J. Entirety of Agreement.** This Agreement, consisting of eleven (11) pages, represents the entire and integrated Agreement between the Parties and supersedes all prior negotiations, representations, and agreements, whether written or oral.



- K. Force Majeure.** Neither party shall be liable for failure to perform under this Agreement if such failure to perform arises out of causes beyond the control and without the fault or negligence of the nonperforming party. Such causes may include, but are not limited to, acts of God or the public enemy, fires, floods, epidemics, quarantine restrictions, freight embargoes, and unusually severe weather. This provision shall become effective only if the party failing to perform immediately notifies the other party of the extent and nature of the problem, limits delay in performance to that required by the event and takes all reasonable steps to minimize delays. This provision shall not be effective unless the failure to perform is beyond the control and without the fault or negligence of the nonperforming party.
- L. Indemnification.** The Consultant shall indemnify and hold harmless the Foundation, the Program, the ED Office, and their officers, agents, employees, successors and assignees from any and all claims, lawsuits, losses and liability arising out of Consultant's failure to perform any of Consultant's duties and obligations hereunder or in connection with the negligent performance of Consultant's duties or obligations, including but not limited to any claims, lawsuits, losses or liability arising out of Consultant's malpractice. The obligations of this paragraph shall survive termination of this Contract.
- M. Independent Contractor.** The Consultant shall function as an independent contractor for the purposes of this Contract and shall not be considered an employee of the Program, Foundation, or ED Office for any purpose. The Consultant shall assume sole responsibility for any debts or liabilities that may be incurred by the Consultant in fulfilling the terms of this Contract and shall be solely responsible for the payment of all federal, state and local taxes which may accrue because of this Contract. Nothing in this Contract shall be interpreted as authorizing the Consultant or its agents and/or employees to act as an agent or representative for or on behalf of the Foundation or the Program, or to incur any obligation of any kind on the behalf of the Foundation or the Program. The Consultant agrees that no health/hospitalization benefits, workers' compensation and/or similar benefits available to Foundation, Program, or ED Office employees will inure to the benefit of the Consultant or the Consultant's agents and/or employees as a result of this Contract.
- N. Notices.** All notices arising out of, or from, the provisions of this Agreement shall be in writing and given to the parties at the address provided under this Agreement, either by regular mail, e-mail, or delivery in person. Notice is effective upon delivery.
- O. Notice of Proposed Sale or Transfer of the Consultant.** The Consultant shall provide the Program with the earliest possible advance notice of any proposed sale or transfer or any proposed merger or consolidation of the assets of the Consultant. Such notice shall be provided in accordance with the notice provision of this Agreement.
- P. Ownership of Documents/Work Product/Materials.** All documents, reports, records, field notes, data, samples, specimens, and materials of any kind resulting from performance of this Agreement are at all times the property of the Program.
- Q. Patent or Copyright Protection.** The Consultant recognizes that certain proprietary matters or techniques may be subject to patent, trademark, copyright, license or other similar restrictions, and pledges that no work performed by the Consultant or its contractors will violate any such restriction.



- 278 **R. Taxes.** The Consultant shall pay all taxes and other such amounts required by federal, state and local
279 law, including but not limited to federal and state income taxes, social security taxes, workers'
280 compensation, unemployment insurance, and sales taxes.
281
- 282 **S. Termination of Agreement.** This Agreement may be terminated, without cause by Program upon
283 fifteen (15) days written notice. This Agreement may be terminated immediately for cause if
284 Consultant fails to perform in accordance with the terms of this Agreement. Consultant shall likewise
285 have the right to unilaterally terminate the agreement for cause. In the event of termination, Program
286 shall pay Consultant for all reasonable work performed up to the effective date of the termination.
287
- 288 **T. Third Party Beneficiary Rights.** The parties do not intend to create in any other individual or entity
289 the status of third party beneficiary, and this Agreement shall not be construed so as to create such
290 status. The rights, duties and obligations contained in this Agreement shall operate only between the
291 parties to this Agreement and shall inure solely to the benefit of the parties to this Agreement. The
292 provisions of this Agreement are intended only to assist the parties in determining and performing
293 their obligations under this Agreement.
294
- 295 **U. Time is of the Essence.** Time is of the essence in all provisions of the Contract.
296
- 297 **V. Titles Not Controlling.** Titles of paragraphs are for reference only and shall not be used to construe
298 the language in this Contract.
299
- 300 **W. Waiver.** The waiver of any breach of any term or condition in this Contract shall not be deemed a
301 waiver of any prior or subsequent breach.

**9. Contacts.****Administrative Point of Contact (Foundation):**

Diane M. Wilson
Manager of Public/Private Partnerships
Nebraska Community Foundation
PO Box 83107
Lincoln, Nebraska 68501-3107
Phone: (402) 323-7330
Email: dwilson@nebcommfound.org

Administrative Point of Contact (Program):

Mr. Jason Farnsworth, Executive Director
Platte River Recovery Implementation Program
Headwaters Corporation
4111 4th Avenue, Suite 6
Kearney, Nebraska 68845
Phone: (308) 237-5728
Email: farnsworthj@headwaterscorp.com

Technical Point of Contact (Program):

Dr. Chadwin Smith
Platte River Recovery Implementation Program
Headwaters Corporation
4111 4th Avenue, Suite 6
Kearney, Nebraska 68845
Phone: (402) 432-7950
Email: smithc@headwaterscorp.com

Administrative and Technical Point of Contact (Consultant):

Dr. David L. Galat
3951 County Road 259
Fulton, MO 65251-3042
Phone: (573) 303-6914
Email: galatd@missouri.edu



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06/10/2022

10. **Signatures.** By signing this Agreement, the undersigned certify that they have read and understood it, that they agree to be bound by the terms of this Agreement, that they have the authority to sign it, and that their respective Party agrees to be bound by the terms of the Agreement.

FOR THE NEBRASKA COMMUNITY FOUNDATION:



Diane M. Wilson
Manager of Public/Private Partnerships
FEIN 47-0769903

6/27/2022

Date

FOR THE CONSULTANT:



David L. Galat

6/20/22

Date

PLATTE RIVER RECOVERY IMPLEMENTATION PROGRAM ACKNOWLEDGEMENT

I hereby certify that the Governance Committee of the Platte River Recovery Implementation Program (Program) has authorized the Nebraska Community Foundation, acting as contracting agent of the Governance Committee of the Program, to enter into this Agreement.



Jason Farnsworth
Executive Director

6/10/22

Date



PRRIP – EDO Final

06/10/2022

EXHIBIT A
Certification Regarding Lobbying

The undersigned certifies, on behalf of Consultant, that to the best of his or her knowledge and belief:

1. No federal appropriated funds have been paid or will be paid, by or on behalf of Consultant, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, or the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
2. No registrant under the Lobbying Disclosure Act of 1995 has made any lobbying contacts on behalf of the Consultant with respect to the federal grant or cooperative agreement under which the Consultant is receiving monies.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who makes an expenditure prohibited by Section 1 above or who fails to file or amend the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

FOR THE CONSULTANT:



David L. Galat

6/20/22

Date



PLATTE RIVER RECOVERY IMPLEMENTATION PROGRAM

Professional Services Contract Amendment

1. **Amendment.** This is the Second Amendment to the Contract, dated June 23, 2022, between the Nebraska Community Foundation (“Foundation”), representing all Signatories to the Platte River Recovery Implementation Program (“Program”), and Jennifer Hoeting (“Consultant”) for the Consultant’s service as a Member of the Program’s Independent Scientific Advisory Committee (“ISAC”). The following persons are authorized to represent the parties through this Amendment: Jason Kennedy of the Foundation; Jason Farnsworth of the Program; and Jennifer Hoeting of the Consultant.

2. **Purpose.** This Contract Amendment is being made:
 - A) To extend the term of the Contract between the Foundation, the Program, and the Consultant for ISAC Member service from *July 1, 2024 through December 31, 2024*. Additional ISAC Member service on the part of the Consultant will be addressed through a new annual Contract or Contract Amendment to be fully executed by December 31, 2024.

 - B) To provide the Consultant with a stipend of **\$19,800** for ISAC Member service during this term including:
 - **July through September** – participation in the 2024 Summer ISAC Meeting in Kearney, NE (July 16-18, 2024); document review, comment development, ISAC coordination, virtual meetings, additional ISAC Member expert advice as requested, and service as 2024 ISAC Co-Chair = **\$9,900.00**
 - **October through December** – document review, comment development, ISAC coordination, virtual meetings, additional ISAC Member expert advice as requested, and service as 2024 ISAC Co-Chair = **\$9,900.00**

 - C) To authorize the Consultant to be reimbursed for travel expenses (airfare, hotel, meals, airport expenses, rental vehicle, and other associated travel costs) associated with the 2024 Summer ISAC Meeting in Kearney, NE. Travel expenses will be reimbursed at actual cost based on submitted receipts.

3. **Payment.** Under this Contract Amendment the Consultant shall send three (3) invoices to the Program:
 - **Invoice #1** – reimbursable travel expenses for the 2024 Summer ISAC Meeting; include all receipts; *submit to the Program by July 31, 2024*.
 - **Invoice #2** – first quarterly stipend invoice; \$9,900.00; *submit to the Program by September 30, 2024*.
 - **Invoice #3** – second quarterly stipend invoice; \$9,900.00; *submit to the Program by December 15, 2024*.

4. **Terms.** All other terms of the original Contract, attached as **Exhibit A – Original Contract**, remain in effect as written and fully executed on June 23, 2022.



5. **Signatures.** By signing this Amendment, the undersigned certify that they have read and understood it, that they have the authority to sign it, and that their respective Party agrees to be bound by the terms of the Amendment and by the terms of the original Contract.

NEBRASKA COMMUNITY FOUNDATION:

Jason D. Kennedy
Chief Financial and Administrative Officer

Date

CONSULTANT:

Jennifer A. Hoeting

Date

PLATTE RIVER RECOVERY IMPLEMENTATION PROGRAM ACKNOWLEDGEMENT

I hereby certify that the Governance Committee of the Platte River Recovery Implementation Program (Program) has authorized the Nebraska Community Foundation, acting as contracting agent for the Governance Committee of the Program, to enter into this Amendment.

Jason M. Farnsworth
Executive Director

Date



PLATTE RIVER RECOVERY IMPLEMENTATION PROGRAM
Professional Services Contract Amendment
Exhibit A – Original Contract



PRRIP – EDO Final

05/31/2023

Dr. Jennifer A. Hoeting
195 Moran Way
Santa Cruz, CA 95062

Nebraska Community Foundation
PO Box 83107
Lincoln, NE 68501-3107
FEIN 47-0769903

PLATTE RIVER RECOVERY IMPLEMENTATION PROGRAM

FIRST AMENDMENT

To the Agreement between the Nebraska Community Foundation, Inc., Platte River Recovery Implementation Program, and Jennifer A. Hoeting

Independent Scientific Advisory Committee

1. Parties.

This is the First Amendment to the Agreement entered into by and between the Nebraska Community Foundation, Inc. ("Foundation") of Lincoln, Nebraska, representing all signatories to the Platte River Recovery Implementation Program ("Program"), and Jennifer A. Hoeting ("Consultant"), a private consultant, dated June 23, 2022. This First Amendment is made and entered into effective on the date of signing below and the final date of this Amendment will be June 30, 2024. The following persons are authorized to represent the parties through this Amendment: Jason Kennedy of the Foundation, Jason Farnsworth of the Program, and Jennifer Hoeting of the Consultant.

2. Purpose and Authority.

This First Amendment to the Agreement between the Foundation and the Consultant is being made for the following purposes:

- (1) To extend the Agreement between the Foundation and the Consultant for service on the Program's Independent Scientific Advisory Committee ("ISAC") from the effective date of the Amendment through June 30, 2024.
- (2) To provide the Consultant with a stipend of **\$39,600** in approved and available FY 2023 Program Budget Line Item ISAC-1 funds under this Amendment for the following services as outlined in the approved FY 2023 Program Work Plan:
 - In-person participation in the 2023 Fall ISAC Meeting in October 2023 in Kearney, NE.
 - In-person participation in the 2024 PRRIP Science Plan Reporting Session in February 2024 in Omaha, NE.
 - Virtual participation in the March 2024 Governance Committee ("GC") Quarterly Meeting.
 - Additional document review, specific ISAC Member input, and/or additional virtual meetings.
 - 2023/2024 ISAC Co-Chair – additional time to work with PRRIP EDO between ISAC meetings to coordinate ISAC discussion and prepare presentations/documents for the GC.
 - Total Stipend = \$39,600.00
 - Total Estimated Reimbursable Expenses = \$4,000.00



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The total stipend amount is not to be exceeded unless authorized in writing by the Program. All other terms of the original signed Agreement, dated June 23, 2022 and attached to this First Amendment as **Exhibit A**, remain in effect as originally written.

3. Signatures.

By signing this Contract Amendment, the undersigned certify they read and understood it, they have the authority to sign it, and their respective Party agrees to be bound by the terms of the Contract Amendment and the associated original Agreement.

FOR THE NEBRASKA COMMUNITY FOUNDATION

DocuSigned by:

A handwritten signature in black ink that reads "Jason Kennedy".

16C39EC85281451...

Jason D. Kennedy
Chief Financial and Administrative Officer

6/1/2023

Date

FOR THE CONSULTANT

DocuSigned by:

A handwritten signature in black ink that reads "Jennifer Hoeting".

D8FC8BA7D0C749D...

Jennifer A. Hoeting

6/1/2023

Date

PLATTE RIVER RECOVERY IMPLEMENTATION PROGRAM ACKNOWLEDGEMENT

I hereby certify that the Governance Committee of the Platte River Recovery Implementation Program has authorized the Nebraska Community Foundation, acting as contracting agent for the Governance Committee, to enter into this Contract Amendment.

DocuSigned by:

A handwritten signature in black ink that reads "Jason Farnsworth".

7E01F31B519A409...

Jason M. Farnsworth
Executive Director

6/1/2023

Date



PRRIP – EDO Final

05/31/2023

1
2

EXHIBIT A

2022-2025 PRRIP ISAC Agreement – Hoeting



PRRIP – EDO Final

06/10/2022

Dr. Jennifer A. Hoeting
195 Moran Way
Santa Cruz, CA 95062

Nebraska Community Foundation
PO Box 83107
Lincoln, NE 68501-3107
FEIN 47-0769903

PLATTE RIVER RECOVERY IMPLEMENTATION PROGRAM

Agreement between the Nebraska Community Foundation, Platte River Recovery Implementation Program, and Jennifer A. Hoeting

Independent Scientific Advisory Committee

1. Parties. This Agreement is made and entered into by and between the Nebraska Community Foundation ("Foundation") of Lincoln, Nebraska, representing all signatories to the Platte River Recovery Implementation Program ("Program"), and Jennifer A. Hoeting ("Consultant"), a private consultant. The following persons are authorized to represent the parties through execution of this Agreement: Diane Wilson of the Foundation, Jason Farnsworth of the Program, and Dr. Jennifer Hoeting.

2. Purpose of Agreement and Authority. The purpose of this Agreement is to allow the Foundation, acting as the fiscal agent for the Governance Committee (GC) of the Program, to retain the services of the Consultant as a member of the Program's Independent Scientific Advisory Committee (ISAC). This Agreement describes a **three-year (July 2022 through June 2025) commitment of service** on the part of the Consultant. The three-year term of service is at the discretion of the GC and the amount of the annual payment to the Consultant under this Agreement will be developed through the course of the Program's annual budget process and approved annually by the GC. This Agreement supersedes all previous and current related Agreements and Amendments.

TERMS AND CONDITIONS.

3. Term of Agreement. This Agreement is effective when all parties execute it. The term of this Agreement is from the date of signing through the later of June 30, 2025 or any extension approved in writing. The services to be performed under this Agreement will commence upon signing of this Agreement.



4. Payment.

A. Stipend. The Program agrees to pay the Consultant a flat-rate stipend of **\$39,600** for the following services to be performed in during Year 1 (2022-2023) of this Agreement:

ISAC Cost Item	Estimated FY22 Cost
2022 ISAC Fall Meeting (in-person meeting in September 2022 in conjunction with GC Quarterly Meeting) <ul style="list-style-type: none"> In-person meeting in Kearney, NE to discuss status of Science Plan implementation and to support ISAC member field trips to PRRIP management and science activities on the ground 4-day meeting (1.5 day GC meeting, 1.5 day ISAC meeting, 1 day travel) = \$225/hour x 8-hour day x 4 days = \$7,200 Meeting prep & post-meeting discussion = \$225/hour x 8-hour day x 2 days = \$3,600 	\$10,800
2023 PRRIP Science Plan Reporting Session (in-person meeting in Feb. 2023) <ul style="list-style-type: none"> In-person meeting in Omaha, NE to discuss status of Science Plan implementation and annual State of the Platte Report 4-day meeting (3 days meeting, 1 day travel) = \$225/hour x 8-hour day x 4 days = \$7,200 Meeting prep & post-meeting discussion = \$200/hour x 8-hour day x 2 days = \$3,600 	\$10,800
March 2023 PRRIP GC Quarterly Meeting <ul style="list-style-type: none"> ISAC members virtually attend GC Quarterly Meeting to discuss recommendations and guidance from 2023 Science Plan Reporting Session; Chair and Vice Chair make presentation to GC on behalf of ISAC 1-day meeting = \$225/hour x 8-hour day = \$1,800 	\$1,800
Additional Document Review and/or Specific ISAC Member Input <ul style="list-style-type: none"> Review Program documents/products and provide specific guidance as requested by GC and EDO 5 days review x \$225/hour x 8-hour day = \$9,000 	\$9,000
ISAC Chair and Vice Chair (or Co-Chairs) <ul style="list-style-type: none"> Additional time to work with PRRIP EDO between ISAC meetings to coordinate ISAC discussion and prepare presentations/documents for the GC 4 days of review time x \$225/hour x 8-hour day = \$7,200 	\$7,200
Total	\$39,600

The stipend amounts for each task are not to be exceeded unless authorized in writing by the Program. The Agreement total amount is controlling and is a ceiling price that Consultant exceeds at its own risk. Payment shall be made directly to Consultant.

B. Expenses. The Program agrees to pay the Consultant actual, documented, out-of-pocket expenses associated with travel for two (2) in-person ISAC meetings during Year 1 (2022-2023) of this Agreement. Such expenses incurred by the Consultant in performing the services described in 4(A) will be reimbursed unless the Consultant is reimbursed by his/her respective agency or institution. Reimbursement is conditioned on Consultant providing original receipts. Reimbursements will be paid according to the following guidelines:

- Mileage** – Paid according to the prevailing Federal rate.
- Airfare and Baggage Fees** – Actual expenses at a reasonable and prudent rate verified by receipts.
- Lodging** – Actual expenses at a reasonable and prudent rate verified by receipts.
- Rental Car** – Actual expenses at a reasonable and prudent rate verified by receipts.
- Meals, Taxis, Parking, and Other Associated Travel Expenses** – Actual expenses at a reasonable and prudent rate verified by receipts.



C. Invoices. Consultant shall submit four (4) quarterly invoices during each year of membership on the ISAC for the services and expenses described in 4(A) and 4(B). Invoices for Year 1:

- **Invoice #1** – Submit on September 30, 2022; \$9,900 (25% of the stipend) plus actual expenses verified by receipts.
- **Invoice #2** – Submit on December 31, 2022; \$9,900 (25% of the stipend) plus actual expenses verified by receipts.
- **Invoice #3** – Submit on March 31, 2023; \$9,900 (25% of the stipend) plus actual expenses verified by receipts.
- **Invoice #4** – Submit on June 30, 2023; \$9,900 (25% of the stipend) plus actual expenses verified by receipts.

D. Billing Procedures. Consultant shall submit invoices as described in 4(C) to the Program's Executive Director (ED). Upon receiving an invoice, the ED will review and approve the invoice and advise the Foundation of approval. The Foundation will make payment of these funds directly to Consultant within 30 days of receiving notice of approval. Payments are due within 60 days after the billing date.

Billing Point of Contact (Program):

Mr. Jason Farnsworth, Executive Director
 Platte River Recovery Implementation Program
 Headwaters Corporation
 4111 4th Avenue, Suite 6
 Kearney, Nebraska 68845
 Phone: (308) 237-5728
 Email: farnsworthj@headwaterscorp.com

E. Withholding of Payment. If a work element has not been received by the Program by the dates established in this Agreement, the Program may withhold all payments beginning with the month following that date until such deficiency has been corrected.

F. Final Completion and Payment. Final payment shall be made upon receipt of the final invoice and, if applicable, execution of the final amendment to the Agreement documenting the final contract amount.

5. Responsibilities of Consultant.

A. Scope of Services. The Consultant shall perform the specific services required under this Agreement in a satisfactory and proper manner.

B. Personnel. All services required hereunder will be performed by Consultant and Consultant shall be fully qualified and authorized, licensed, or permitted under state law to perform such services, if state law requires such authorization, license, or permit.

C. Subcontracts. Consultant may not engage any subcontractors, outside associates, or consultants for any part of the work to be performed pursuant to this Agreement.



97 **D. Requests from the Program.** The Consultant shall be responsible and responsive to the Program and
98 the ED Office in their requests and requirements.
99

100 **E. Presentation of Information.** The Consultant shall compile and present all information clearly and
101 concisely in a professional manner.
102

103 **F. Inspection and Acceptance.** All deliverables furnished by the Consultant shall be subject to rigorous
104 review by the Program and the ED Office prior to acceptance.
105

106 **6. Responsibilities of the Program.**
107

108 **A. Designated Representative.** The Executive Director of the Program shall act as the Program's
109 administrative representative with respect to the Consultant's service to be performed under this
110 Agreement and shall have complete authority to transmit instructions, receive information, and
111 interpret and define the Program's policies and decisions with respect to services covered by this
112 Agreement.
113

114 **B. Information to be furnished to the Consultant.** All information as is available to the Program and
115 necessary for the carrying out work under this Agreement shall be furnished to the Consultant without
116 charge and the ED Office shall cooperate with the Consultant in the carrying out of the project.
117

118 **C. Review of Information.** The ED Office shall examine all information presented by the Consultant and
119 shall promptly render in writing the Program's decisions pertaining thereto within specified time
120 periods.
121

122 **D. Provide Criteria.** The ED Office shall provide all criteria and full information regarding its requirements
123 for the services.
124

125 **7. Special Provisions.**
126

127 **A. No Finder's Fees.** No finder's fee, employment agency fee, or other such fee related to the
128 procurement of this Contract shall be paid by either party.
129

130 **B. Publication.** It is understood that the results of this work may be available to the Consultant for
131 publication and use in connection with related work. Use of this work for publication and related work
132 by the Consultant must be conducted with prior authorization from the Program's Technical Point of
133 Contact.
134

135 **C. Publicity.** Any publicity or media contact associated with the Consultant's services and the result of
136 those services provided under this Agreement shall be the sole responsibility of the Program. Media
137 requests of the Consultant should be directed to the Director of Operations, Administration, and
138 Human Dimensions in the EDO.
139

140 **D. Monitor Activities.** The Program shall have the right to monitor all Contract-related activities of
141 Consultant. This shall include, but not be limited to, the right to make site inspections at any time, to



bring experts and consultants on site to examine or evaluate completed work or work in progress, and to observe all Consultant personnel in every phase of performance of Contract-related work.

E. Kickbacks. The Consultant certifies and warrants that no gratuities, kickbacks or contingency fees were paid in connection with this Contract, nor were any fees, commissions, gifts, or other considerations made contingent upon the award of this Contract. If the Consultant breaches or violates this warranty, the Program may, at its discretion, terminate this Contract without liability to the Program, or deduct from the Contract price or consideration, or otherwise recover, the full amount of any commission, percentage, brokerage, or contingency fee.

F. Debarment and Suspension. Consultant certifies by signing this Contract that neither Consultant nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency from participation in the transaction covered by this Contract.

G. Anti-Lobbying. Consultant makes the representations set forth on the Certification Regarding Lobbying, which is attached as Exhibit A and incorporated by reference as part of this Contract. Consultant shall execute such Certification at the time of executing this Agreement.

H. Office Space, Equipment, and Supplies. The Consultant will supply its own office space, equipment, and supplies.

8. General Provisions.

A. Amendments. Any changes, modifications, revisions, or amendments to this Agreement which are mutually agreed upon by the parties to this Agreement shall be incorporated by written instrument, executed and signed by all Parties to this Agreement.

B. Applicable Law/Venue. The construction, interpretation and enforcement of this Agreement shall be governed by the laws of the State of Nebraska. The Courts of the State of Nebraska shall have jurisdiction over this Agreement and the parties.

C. Assignment/Agreement Not Used as Collateral. Neither party shall assign or otherwise transfer any of the rights or delegate any of the duties set forth in this Agreement without the prior written consent of the other party. The Consultant shall not use this Agreement, or any portion thereof, for collateral for any financial obligation, without the prior written permission of the Program.

D. Audit/Access to Records. The Program, the Foundation, and any of their representatives shall have access to any books, documents, papers, and records of the Consultant which are pertinent to this Agreement. The Consultant shall, immediately upon receiving written instruction from the Program or Foundation, provide to the Foundation or any governmental entity, independent auditor, accountant, or accounting firm, all books, documents, papers and records of the Consultant which are pertinent to this Agreement. The Consultant shall cooperate fully with the Foundation or any such governmental entity, independent auditor, accountant, or accounting firm, during the entire course of any audit authorized by or required of the Program.



- E. Availability of Funds.** Each payment obligation of the Program is conditioned upon the availability of funds and continuation of the Platte River Recovery Implementation Program. If funds are not allocated and available for the continuance of the services performed by the Consultant, the Agreement and/or applicable task order may be terminated by the Program at the end of the period for which the funds are available. The Program shall notify the Consultant at the earliest possible time of the services which will or may be affected by a shortage of funds. No penalty shall accrue to the Program in the event this provision is exercised, and the Program shall not be obligated or liable for any future payments due or for any damages as a result of termination under this section. This provision shall not be construed to permit the Program to terminate this Agreement to acquire similar services from another party.
- F. Award of Related Contracts.** The Program may undertake or award supplemental or successor contracts for work related to this Contract. The Consultant shall cooperate fully with other contractors and the Program in all such cases.
- G. Compliance with Law.** The Consultant shall keep informed of and comply with all applicable federal, state and local laws and regulations in the performance of this Contract.
- H. Confidentiality of Information.** All documents, data compilations, reports, computer programs, photographs, and any other work provided to or produced by the Consultant in the performance of this Agreement shall be kept confidential by the Consultant unless written permission is granted by the Program for its release.
- I. Conflicts of Interest**
- (i) Consultant shall not engage in providing consultation to or representation of clients, agencies or firms which may constitute a conflict of interest giving rise to a disadvantage to the Program or a disclosure which would adversely affect the interests of the Program. Consultant shall notify the Program of any potential or actual conflicts of interest arising during the course of the Consultant's performance under this Agreement. This Agreement may be terminated in the event a conflict of interest arises. Termination of the Agreement will be subject to a mutual settlement of accounts. In the event the Agreement is terminated under this provision, the Consultant shall take steps to ensure that the file, evidence, evaluation and data are provided to the Program or its designee. This does not prohibit or affect the Consultant's ability to engage in consultations, evaluations or representation under agreement with other agencies, firms, facilities, or attorneys so long as no conflict exists.
- (ii) A conflict of interest warranting termination of the Agreement includes, but is not necessarily limited to, representing a client in an adversarial proceeding against the Platte River Recovery Implementation Program, its signatories, boards, commissions, or the Foundation, or initiating suits in equity including injunctions, declaratory judgments, writs of prohibition or *quo warranto*.
- J. Entirety of Agreement.** This Agreement, consisting of eleven (11) pages, represents the entire and integrated Agreement between the Parties and supersedes all prior negotiations, representations, and agreements, whether written or oral.



- K. Force Majeure.** Neither party shall be liable for failure to perform under this Agreement if such failure to perform arises out of causes beyond the control and without the fault or negligence of the nonperforming party. Such causes may include, but are not limited to, acts of God or the public enemy, fires, floods, epidemics, quarantine restrictions, freight embargoes, and unusually severe weather. This provision shall become effective only if the party failing to perform immediately notifies the other party of the extent and nature of the problem, limits delay in performance to that required by the event and takes all reasonable steps to minimize delays. This provision shall not be effective unless the failure to perform is beyond the control and without the fault or negligence of the nonperforming party.
- L. Indemnification.** The Consultant shall indemnify and hold harmless the Foundation, the Program, the ED Office, and their officers, agents, employees, successors and assignees from any and all claims, lawsuits, losses and liability arising out of Consultant's failure to perform any of Consultant's duties and obligations hereunder or in connection with the negligent performance of Consultant's duties or obligations, including but not limited to any claims, lawsuits, losses or liability arising out of Consultant's malpractice. The obligations of this paragraph shall survive termination of this Contract.
- M. Independent Contractor.** The Consultant shall function as an independent contractor for the purposes of this Contract and shall not be considered an employee of the Program, Foundation, or ED Office for any purpose. The Consultant shall assume sole responsibility for any debts or liabilities that may be incurred by the Consultant in fulfilling the terms of this Contract and shall be solely responsible for the payment of all federal, state and local taxes which may accrue because of this Contract. Nothing in this Contract shall be interpreted as authorizing the Consultant or its agents and/or employees to act as an agent or representative for or on behalf of the Foundation or the Program, or to incur any obligation of any kind on the behalf of the Foundation or the Program. The Consultant agrees that no health/hospitalization benefits, workers' compensation and/or similar benefits available to Foundation, Program, or ED Office employees will inure to the benefit of the Consultant or the Consultant's agents and/or employees as a result of this Contract.
- N. Notices.** All notices arising out of, or from, the provisions of this Agreement shall be in writing and given to the parties at the address provided under this Agreement, either by regular mail, e-mail, or delivery in person. Notice is effective upon delivery.
- O. Notice of Proposed Sale or Transfer of the Consultant.** The Consultant shall provide the Program with the earliest possible advance notice of any proposed sale or transfer or any proposed merger or consolidation of the assets of the Consultant. Such notice shall be provided in accordance with the notice provision of this Agreement.
- P. Ownership of Documents/Work Product/Materials.** All documents, reports, records, field notes, data, samples, specimens, and materials of any kind resulting from performance of this Agreement are at all times the property of the Program.
- Q. Patent or Copyright Protection.** The Consultant recognizes that certain proprietary matters or techniques may be subject to patent, trademark, copyright, license or other similar restrictions, and pledges that no work performed by the Consultant or its contractors will violate any such restriction.



- 278 **R. Taxes.** The Consultant shall pay all taxes and other such amounts required by federal, state and local
279 law, including but not limited to federal and state income taxes, social security taxes, workers'
280 compensation, unemployment insurance, and sales taxes.
281
- 282 **S. Termination of Agreement.** This Agreement may be terminated, without cause by Program upon
283 fifteen (15) days written notice. This Agreement may be terminated immediately for cause if
284 Consultant fails to perform in accordance with the terms of this Agreement. Consultant shall likewise
285 have the right to unilaterally terminate the agreement for cause. In the event of termination, Program
286 shall pay Consultant for all reasonable work performed up to the effective date of the termination.
287
- 288 **T. Third Party Beneficiary Rights.** The parties do not intend to create in any other individual or entity
289 the status of third party beneficiary, and this Agreement shall not be construed so as to create such
290 status. The rights, duties and obligations contained in this Agreement shall operate only between the
291 parties to this Agreement and shall inure solely to the benefit of the parties to this Agreement. The
292 provisions of this Agreement are intended only to assist the parties in determining and performing
293 their obligations under this Agreement.
294
- 295 **U. Time is of the Essence.** Time is of the essence in all provisions of the Contract.
296
- 297 **V. Titles Not Controlling.** Titles of paragraphs are for reference only and shall not be used to construe
298 the language in this Contract.
299
- 300 **W. Waiver.** The waiver of any breach of any term or condition in this Contract shall not be deemed a
301 waiver of any prior or subsequent breach.

**9. Contacts.****Administrative Point of Contact (Foundation):**

Diane M. Wilson
Manager of Public/Private Partnerships
Nebraska Community Foundation
PO Box 83107
Lincoln, Nebraska 68501-3107
Phone: (402) 323-7330
Email: dwilson@nebcommfound.org

Administrative Point of Contact (Program):

Mr. Jason Farnsworth, Executive Director
Platte River Recovery Implementation Program
Headwaters Corporation
4111 4th Avenue, Suite 6
Kearney, Nebraska 68845
Phone: (308) 237-5728
Email: farnsworthj@headwaterscorp.com

Technical Point of Contact (Program):

Dr. Chadwin Smith
Platte River Recovery Implementation Program
Headwaters Corporation
4111 4th Avenue, Suite 6
Kearney, Nebraska 68845
Phone: (402) 432-7950
Email: smithc@headwaterscorp.com

Administrative and Technical Point of Contact (Consultant):

Dr. Jennifer A. Hoeting
195 Moran Way
Santa Cruz, CA 95062
Phone: (970) 988-1184
Email: jennifer.hoeting@gmail.com



PRRIP – EDO Final

06/10/2022

10. **Signatures.** By signing this Agreement, the undersigned certify that they have read and understood it, that they agree to be bound by the terms of this Agreement, that they have the authority to sign it, and that their respective Party agrees to be bound by the terms of the Agreement.

FOR THE NEBRASKA COMMUNITY FOUNDATION:



Diane M. Wilson
Manager of Public/Private Partnerships
FEIN 47-0769903

6/23/2022

Date

FOR THE CONSULTANT:



Jennifer A. Hoeting

6/17/22

Date

PLATTE RIVER RECOVERY IMPLEMENTATION PROGRAM ACKNOWLEDGEMENT

I hereby certify that the Governance Committee of the Platte River Recovery Implementation Program (Program) has authorized the Nebraska Community Foundation, acting as contracting agent of the Governance Committee of the Program, to enter into this Agreement.



Jason Farnsworth
Executive Director

6/10/22

Date



PRRIP – EDO Final

06/10/2022

EXHIBIT A
Certification Regarding Lobbying

The undersigned certifies, on behalf of Consultant, that to the best of his or her knowledge and belief:

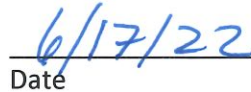
1. No federal appropriated funds have been paid or will be paid, by or on behalf of Consultant, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, or the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
2. No registrant under the Lobbying Disclosure Act of 1995 has made any lobbying contacts on behalf of the Consultant with respect to the federal grant or cooperative agreement under which the Consultant is receiving monies.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who makes an expenditure prohibited by Section 1 above or who fails to file or amend the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

FOR THE CONSULTANT:



Jennifer A. Hoeting



Date



PLATTE RIVER RECOVERY IMPLEMENTATION PROGRAM

Professional Services Contract Amendment

1. **Amendment.** This is the First Amendment to the Contract, dated August 2, 2023, between the Nebraska Community Foundation (“Foundation”), representing all Signatories to the Platte River Recovery Implementation Program (“Program”), and Alan Kasprak (d/b/a North Rim Research, LLC) (“Consultant”) for the Consultant’s service as a Member of the Program’s Independent Scientific Advisory Committee (“ISAC”). The following persons are authorized to represent the parties through this Amendment: Jason Kennedy of the Foundation; Jason Farnsworth of the Program; and Alan Kasprak of the Consultant.

2. **Purpose.** This Contract Amendment is being made:
 - A) To extend the term of the Contract between the Foundation, the Program, and the Consultant for ISAC Member service from *July 1, 2024 through December 31, 2024*. Additional ISAC Member service on the part of the Consultant will be addressed through a new annual Contract or Contract Amendment to be fully executed by December 31, 2024.

 - B) To provide the Consultant with a stipend of **\$16,200** for ISAC Member service during this term including:
 - **July through September** – participation in the 2024 Summer ISAC Meeting in Kearney, NE (July 16-18, 2024); document review, comment development, ISAC coordination, virtual meetings, and additional ISAC Member expert advice as requested = **\$8,100.00**
 - **October through December** – document review, comment development, ISAC coordination, virtual meetings, and additional ISAC Member expert advice as requested = **\$8,100.00**

 - C) To authorize the Consultant to be reimbursed for travel expenses (airfare, hotel, meals, airport expenses, rental vehicle, and other associated travel costs) associated with the 2024 Summer ISAC Meeting in Kearney, NE. Travel expenses will be reimbursed at actual cost based on submitted receipts.

3.
 - D) To ensure stipend and expense reimbursement checks are made payable to and mailed to:
 North Rim Research, LLC
 5097 NW Torchcrest Place
 Corvallis, OR 97330

4. **Payment.** Under this Contract Amendment the Consultant shall send three (3) invoices for all services rendered to the Program:
 - **Invoice #1** – reimbursable travel expenses for the 2024 Summer ISAC Meeting; include all receipts; *submit to the Program by July 31, 2024*.
 - **Invoice #2** – first quarterly stipend invoice; \$8,100.00; *submit to the Program by September 30, 2024*.
 - **Invoice #3** – second quarterly stipend invoice; \$8,100.00; *submit to the Program by December 15, 2024*.



5. **Terms.** All other terms of the original Contract, attached as **Exhibit A – Original Contract**, remain in effect as written and fully executed on August 2, 2023.
6. **Signatures.** By signing this Amendment, the undersigned certify that they have read and understood it, that they have the authority to sign it, and that their respective Party agrees to be bound by the terms of the Amendment and by the terms of the original Contract.

NEBRASKA COMMUNITY FOUNDATION:

Jason D. Kennedy
Chief Financial and Administrative Officer

Date

CONSULTANT:

Alan Kasprak
North Rim Research, LLC

Date

PLATTE RIVER RECOVERY IMPLEMENTATION PROGRAM ACKNOWLEDGEMENT

I hereby certify that the Governance Committee of the Platte River Recovery Implementation Program (Program) has authorized the Nebraska Community Foundation, acting as contracting agent for the Governance Committee of the Program, to enter into this Amendment.

Jason M. Farnsworth
Executive Director

Date



PLATTE RIVER RECOVERY IMPLEMENTATION PROGRAM
Professional Services Contract Amendment
Exhibit A – Original Contract



PRRIP – EDO Final

08/02/2023

Dr. Alan Kasprak
195 Red Canyon Trail, Unit I
Durango, CO 81301

Nebraska Community Foundation
PO Box 83107
Lincoln, NE 68501-3107
FEIN# 47-0769903

PLATTE RIVER RECOVERY IMPLEMENTATION PROGRAM

Agreement between the Nebraska Community Foundation, Platte River Recovery Implementation Program, and Alan Kasprak

Independent Scientific Advisory Committee

1. Parties. This Agreement is made and entered into by and between the Nebraska Community Foundation (“Foundation”) of Lincoln, Nebraska, representing all signatories to the Platte River Recovery Implementation Program (“Program”), and Alan Kasprak (“Consultant”), a private consultant. The following persons are authorized to represent the parties through execution of this Agreement: Jason Kennedy of the Foundation, Jason Farnsworth of the Program, and Dr. Alan Kasprak.

2. Purpose of Agreement and Authority. The purpose of this Agreement is to allow the Foundation, acting as the fiscal agent for the Governance Committee (GC) of the Program, to retain the services of the Consultant as member of the Program’s Independent Scientific Advisory Committee (ISAC). This Agreement describes a **three-year commitment of service (August 2023 through June 2026)** on the part of the Consultant. The three-year term of service is at the discretion of the GC and the amount of the annual payment to the Consultant under this Agreement will be developed through the Program’s budget process and approved annually by the GC. This Agreement supersedes all previous and current related Agreements and Amendments.

TERMS AND CONDITIONS.

3. Term of Agreement. This Agreement is effective when all parties execute it. The term of this Agreement is from the date of signing through the later of June 30, 2026 or any extension approved in writing. The services to be performed under this Agreement will commence upon signing.

4. Payment. The Program agrees to pay the Consultant a flat-rate stipend for each year of ISAC service and reimbursement for all travel-related expenses for in-person ISAC meetings. The annual stipend amount and travel expense reimbursement authorization for Year 1 are specified in this Agreement. The annual stipend amount and travel expense reimbursement authorization for Year 2 and Year 3 under this Agreement are at the discretion of the GC and will be specified in annual Contract Amendments developed through the Program’s budget process and approved annually by the Governance Committee and Finance Committee.

A. Stipend. The Program agrees to pay the Consultant a flat-rate stipend of **\$32,400** for the following services to be performed in during Year 1 (2023-2024) of this Agreement:

- *Participation in the 2023 Fall ISAC Meeting, October 10-12, 2023 – in-person meeting* in Kearney, NE to discuss the status of PRRIP Extension Science Plan implementation and to support ISAC member field trips to PRRIP management and science activities on the ground.



- *Participation in the 2024 PRRIP Science Plan Reporting Session, February 20-22, 2024 – in-person meeting* in Omaha, NE to discuss the status of PRRIP Extension Science Plan implementation the latest PRRIP State of the Platte Report.
- *Participation in the March 2024 Governance Committee (GC) Quarterly Meeting (dates TBD) – virtual meeting* to discuss ISAC recommendations and guidance from the 2024 PRRIP Science Plan Reporting Session.
- *Additional Document Review, Specific ISAC Member Input, and Additional ISAC Member Discussions – self-directed remote review* of Program documents/products to provide specific guidance as requested by the GC and the EDO; **virtual meetings and self-directed remote work** to develop ISAC responses to Program questions, prepare presentations, and generally work collaboratively with other ISAC members under the guidance of the ISAC Chair and/or Co-Chairs.

The total flat-rate stipend is not to be exceeded unless authorized in writing by the Program. The Agreement total amount is controlling and is a ceiling price that the Consultant exceeds at her/his own risk. Payment shall be made directly to the Consultant.

- B. Expenses.** The Program agrees to pay the Consultant actual, documented, out-of-pocket expenses associated with travel for two (2) in-person ISAC meetings during Year 1 (2023-2024) of this Agreement. Such expenses incurred by the Consultant in performing the services described in 4(A) will be reimbursed unless the Consultant is reimbursed by his/her respective agency or institution. Reimbursement is conditioned on the Consultant providing original receipts. Reimbursements will be paid according to the following guidelines:
- **Mileage** – Paid according to the prevailing Federal rate.
 - **Airfare and Baggage Fees** – Actual expenses at a reasonable and prudent rate verified by receipts.
 - **Lodging** – Actual expenses at a reasonable and prudent rate verified by receipts.
 - **Rental Car** – Actual expenses at a reasonable and prudent rate verified by receipts.
 - **Meals, Taxis, Parking, and Other Associated Travel Expenses** – Actual expenses at a reasonable and prudent rate verified by receipts.

Total estimated reimbursable expenses for Year 1 of this Agreement are **\$4,000.00**.

- C. Invoices.** The Consultant shall submit four (4) quarterly invoices during each year of membership on the ISAC for the services and expenses described in 4(A) and 4(B). Invoices for Year 1:
- **Invoice #1** – Submit on September 30, 2023; \$8,100 (25% of the flat-rate stipend) + actual expenses verified by receipts.
 - **Invoice #2** – Submit on December 31, 2023; \$8,100 (25% of the flat-rate stipend) + actual expenses verified by receipts.
 - **Invoice #3** – Submit on March 31, 2024; \$8,100 (25% of the flat-rate stipend) + actual expenses verified by receipts.
 - **Invoice #4** – Submit on June 30, 2024; \$8,100 (25% of the flat-rate stipend) + actual expenses verified by receipts.
- D. Billing Procedures.** Consultant shall submit invoices as described in 4(C) to the Program's Executive Director (ED). Upon receiving an invoice, the ED will review and approve the invoice and advise the Foundation of approval. The Foundation will make payment of these funds directly to Consultant within 30 days of receiving notice of approval. Payments are due within 60 days after the billing date.

**Billing Point of Contact (Program):**

Mr. Jason Farnsworth, Executive Director
Platte River Recovery Implementation Program
Headwaters Corporation
4111 4th Avenue, Suite 6
Kearney, Nebraska 68845
Phone: (308) 237-5728
Email: farnsworthj@headwaterscorp.com

E. Withholding of Payment. If a work element has not been received by the Program by the dates established in this Agreement, the Program may withhold all payments beginning with the month following that date until such deficiency has been corrected.

F. Final Completion and Payment. Final payment shall be made upon receipt of the final invoice and, if applicable, execution of the final amendment to the Agreement documenting the final contract amount.

5. Responsibilities of Consultant.

A. Scope of Services. The Consultant shall perform the specific services required under this Agreement in a satisfactory and proper manner.

B. Personnel. All services required hereunder will be performed by Consultant and Consultant shall be fully qualified and authorized, licensed, or permitted under state law to perform such services, if state law requires such authorization, license, or permit.

C. Subcontracts. Consultant may not engage any subcontractors, outside associates, or consultants for any part of the work to be performed pursuant to this Agreement.

D. Requests from the Program. The Consultant shall be responsible for and responsive to the Program and the ED Office in their requests and requirements.

E. Presentation of Information. The Consultant shall compile and present all information clearly and concisely in a professional manner.

F. Inspection and Acceptance. All deliverables furnished by the Consultant shall be subject to rigorous review by the Program and the ED Office prior to acceptance.

6. Responsibilities of the Program.

A. Designated Representative. The Executive Director of the Program shall act as the Program's administrative representative with respect to the Consultant's service to be performed under this Agreement and shall have complete authority to transmit instructions, receive information, and interpret and define the Program's policies and decisions with respect to services covered by this Agreement.



- B. Information to be furnished to the Consultant.** All information available to the Program and necessary for the carrying out work under this Agreement shall be furnished to the Consultant without charge and the ED Office shall cooperate with the Consultant in the carrying out of the project.
- C. Review of Information.** The ED Office shall examine all information presented by the Consultant and shall promptly render in writing the Program's decisions pertaining thereto within specified time periods.
- D. Provide Criteria.** The ED Office shall provide all criteria and full information regarding its requirements for the services.
- 7. Special Provisions.**
- A. No Finder's Fees.** No finder's fee, employment agency fee, or other such fee related to the procurement of this Contract shall be paid by either party.
- B. Publication.** It is understood that the results of this work may be available to the Consultant for publication and use in connection with related work. Use of this work for publication and related work by the Consultant must be conducted with prior authorization from the Program's Technical Point of Contact.
- C. Publicity.** Any publicity or media contact associated with the Consultant's services and the result of those services provided under this Agreement shall be the sole responsibility of the Program. Media requests of the Consultant should be directed to the Director of Operations, Administration, and Human Dimensions in the EDO.
- D. Kickbacks.** The Consultant certifies and warrants that no gratuities, kickbacks or contingency fees were paid in connection with this Contract, nor were any fees, commissions, gifts, or other considerations made contingent upon the award of this Contract. If the Consultant breaches or violates this warranty, the Program may, at its discretion, terminate this Contract without liability to the Program, or deduct from the Contract price or consideration, or otherwise recover, the full amount of any commission, percentage, brokerage, or contingency fee.
- E. Debarment and Suspension.** Consultant certifies by signing this Contract that neither Consultant nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency from participation in the transaction covered by this Contract.
- F. Anti-Lobbying.** Consultant makes the representations set forth on the Certification Regarding Lobbying, which is attached as **Exhibit A** and incorporated by reference as part of this Contract. Consultant shall execute such Certification at the time of executing this Agreement.
- G. Office Space, Equipment, and Supplies.** The Consultant will supply its own office space, equipment, and supplies.



8. General Provisions.

A. Amendments. Any changes, modifications, revisions, or amendments to this Agreement which are mutually agreed upon by the parties to this Agreement shall be incorporated by written instrument, executed and signed by all Parties to this Agreement.

B. Applicable Law/Venue. The construction, interpretation and enforcement of this Agreement shall be governed by the laws of the State of Nebraska. The Courts of the State of Nebraska shall have jurisdiction over this Agreement and the parties.

C. Assignment/Agreement Not Used as Collateral. Neither party shall assign or otherwise transfer any of the rights or delegate any of the duties set forth in this Agreement without the prior written consent of the other party. The Consultant shall not use this Agreement, or any portion thereof, for collateral for any financial obligation, without the prior written permission of the Program.

D. Audit/Access to Records. The Program, the Foundation, and any of their representatives shall have access to any books, documents, papers, and records of the Consultant which are pertinent to this Agreement. The Consultant shall, immediately upon receiving written instruction from the Program or Foundation, provide to the Foundation or any governmental entity, independent auditor, accountant, or accounting firm, all books, documents, papers and records of the Consultant which are pertinent to this Agreement. The Consultant shall cooperate fully with the Foundation or any such governmental entity, independent auditor, accountant, or accounting firm, during the entire course of any audit authorized by or required of the Program.

E. Availability of Funds. Each payment obligation of the Program is conditioned upon the availability of funds and continuation of the Platte River Recovery Implementation Program. If funds are not allocated and available for the continuance of the services performed by the Consultant, the Agreement and/or applicable task order may be terminated by the Program at the end of the period for which the funds are available. The Program shall notify the Consultant at the earliest possible time of the services which will or may be affected by a shortage of funds. No penalty shall accrue to the Program in the event this provision is exercised, and the Program shall not be obligated or liable for any future payments due or for any damages as a result of termination under this section. This provision shall not be construed to permit the Program to terminate this Agreement to acquire similar services from another party.

F. Award of Related Contracts. The Program may undertake or award supplemental or successor contracts for work related to this Contract. The Consultant shall cooperate fully with other contractors and the Program in all such cases.

G. Compliance with Law. The Consultant shall keep informed of and comply with all applicable federal, state and local laws and regulations in the performance of this Contract.

H. Confidentiality of Information. All documents, data compilations, reports, computer programs, photographs, and any other work provided to or produced by the Consultant in the performance of this Agreement shall be kept confidential by the Consultant unless written permission is granted by the Program for its release.



I. Conflicts of Interest. The Consultant shall generally abide by the Program's Conflict of Interest Form for ISAC Members, attached as **Exhibit B**. Additional conflict of interest stipulations for this Agreement:

(i) Consultant shall not engage in providing consultation to or representation of clients, agencies or firms which may constitute a conflict of interest giving rise to a disadvantage to the Program or a disclosure which would adversely affect the interests of the Program. Consultant shall notify the Program of any potential or actual conflicts of interest arising during the course of the Consultant's performance under this Agreement. This Agreement may be terminated in the event a conflict of interest arises. Termination of the Agreement will be subject to a mutual settlement of accounts. In the event the Agreement is terminated under this provision, the Consultant shall take steps to ensure that the file, evidence, evaluation and data are provided to the Program or its designee. This does not prohibit or affect the Consultant's ability to engage in consultations, evaluations or representation under agreement with other agencies, firms, facilities, or attorneys so long as no conflict exists.

(ii) A conflict of interest warranting termination of the Agreement includes, but is not necessarily limited to, representing a client in an adversarial proceeding against the Platte River Recovery Implementation Program, its signatories, boards, commissions, or the Foundation, or initiating suits in equity including injunctions, declaratory judgments, writs of prohibition or *quo warranto*.

J. Entirety of Agreement. This Agreement, consisting of eleven (11) total pages including **Exhibit A** (1 page) and **Exhibit B** (1 page), represents the entire and integrated Agreement between the Parties and supersedes all prior negotiations, representations, and agreements whether written or oral.

K. Force Majeure. Neither party shall be liable for failure to perform under this Agreement if such failure to perform arises out of causes beyond the control and without the fault or negligence of the nonperforming party. Such causes may include, but are not limited to, acts of God or the public enemy, fires, floods, epidemics, quarantine restrictions, freight embargoes, and unusually severe weather. This provision shall become effective only if the party failing to perform immediately notifies the other party of the extent and nature of the problem, limits delay in performance to that required by the event and takes all reasonable steps to minimize delays. This provision shall not be effective unless the failure to perform is beyond the control and without the fault or negligence of the nonperforming party.

L. Indemnification. The Consultant shall indemnify and hold harmless the Foundation, the Program, the ED Office, and their officers, agents, employees, successors and assignees from any and all claims, lawsuits, losses and liability arising out of Consultant's failure to perform any of Consultant's duties and obligations hereunder or in connection with the negligent performance of Consultant's duties or obligations, including but not limited to any claims, lawsuits, losses or liability arising out of Consultant's malpractice. The obligations of this paragraph shall survive termination of this Contract.

M. Independent Contractor. The Consultant shall function as an independent contractor for the purposes of this Contract and shall not be considered an employee of the Program, Foundation, or ED Office for any purpose. The Consultant shall assume sole responsibility for any debts or liabilities that may



be incurred by the Consultant in fulfilling the terms of this Contract and shall be solely responsible for the payment of all federal, state and local taxes which may accrue because of this Contract. Nothing in this Contract shall be interpreted as authorizing the Consultant or its agents and/or employees to act as an agent or representative for or on behalf of the Foundation or the Program, or to incur any obligation of any kind on the behalf of the Foundation or the Program. The Consultant agrees that no health/hospitalization benefits, workers' compensation and/or similar benefits available to Foundation, Program, or ED Office employees will inure to the benefit of the Consultant or the Consultant's agents and/or employees as a result of this Contract.

N. Notices. All notices arising out of, or from, the provisions of this Agreement shall be in writing and given to the parties at the address provided under this Agreement, either by regular mail, e-mail, or delivery in person. Notice is effective upon delivery.

O. Notice of Proposed Sale or Transfer of the Consultant. The Consultant shall provide the Program with the earliest possible advance notice of any proposed sale or transfer or any proposed merger or consolidation of the assets of the Consultant. Such notice shall be provided in accordance with the notice provision of this Agreement.

P. Ownership of Documents/Work Product/Materials. All documents, reports, records, field notes, data, samples, specimens, and materials of any kind resulting from performance of this Agreement are at all times the property of the Program.

Q. Patent or Copyright Protection. The Consultant recognizes that certain proprietary matters or techniques may be subject to patent, trademark, copyright, license or other similar restrictions, and pledges that no work performed by the Consultant or its contractors will violate any such restriction.

R. Taxes. The Consultant shall pay all taxes and other such amounts required by federal, state and local law, including but not limited to federal and state income taxes, social security taxes, workers' compensation, unemployment insurance, and sales taxes.

S. Termination of Agreement. This Agreement may be terminated without cause by the Program upon fifteen (15) days written notice. This Agreement may be terminated immediately with cause by the Program if the Consultant fails to perform in accordance with the terms of this Agreement. This Agreement may be terminated without cause by the Consultant upon sixty (60) days written notice. This Agreement may be terminated immediately with cause by the Consultant. In the event of termination, the Program shall pay the Consultant for all reasonable work performed up to the effective date of the termination.

T. Third Party Beneficiary Rights. The parties do not intend to create in any other individual or entity the status of third party beneficiary, and this Agreement shall not be construed so as to create such status. The rights, duties and obligations contained in this Agreement shall operate only between the parties to this Agreement and shall inure solely to the benefit of the parties to this Agreement. The provisions of this Agreement are intended only to assist the parties in determining and performing their obligations under this Agreement.

U. Time is of the Essence. Time is of the essence in all provisions of the Contract.



V. Titles Not Controlling. Titles of paragraphs are for reference only and shall not be used to construe the language in this Contract.

W. Waiver. The waiver of any breach of any term or condition in this Contract shall not be deemed a waiver of any prior or subsequent breach.

9. Contacts.

Administrative Point of Contact (Foundation):

Mr. Jason Kennedy
Chief Financial & Administrative Officer
Nebraska Community Foundation
PO Box 83107
Lincoln, Nebraska 68501-3107
Phone: (402) 323-7330
Email: jkennedy@nebcommfound.org

Administrative Point of Contact (Program):

Mr. Jason Farnsworth, Executive Director
Platte River Recovery Implementation Program
Headwaters Corporation
4111 4th Avenue, Suite 6
Kearney, Nebraska 68845
Phone: (308) 237-5728
Email: farnsworthj@headwaterscorp.com

Technical Point of Contact (Program):

Dr. Chadwin Smith
Platte River Recovery Implementation Program
Headwaters Corporation
4111 4th Avenue, Suite 6
Kearney, Nebraska 68845
Phone: (308) 237-5728
Email: smithc@headwaterscorp.com

Administrative and Technical Point of Contact (Consultant):

Dr. Alan Kasprak
195 Red Canyon Trail, Unit I
Durango, CO 81301
Phone: (508) 320-1186
Email: akasprak@fortlewis.edu

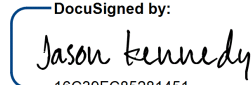


PRRIP – EDO Final

08/02/2023

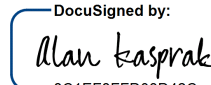
10. Signatures. By signing this Agreement, the undersigned certify that they have read and understood it, that they agree to be bound by the terms of this Agreement, that they have the authority to sign it, and that their respective Party agrees to be bound by the terms of the Agreement.

FOR THE NEBRASKA COMMUNITY FOUNDATION:

DocuSigned by:

16C39EC85281451
Jason D. Kennedy
Chief Financial & Administrative Officer

8/2/2023
Date


FOR THE CONSULTANT:

DocuSigned by:

8C1EF8FFD08D42C...
Alan Kasprak

8/2/2023
Date

PLATTE RIVER RECOVERY IMPLEMENTATION PROGRAM ACKNOWLEDGEMENT

I hereby certify that the Governance Committee of the Platte River Recovery Implementation Program (Program) has authorized the Nebraska Community Foundation, acting as contracting agent of the Governance Committee of the Program, to enter into this Agreement.

DocuSigned by:

7E04E31B519A409...
Jason M. Farnsworth
Executive Director

8/2/2023
Date

**EXHIBIT A****PLATTE RIVER RECOVERY IMPLEMENTATION PROGRAM (PRRIP -or- Program)
Certification Regarding Lobbying**

The undersigned certifies, on behalf of the Consultant, that to the best of his or her knowledge and belief:

1. No federal appropriated funds have been paid or will be paid, by or on behalf of the Consultant, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, or the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
2. No registrant under the Lobbying Disclosure Act of 1995 has made any lobbying contacts on behalf of the Consultant with respect to the federal grant or cooperative agreement under which the Consultant is receiving monies.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who makes an expenditure prohibited by Section 1 above or who fails to file or amend the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

FOR THE CONSULTANT:

DocuSigned by:

A handwritten signature in black ink that reads 'Alan Kasprak'.

8C1EF8FFD08D42C...

Alan Kasprak

8/2/2023

Date



PRRIP – EDO Final

08/02/2023

EXHIBIT B**PLATTE RIVER RECOVERY IMPLEMENTATION PROGRAM (PRRIP -or- Program)
PRRIP Conflict of Interest Form – ISAC Members**

The PRRIP developed guidance regarding the avoidance of conflicts of interest in accordance with the ISAC Charter (Attachment 6, Appendix I) and the Peer Review Guidelines (Adaptive Management Plan, Appendix A) contained in the PRRIP Final Program Document. As stated in the ISAC Charter: “The ISAC must retain as much independence from the adaptive management program as possible. This independence requires that their role focus on reviewing products produced by the Program.”

Potential conflicts of interest include but are not limited to:

- Financial interest in the restoration and management activities associated with the PRRIP.
- Familial relationship with any of the scientists conducting research and/or monitoring associated with the PRRIP.
- Bias, for personal reason for or against the scientists mentioned above and/or the entities involved in the implementation of the PRRIP.
- Professional connection with any entities involved with PRRIP implementation.
- Impacts of lobbying or political pressure exerted by person(s) looking for a particular result or more work with the PRRIP.
- Has conducted, is conducting, or intends to conduct work for or on behalf of the Program, or work that directly overlaps with Program scientific and technical priorities, which could result in an ISAC member reviewing and commenting on her/his own work product(s).

As a candidate proposed for participation on the ISAC, I hereby state that I do not have any conflicts of interest with the Platte River Recovery Implementation Program as outlined above and (if necessary) explained on the following page. I can serve effectively on the ISAC without any financial, familial, personal, or professional bias in order to further the goals and objectives of the PRRIP and the implementation and evaluation of the Extension Science Plan and associated scientific and technical activities, analyses, and syntheses.

FOR THE CONSULTANT:

DocuSigned by:

A handwritten signature in black ink that reads 'Alan Kasprak'.

8C1EF8FFD08D42C...

Alan Kasprak

8/2/2023

Date



PLATTE RIVER RECOVERY IMPLEMENTATION PROGRAM

Professional Services Contract Amendment

1. **Amendment.** This is the Second Amendment to the Contract, dated June 23, 2022, between the Nebraska Community Foundation (“Foundation”), representing all Signatories to the Platte River Recovery Implementation Program (“Program”), and ESSA Technologies, Ltd. (“Consultant”) for David Marmorek’s service as a Member of the Program’s Independent Scientific Advisory Committee (“ISAC”). The following persons are authorized to represent the parties through this Amendment: Jason Kennedy of the Foundation; Jason Farnsworth of the Program; and David Marmorek of the Consultant.

2. **Purpose.** This Contract Amendment is being made:
 - A) To extend the term of the Contract between the Foundation, the Program, and the Consultant for David Marmorek’s ISAC Member service from *July 1, 2024 through December 31, 2024*. Additional ISAC Member service on the part of the David Marmorek will be addressed through a new annual Contract or Contract Amendment to be fully executed by December 31, 2024.

 - B) To provide the Consultant with a stipend of **\$19,800** for David Marmorek’s ISAC Member service during this term including:
 - **July through September** – participation in the 2024 Summer ISAC Meeting in Kearney, NE (July 16-18, 2024); document review, comment development, ISAC coordination, virtual meetings, additional ISAC Member expert advice as requested, and service as 2024 ISAC Co-Chair = **\$9,900.00**
 - **October through December** – document review, comment development, ISAC coordination, virtual meetings, additional ISAC Member expert advice as requested, and service as 2024 ISAC Co-Chair = **\$9,900.00**

 - C) To authorize the Consultant to be reimbursed for travel expenses (airfare, hotel, meals, airport expenses, rental vehicle, and other associated travel costs) associated with David Marmorek’s participation in the 2024 Summer ISAC Meeting in Kearney, NE. Travel expenses will be reimbursed at actual cost based on submitted receipts.

3. **Payment.** Under this Contract Amendment the Consultant shall send three (3) invoices to the Program:
 - **Invoice #1** – reimbursable travel expenses for the 2024 Summer ISAC Meeting; include all receipts; *submit to the Program by July 31, 2024*.
 - **Invoice #2** – first quarterly stipend invoice; \$9,900.00; *submit to the Program by September 30, 2024*.
 - **Invoice #3** – second quarterly stipend invoice; \$9,900.00; *submit to the Program by December 15, 2024*.

4. **Terms.** All other terms of the original Contract, attached as **Exhibit A – Original Contract**, remain in effect as written and fully executed on June 23, 2022.



5. **Signatures.** By signing this Amendment, the undersigned certify that they have read and understood it, that they have the authority to sign it, and that their respective Party agrees to be bound by the terms of the Amendment and by the terms of the original Contract.

NEBRASKA COMMUNITY FOUNDATION:

Jason D. Kennedy
Chief Financial and Administrative Officer

Date

CONSULTANT:

David R. Marmorek
Lead Scientist and Director

Date

PLATTE RIVER RECOVERY IMPLEMENTATION PROGRAM ACKNOWLEDGEMENT

I hereby certify that the Governance Committee of the Platte River Recovery Implementation Program (Program) has authorized the Nebraska Community Foundation, acting as contracting agent for the Governance Committee of the Program, to enter into this Amendment.

Jason M. Farnsworth
Executive Director

Date



PLATTE RIVER RECOVERY IMPLEMENTATION PROGRAM
Professional Services Contract Amendment
Exhibit A – Original Contract



PRRIP – EDO Final

05/31/2023

ESSA Technologies Ltd.
#600-2695 Granville St.
Vancouver, BC, Canada V6H 3H4
DUNS# 241645779

Nebraska Community Foundation
PO Box 83107
Lincoln, NE 68501-3107
FEIN 47-0769903

PLATTE RIVER RECOVERY IMPLEMENTATION PROGRAM

FIRST AMENDMENT

To the Agreement between the Nebraska Community Foundation, Inc., Platte River Recovery Implementation Program, and ESSA Technologies, Ltd.

Independent Scientific Advisory Committee

1. Parties.

This is the First Amendment to the Agreement entered into by and between the Nebraska Community Foundation, Inc. ("Foundation") of Lincoln, Nebraska, representing all signatories to the Platte River Recovery Implementation Program ("Program"), and ESSA Technologies, Ltd. ("Consultant"), dated June 23, 2022. This First Amendment is made and entered into effective on the date of signing below and the final date of this Amendment will be June 30, 2024. The following persons are authorized to represent the parties through this Amendment: Jason Kennedy of the Foundation, Jason Farnsworth of the Program, and David Marmorek of the Consultant.

2. Purpose and Authority.

This First Amendment to the Agreement between the Foundation and the Consultant is being made for the following purposes:

- (1) To extend the Agreement between the Foundation and the Consultant for David Marmorek's service on the Program's Independent Scientific Advisory Committee ("ISAC") from the effective date of the Amendment through June 30, 2024.
- (2) Providing the Consultant with a stipend of **\$39,600** in approved and available FY 2023 Program Budget Line Item ISAC-1 funds under this Amendment for David Marmorek to provide the following services as outlined in the approved FY 2023 Program Work Plan:
 - In-person participation in the 2023 Fall ISAC Meeting in October 2023 in Kearney, NE.
 - In-person participation in the 2024 PRRIP Science Plan Reporting Session in February 2024 in Omaha, NE.
 - Virtual participation in the March 2024 Governance Committee ("GC") Quarterly Meeting.
 - Additional document review, specific ISAC Member input, and/or additional virtual meetings.
 - 2023/2024 ISAC Co-Chair – additional time to work with PRRIP EDO between ISAC meetings to coordinate ISAC discussion and prepare presentations/documents for the GC.
 - Total Stipend = \$39,600.00
 - Total Estimated Reimbursable Expenses = \$4,000.00



PRRIP – EDO Final

05/31/2023

The total stipend amount is not to be exceeded unless authorized in writing by the Program. All other terms of the original signed Agreement, dated June 23, 2022 and attached to this First Amendment as **Exhibit A**, remain in effect as originally written.

3. Signatures.

By signing this Contract Amendment, the undersigned certify they read and understood it, they have the authority to sign it, and their respective Party agrees to be bound by the terms of the Contract Amendment and the associated original Agreement.

FOR THE NEBRASKA COMMUNITY FOUNDATION

DocuSigned by:

A handwritten signature in black ink that reads "Jason Kennedy".

16C39EC85281451

Jason D. Kennedy
Chief Financial and Administrative Officer

6/1/2023

Date

FOR THE CONSULTANT

DocuSigned by:

A handwritten signature in black ink that reads "David Marmorek".

74352BEAEC5B42D

David R. Marmorek
Lead Scientist and Director

6/1/2023

Date

PLATTE RIVER RECOVERY IMPLEMENTATION PROGRAM ACKNOWLEDGEMENT

I hereby certify that the Governance Committee of the Platte River Recovery Implementation Program has authorized the Nebraska Community Foundation, acting as contracting agent for the Governance Committee, to enter into this Contract Amendment.

DocuSigned by:

A handwritten signature in black ink that reads "Jason Farnsworth".

7E01F31B519A409

Jason M. Farnsworth
Executive Director

6/1/2023

Date



PRRIP – EDO Final

05/31/2023

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2

EXHIBIT A

2022-2025 PRRIP ISAC Agreement – Marmorek



PRRIP – EDO Final

06/10/2022

David R. Marmorek
ESSA Technologies, Ltd.
#600-2695 Granville St.
Vancouver, BC, Canada V6H 3H4
DUNS# 241645779

Nebraska Community Foundation
PO Box 83107
Lincoln, NE 68501-3107
FEIN 47-0769903

PLATTE RIVER RECOVERY IMPLEMENTATION PROGRAM

Agreement between the Nebraska Community Foundation, Platte River Recovery Implementation Program, and ESSA Technologies, Ltd.

Independent Scientific Advisory Committee

1. Parties. This Agreement is made and entered into by and between the Nebraska Community Foundation ("Foundation") of Lincoln, Nebraska, representing all signatories to the Platte River Recovery Implementation Program ("Program"), and ESSA Technologies, Ltd. ("Consultant"). The following persons are authorized to represent the parties through execution of this Agreement: Diane Wilson of the Foundation, Jason Farnsworth of the Program, and David R. Marmorek of the Consultant.

2. Purpose of Agreement and Authority. The purpose of this Agreement is to allow the Foundation, acting as the fiscal agent for the Governance Committee (GC) of the Program, to retain the services of David R. Marmorek of the Consultant as a member of the Program's Independent Scientific Advisory Committee (ISAC). This Agreement describes a **three-year (July 2022 through June 2025) commitment of service** on the part of the Consultant. The three-year term of service is at the discretion of the GC and the amount of the annual payment to the Consultant under this Agreement will be developed through the course of the Program's annual budget process and approved annually by the GC. This Agreement supersedes all previous and current related Agreements and Amendments.

TERMS AND CONDITIONS.

3. Term of Agreement. This Agreement is effective when all parties execute it. The term of this Agreement is from the date of signing through the later of June 30, 2025 or any extension approved in writing. The services to be performed under this Agreement will commence upon signing of this Agreement.



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06/10/2022

4. Payment.

A. Stipend. The Program agrees to pay the Consultant a flat-rate stipend of **\$39,600** for the following services to be performed in during Year 1 (2022-2023) of this Agreement:

ISAC Cost Item	Estimated FY22 Cost
2022 ISAC Fall Meeting (in-person meeting in September 2022 in conjunction with GC Quarterly Meeting) <ul style="list-style-type: none"> In-person meeting in Kearney, NE to discuss status of Science Plan implementation and to support ISAC member field trips to PRRIP management and science activities on the ground 4-day meeting (1.5 day GC meeting, 1.5 day ISAC meeting, 1 day travel) = \$225/hour x 8-hour day x 4 days = \$7,200 Meeting prep & post-meeting discussion = \$225/hour x 8-hour day x 2 days = \$3,600 	\$10,800
2023 PRRIP Science Plan Reporting Session (in-person meeting in Feb. 2023) <ul style="list-style-type: none"> In-person meeting in Omaha, NE to discuss status of Science Plan implementation and annual State of the Platte Report 4-day meeting (3 days meeting, 1 day travel) = \$225/hour x 8-hour day x 4 days = \$7,200 Meeting prep & post-meeting discussion = \$200/hour x 8-hour day x 2 days = \$3,600 	\$10,800
March 2023 PRRIP GC Quarterly Meeting <ul style="list-style-type: none"> ISAC members virtually attend GC Quarterly Meeting to discuss recommendations and guidance from 2023 Science Plan Reporting Session; Chair and Vice Chair make presentation to GC on behalf of ISAC 1-day meeting = \$225/hour x 8-hour day = \$1,800 	\$1,800
Additional Document Review and/or Specific ISAC Member Input <ul style="list-style-type: none"> Review Program documents/products and provide specific guidance as requested by GC and EDO 5 days review x \$225/hour x 8-hour day = \$9,000 	\$9,000
ISAC Chair and Vice Chair (or Co-Chairs) <ul style="list-style-type: none"> Additional time to work with PRRIP EDO between ISAC meetings to coordinate ISAC discussion and prepare presentations/documents for the GC 4 days of review time x \$225/hour x 8-hour day = \$7,200 	\$7,200
Total	\$39,600

The stipend amounts for each task are not to be exceeded unless authorized in writing by the Program. The Agreement total amount is controlling and is a ceiling price that Consultant exceeds at its own risk. Payment shall be made directly to Consultant.

B. Expenses. The Program agrees to pay the Consultant actual, documented, out-of-pocket expenses associated with travel for two (2) in-person ISAC meetings during Year 1 (2022-2023) of this Agreement. Such expenses incurred by the Consultant in performing the services described in 4(A) will be reimbursed unless the Consultant is reimbursed by his/her respective agency or institution. Reimbursement is conditioned on Consultant providing original receipts. Reimbursements will be paid according to the following guidelines:

- Mileage** – Paid according to the prevailing Federal rate.
- Airfare and Baggage Fees** – Actual expenses at a reasonable and prudent rate verified by receipts.
- Lodging** – Actual expenses at a reasonable and prudent rate verified by receipts.
- Rental Car** – Actual expenses at a reasonable and prudent rate verified by receipts.
- Meals, Taxis, Parking, and Other Associated Travel Expenses** – Actual expenses at a reasonable and prudent rate verified by receipts.



C. Invoices. Consultant shall submit four (4) quarterly invoices during each year of membership on the ISAC for the services and expenses described in 4(A) and 4(B). Invoices for Year 1:

- **Invoice #1** – Submit on September 30, 2022; \$9,900 (25% of the stipend) plus actual expenses verified by receipts.
- **Invoice #2** – Submit on December 31, 2022; \$9,900 (25% of the stipend) plus actual expenses verified by receipts.
- **Invoice #3** – Submit on March 31, 2023; \$9,900 (25% of the stipend) plus actual expenses verified by receipts.
- **Invoice #4** – Submit on June 30, 2023; \$9,900 (25% of the stipend) plus actual expenses verified by receipts.

D. Billing Procedures. Consultant shall submit invoices as described in 4(C) to the Program's Executive Director (ED). Upon receiving an invoice, the ED will review and approve the invoice and advise the Foundation of approval. The Foundation will make payment of these funds directly to Consultant within 30 days of receiving notice of approval. Payments are due within 60 days after the billing date.

Billing Point of Contact (Program):

Mr. Jason Farnsworth, Executive Director
 Platte River Recovery Implementation Program
 Headwaters Corporation
 4111 4th Avenue, Suite 6
 Kearney, Nebraska 68845
 Phone: (308) 237-5728
 Email: farnsworthj@headwaterscorp.com

E. Withholding of Payment. If a work element has not been received by the Program by the dates established in this Agreement, the Program may withhold all payments beginning with the month following that date until such deficiency has been corrected.

F. Final Completion and Payment. Final payment shall be made upon receipt of the final invoice and, if applicable, execution of the final amendment to the Agreement documenting the final contract amount.

5. Responsibilities of Consultant.

A. Scope of Services. The Consultant shall perform the specific services required under this Agreement in a satisfactory and proper manner.

B. Personnel. All services required hereunder will be performed by Consultant and Consultant shall be fully qualified and authorized, licensed, or permitted under state law to perform such services, if state law requires such authorization, license, or permit.

C. Subcontracts. Consultant may not engage any subcontractors, outside associates, or consultants for any part of the work to be performed pursuant to this Agreement.



D. Requests from the Program. The Consultant shall be responsible and responsive to the Program and the ED Office in their requests and requirements.

E. Presentation of Information. The Consultant shall compile and present all information clearly and concisely in a professional manner.

F. Inspection and Acceptance. All deliverables furnished by the Consultant shall be subject to rigorous review by the Program and the ED Office prior to acceptance.

6. Responsibilities of the Program.

A. Designated Representative. The Executive Director of the Program shall act as the Program's administrative representative with respect to the Consultant's service to be performed under this Agreement and shall have complete authority to transmit instructions, receive information, and interpret and define the Program's policies and decisions with respect to services covered by this Agreement.

B. Information to be furnished to the Consultant. All information as is available to the Program and necessary for the carrying out work under this Agreement shall be furnished to the Consultant without charge and the ED Office shall cooperate with the Consultant in the carrying out of the project.

C. Review of Information. The ED Office shall examine all information presented by the Consultant and shall promptly render in writing the Program's decisions pertaining thereto within specified time periods.

D. Provide Criteria. The ED Office shall provide all criteria and full information regarding its requirements for the services.

7. Special Provisions.

A. No Finder's Fees. No finder's fee, employment agency fee, or other such fee related to the procurement of this Contract shall be paid by either party.

B. Publication. It is understood that the results of this work may be available to the Consultant for publication and use in connection with related work. Use of this work for publication and related work by the Consultant must be conducted with prior authorization from the Program's Technical Point of Contact.

C. Publicity. Any publicity or media contact associated with the Consultant's services and the result of those services provided under this Agreement shall be the sole responsibility of the Program. Media requests of the Consultant should be directed to the Director of Operations, Administration, and Human Dimensions in the EDO.

D. Monitor Activities. The Program shall have the right to monitor all Contract-related activities of Consultant. This shall include, but not be limited to, the right to make site inspections at any time, to



bring experts and consultants on site to examine or evaluate completed work or work in progress, and to observe all Consultant personnel in every phase of performance of Contract-related work.

E. Kickbacks. The Consultant certifies and warrants that no gratuities, kickbacks or contingency fees were paid in connection with this Contract, nor were any fees, commissions, gifts, or other considerations made contingent upon the award of this Contract. If the Consultant breaches or violates this warranty, the Program may, at its discretion, terminate this Contract without liability to the Program, or deduct from the Contract price or consideration, or otherwise recover, the full amount of any commission, percentage, brokerage, or contingency fee.

F. Debarment and Suspension. Consultant certifies by signing this Contract that neither Consultant nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency from participation in the transaction covered by this Contract.

G. Anti-Lobbying. Consultant makes the representations set forth on the Certification Regarding Lobbying, which is attached as Exhibit A and incorporated by reference as part of this Contract. Consultant shall execute such Certification at the time of executing this Agreement.

H. Office Space, Equipment, and Supplies. The Consultant will supply its own office space, equipment, and supplies.

8. General Provisions.

A. Amendments. Any changes, modifications, revisions, or amendments to this Agreement which are mutually agreed upon by the parties to this Agreement shall be incorporated by written instrument, executed and signed by all Parties to this Agreement.

B. Applicable Law/Venue. The construction, interpretation and enforcement of this Agreement shall be governed by the laws of the State of Nebraska. The Courts of the State of Nebraska shall have jurisdiction over this Agreement and the parties.

C. Assignment/Agreement Not Used as Collateral. Neither party shall assign or otherwise transfer any of the rights or delegate any of the duties set forth in this Agreement without the prior written consent of the other party. The Consultant shall not use this Agreement, or any portion thereof, for collateral for any financial obligation, without the prior written permission of the Program.

D. Audit/Access to Records. The Program, the Foundation, and any of their representatives shall have access to any books, documents, papers, and records of the Consultant which are pertinent to this Agreement. The Consultant shall, immediately upon receiving written instruction from the Program or Foundation, provide to the Foundation or any governmental entity, independent auditor, accountant, or accounting firm, all books, documents, papers and records of the Consultant which are pertinent to this Agreement. The Consultant shall cooperate fully with the Foundation or any such governmental entity, independent auditor, accountant, or accounting firm, during the entire course of any audit authorized by or required of the Program.



- E. Availability of Funds.** Each payment obligation of the Program is conditioned upon the availability of funds and continuation of the Platte River Recovery Implementation Program. If funds are not allocated and available for the continuance of the services performed by the Consultant, the Agreement and/or applicable task order may be terminated by the Program at the end of the period for which the funds are available. The Program shall notify the Consultant at the earliest possible time of the services which will or may be affected by a shortage of funds. No penalty shall accrue to the Program in the event this provision is exercised, and the Program shall not be obligated or liable for any future payments due or for any damages as a result of termination under this section. This provision shall not be construed to permit the Program to terminate this Agreement to acquire similar services from another party.
- F. Award of Related Contracts.** The Program may undertake or award supplemental or successor contracts for work related to this Contract. The Consultant shall cooperate fully with other contractors and the Program in all such cases.
- G. Compliance with Law.** The Consultant shall keep informed of and comply with all applicable federal, state and local laws and regulations in the performance of this Contract.
- H. Confidentiality of Information.** All documents, data compilations, reports, computer programs, photographs, and any other work provided to or produced by the Consultant in the performance of this Agreement shall be kept confidential by the Consultant unless written permission is granted by the Program for its release.
- I. Conflicts of Interest**
- (i) Consultant shall not engage in providing consultation to or representation of clients, agencies or firms which may constitute a conflict of interest giving rise to a disadvantage to the Program or a disclosure which would adversely affect the interests of the Program. Consultant shall notify the Program of any potential or actual conflicts of interest arising during the course of the Consultant's performance under this Agreement. This Agreement may be terminated in the event a conflict of interest arises. Termination of the Agreement will be subject to a mutual settlement of accounts. In the event the Agreement is terminated under this provision, the Consultant shall take steps to ensure that the file, evidence, evaluation and data are provided to the Program or its designee. This does not prohibit or affect the Consultant's ability to engage in consultations, evaluations or representation under agreement with other agencies, firms, facilities, or attorneys so long as no conflict exists.
- (ii) A conflict of interest warranting termination of the Agreement includes, but is not necessarily limited to, representing a client in an adversarial proceeding against the Platte River Recovery Implementation Program, its signatories, boards, commissions, or the Foundation, or initiating suits in equity including injunctions, declaratory judgments, writs of prohibition or *quo warranto*.
- J. Entirety of Agreement.** This Agreement, consisting of eleven (11) pages, represents the entire and integrated Agreement between the Parties and supersedes all prior negotiations, representations, and agreements, whether written or oral.



- K. Force Majeure.** Neither party shall be liable for failure to perform under this Agreement if such failure to perform arises out of causes beyond the control and without the fault or negligence of the nonperforming party. Such causes may include, but are not limited to, acts of God or the public enemy, fires, floods, epidemics, quarantine restrictions, freight embargoes, and unusually severe weather. This provision shall become effective only if the party failing to perform immediately notifies the other party of the extent and nature of the problem, limits delay in performance to that required by the event and takes all reasonable steps to minimize delays. This provision shall not be effective unless the failure to perform is beyond the control and without the fault or negligence of the nonperforming party.
- L. Indemnification.** The Consultant shall indemnify and hold harmless the Foundation, the Program, the ED Office, and their officers, agents, employees, successors and assignees from any and all claims, lawsuits, losses and liability arising out of Consultant's failure to perform any of Consultant's duties and obligations hereunder or in connection with the negligent performance of Consultant's duties or obligations, including but not limited to any claims, lawsuits, losses or liability arising out of Consultant's malpractice. The obligations of this paragraph shall survive termination of this Contract.
- M. Independent Contractor.** The Consultant shall function as an independent contractor for the purposes of this Contract and shall not be considered an employee of the Program, Foundation, or ED Office for any purpose. The Consultant shall assume sole responsibility for any debts or liabilities that may be incurred by the Consultant in fulfilling the terms of this Contract and shall be solely responsible for the payment of all federal, state and local taxes which may accrue because of this Contract. Nothing in this Contract shall be interpreted as authorizing the Consultant or its agents and/or employees to act as an agent or representative for or on behalf of the Foundation or the Program, or to incur any obligation of any kind on the behalf of the Foundation or the Program. The Consultant agrees that no health/hospitalization benefits, workers' compensation and/or similar benefits available to Foundation, Program, or ED Office employees will inure to the benefit of the Consultant or the Consultant's agents and/or employees as a result of this Contract.
- N. Notices.** All notices arising out of, or from, the provisions of this Agreement shall be in writing and given to the parties at the address provided under this Agreement, either by regular mail, e-mail, or delivery in person. Notice is effective upon delivery.
- O. Notice of Proposed Sale or Transfer of the Consultant.** The Consultant shall provide the Program with the earliest possible advance notice of any proposed sale or transfer or any proposed merger or consolidation of the assets of the Consultant. Such notice shall be provided in accordance with the notice provision of this Agreement.
- P. Ownership of Documents/Work Product/Materials.** All documents, reports, records, field notes, data, samples, specimens, and materials of any kind resulting from performance of this Agreement are at all times the property of the Program.
- Q. Patent or Copyright Protection.** The Consultant recognizes that certain proprietary matters or techniques may be subject to patent, trademark, copyright, license or other similar restrictions, and pledges that no work performed by the Consultant or its contractors will violate any such restriction.



- 279 **R. Taxes.** The Consultant shall pay all taxes and other such amounts required by federal, state and local
280 law, including but not limited to federal and state income taxes, social security taxes, workers'
281 compensation, unemployment insurance, and sales taxes.
282
- 283 **S. Termination of Agreement.** This Agreement may be terminated, without cause by Program upon
284 fifteen (15) days written notice. This Agreement may be terminated immediately for cause if
285 Consultant fails to perform in accordance with the terms of this Agreement. Consultant shall likewise
286 have the right to unilaterally terminate the agreement for cause. In the event of termination, Program
287 shall pay Consultant for all reasonable work performed up to the effective date of the termination.
288
- 289 **T. Third Party Beneficiary Rights.** The parties do not intend to create in any other individual or entity
290 the status of third party beneficiary, and this Agreement shall not be construed so as to create such
291 status. The rights, duties and obligations contained in this Agreement shall operate only between the
292 parties to this Agreement and shall inure solely to the benefit of the parties to this Agreement. The
293 provisions of this Agreement are intended only to assist the parties in determining and performing
294 their obligations under this Agreement.
295
- 296 **U. Time is of the Essence.** Time is of the essence in all provisions of the Contract.
297
- 298 **V. Titles Not Controlling.** Titles of paragraphs are for reference only and shall not be used to construe
299 the language in this Contract.
300
- 301 **W. Waiver.** The waiver of any breach of any term or condition in this Contract shall not be deemed a
302 waiver of any prior or subsequent breach.

**9. Contacts.****Administrative Point of Contact (Foundation):**

Diane M. Wilson
Manager of Public/Private Partnerships
Nebraska Community Foundation
PO Box 83107
Lincoln, Nebraska 68501-3107
Phone: (402) 323-7330
Email: dwilson@nebcommfound.org

Administrative Point of Contact (Program):

Mr. Jason Farnsworth, Executive Director
Platte River Recovery Implementation Program
Headwaters Corporation
4111 4th Avenue, Suite 6
Kearney, Nebraska 68845
Phone: (308) 237-5728
Email: farnsworthj@headwaterscorp.com

Technical Point of Contact (Program):

Dr. Chadwin Smith
Platte River Recovery Implementation Program
Headwaters Corporation
4111 4th Avenue, Suite 6
Kearney, Nebraska 68845
Phone: (402) 432-7950
Email: smithc@headwaterscorp.com

Administrative and Technical Point of Contact (Consultant):

David R. Marmorek
Lead Scientist and Director
ESSA Technologies, Ltd.
#600-2695 Granville Street
Vancouver, BC V6H 3H4
PH: (604) 454-7767
Email: dmarmorek@essa.com



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06/10/2022

10. **Signatures.** By signing this Agreement, the undersigned certify that they have read and understood it, that they agree to be bound by the terms of this Agreement, that they have the authority to sign it, and that their respective Party agrees to be bound by the terms of the Agreement.

FOR THE NEBRASKA COMMUNITY FOUNDATION:6/23/2022

Diane M. Wilson
Manager of Public/Private Partnerships
FEIN 47-0769903

Date

FOR THE CONSULTANT:June 13, 2022

David R. Marmorek
DUNS# 241645779

Date

PLATTE RIVER RECOVERY IMPLEMENTATION PROGRAM ACKNOWLEDGEMENT

I hereby certify that the Governance Committee of the Platte River Recovery Implementation Program (Program) has authorized the Nebraska Community Foundation, acting as contracting agent of the Governance Committee of the Program, to enter into this Agreement.

6/10/22

Jason Farnsworth
Executive Director

Date



PRIP – EDO Final

06/10/2022

EXHIBIT A
Certification Regarding Lobbying

The undersigned certifies, on behalf of Consultant, that to the best of his or her knowledge and belief:

1. No federal appropriated funds have been paid or will be paid, by or on behalf of Consultant, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, or the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
2. No registrant under the Lobbying Disclosure Act of 1995 has made any lobbying contacts on behalf of the Consultant with respect to the federal grant or cooperative agreement under which the Consultant is receiving monies.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who makes an expenditure prohibited by Section 1 above or who fails to file or amend the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

FOR THE CONSULTANT:

A handwritten signature in black ink that reads 'David Marmorek'.

David R. Marmorek

June 13, 2022.

Date



PLATTE RIVER RECOVERY IMPLEMENTATION PROGRAM

Professional Services Contract Amendment

1. **Amendment.** This is the Second Amendment to the Contract, dated August 11, 2022, between the Nebraska Community Foundation (“Foundation”), representing all Signatories to the Platte River Recovery Implementation Program (“Program”), and U.S. Geological Survey (“USGS”) for Aaron Pearse’s service as a Member of the Program’s Independent Scientific Advisory Committee (“ISAC”). The following persons are authorized to represent the parties through this Amendment: Jason Kennedy of the Foundation; Jason Farnsworth of the Program; and Robert Gleason of the Consultant.
2. **Purpose.** This Contract Amendment is being made:
 - A) To extend the term of the Contract between the Foundation, the Program, and the USGS for Aaron Pearse’s ISAC Member service from *July 1, 2024 through December 31, 2024*. Additional ISAC Member service on the part of Aaron Pearse will be addressed through a new annual Contract or Contract Amendment to be fully executed by December 31, 2024.
 - B) To pay the USGS an advance amount of **\$18,200** (stipend + estimated reimbursable travel expenses) in approved and available FY 2024 Program Budget Line Item ISAC-1 funds for Aaron Pearse to provide the following ISAC Member services:
 - **July through September** – participation in the 2024 Summer ISAC Meeting in Kearney, NE (July 16-18, 2024); document review, comment development, ISAC coordination, virtual meetings, and additional ISAC Member expert advice as requested = \$8,100.00
 - **October through December** – document review, comment development, ISAC coordination, virtual meetings, and additional ISAC Member expert advice as requested = \$8,100.00
 - **Total Stipend for Contract Amendment Term** = \$16,200.00
 - **Total Estimated Reimbursable Travel Expenses** = \$2,000.00
3. **Payment.** Upon full execution of this Contract Amendment the USGS will invoice the Program for **\$18,200** (the total of the \$16,200 stipend and the \$2,000 in estimated reimbursable travel expenses) and the Program will make payment directly to the USGS.
4. **Terms.** All other terms of the original Contract, attached as **Exhibit A – Original Contract**, remain in effect as written and fully executed on August 11, 2022.



5. **Signatures.** By signing this Amendment, the undersigned certify that they have read and understood it, that they have the authority to sign it, and that their respective Party agrees to be bound by the terms of the Amendment and by the terms of the original Contract.

NEBRASKA COMMUNITY FOUNDATION:

Jason D. Kennedy
Chief Financial and Administrative Officer

Date

FOR THE U.S. GEOLOGICAL SURVEY:

Robert A. Gleason, Director
Northern Prairie Wildlife Research Center

Date

U.S. GEOLOGICAL SURVEY ACKNOWLEDGEMENT:

I hereby certify that Dr. Aaron T. Pearce, representing the U.S. Geological Survey (a bureau of the U.S. Department of the Interior), is authorized to serve on the Independent Scientific Advisory Committee (ISAC) of the Program. I further certify that Dr. Pearce will fulfill his duties as a member of the ISAC as an employee of the USGS but will exercise independent judgment in performing this role.

Robert A. Gleason, Director
Northern Prairie Wildlife Research Center

Date

PLATTE RIVER RECOVERY IMPLEMENTATION PROGRAM ACKNOWLEDGEMENT:

I hereby certify that the Governance Committee of the Platte River Recovery Implementation Program has authorized the Nebraska Community Foundation, acting as contracting agent for the Governance Committee, to enter into this Contract Amendment.

Jason M. Farnsworth
Executive Director

Date



PLATTE RIVER RECOVERY IMPLEMENTATION PROGRAM
Professional Services Contract Amendment
Exhibit A – Original Contract



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09/19/2023

U.S. Geological Survey
 Northern Prairie Wildlife Research Center
 8711 37th Street SE
 Jamestown, ND 58401

Nebraska Community Foundation
 PO Box 83107
 Lincoln, NE 68501-3107
 FEIN 47-0769903

PLATTE RIVER RECOVERY IMPLEMENTATION PROGRAM

FIRST AMENDMENT

To the Agreement between the Nebraska Community Foundation, Inc., Platte River Recovery Implementation Program, and U.S. Geological Survey

Independent Scientific Advisory Committee

1. Parties.

This is the First Amendment to the Agreement entered into by and between the Nebraska Community Foundation, Inc. ("Foundation") of Lincoln, Nebraska, representing all signatories to the Platte River Recovery Implementation Program ("Program"), and the U.S. Geological Survey ("USGS"), a bureau of the U.S. Department of the Interior, dated August 11, 2022. This First Amendment is made and entered into effective on the date of signing below and the final date of this Amendment will be June 30, 2024. The following persons are authorized to represent the parties through this Amendment: Jason Kennedy of the Foundation, Jason Farnsworth of the Program, and Robert Gleason of the USGS.

2. Purpose and Authority.

This First Amendment to the Agreement between the Foundation and the USGS is being made for the following purposes:

- (1) To extend the Agreement between the Foundation and the USGS for Aaron Pearse's service on the Program's Independent Scientific Advisory Committee ("ISAC") from the effective date of the Amendment through June 30, 2024.
- (2) To pay the USGS an advance amount of **\$36,400** (stipend + estimated reimbursable expenses) in approved and available FY 2023 Program Budget Line Item ISAC-1 funds under this Amendment for Aaron Pease to provide the following services as outlined in the approved FY 2023 Program Work Plan and in the draft FY 2024 Program Work Plan now in development:
 - In-person participation in the 2023 Fall ISAC Meeting in October 2023 in Kearney, NE.
 - In-person participation in the 2024 PRRIP Science Plan Reporting Session in February 2024 in Omaha, NE.
 - Virtual participation in the March 2024 Governance Committee ("GC") Quarterly Meeting.
 - Additional document review, specific ISAC Member input, and/or additional virtual meetings.
 - Total Stipend = \$32,400.00
 - Total Estimated Reimbursable Expenses = \$4,000.00



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09/19/2023

43 The total stipend amount is not to be exceeded unless authorized in writing by the Program. Upon full
44 execution of this First Amendment, the USGS will invoice the Program for **\$36,400** (the total of the
45 \$32,400 stipend and the \$4,000 in estimated reimbursable expenses) and the Program will make
46 payment directly to the USGS. All other terms of the original signed Agreement, dated June 23, 2022 and
47 attached to this First Amendment as **Exhibit A**, remain in effect as originally written.



PRRIP – EDO Final

09/19/2023

3. Signatures.

By signing this Contract Amendment, the undersigned certify they read and understood it, they have the authority to sign it, and their respective Party agrees to be bound by the terms of the Contract Amendment and the associated original Agreement.

FOR THE NEBRASKA COMMUNITY FOUNDATION:

DocuSigned by:

A handwritten signature in blue ink that reads 'Jason Kennedy'.

16C39EC85281451

Jason D. Kennedy

Chief Financial and Administrative Officer

9/20/2023

Date

FOR THE U.S. GEOLOGICAL SURVEY:

DocuSigned by:

A handwritten signature in blue ink that reads 'Robert Gleason'.

85C4B568182C407...

Robert A. Gleason, Director

Northern Prairie Wildlife Research Center

9/20/2023

Date

U.S. GEOLOGICAL SURVEY ACKNOWLEDGEMENT:

I hereby certify that Dr. Aaron T. Pearce, representing the U.S. Geological Survey (a bureau of the U.S. Department of the Interior), is authorized to serve on the Independent Scientific Advisory Committee (ISAC) of the Program. I further certify that Dr. Pearce will fulfill his duties as a member of the ISAC as an employee of the USGS but will exercise independent judgment in performing this role.

DocuSigned by:

A handwritten signature in blue ink that reads 'Robert Gleason'.

85C4B568182C407...

Robert A. Gleason, Director

Northern Prairie Wildlife Research Center

9/20/2023

Date

PLATTE RIVER RECOVERY IMPLEMENTATION PROGRAM ACKNOWLEDGEMENT:

I hereby certify that the Governance Committee of the Platte River Recovery Implementation Program has authorized the Nebraska Community Foundation, acting as contracting agent for the Governance Committee, to enter into this Contract Amendment.

DocuSigned by:

A handwritten signature in blue ink that reads 'Jason Farnsworth'.

7E01E31B519A409...

Jason M. Farnsworth

Executive Director

9/20/2023

Date



PRRIP – EDO Final

09/19/2023

1
2

EXHIBIT A

2022-2025 PRRIP ISAC Agreement – Pearse



PRRIP – EDO Final

08/08/2022

U.S. Geological Survey
Northern Prairie Wildlife Research Center
8711 37th Street SE
Jamestown, ND 58401

Nebraska Community Foundation
PO Box 83107
Lincoln, NE 68501-3107

PLATTE RIVER RECOVERY IMPLEMENTATION PROGRAM

Agreement between the Nebraska Community Foundation, Platte River Recovery Implementation Program, and the U.S. Geological Survey

Independent Scientific Advisory Committee

1. Parties. This Agreement is made and entered into by and between the Nebraska Community Foundation ("Foundation") of Lincoln, Nebraska, representing all signatories to the Platte River Recovery Implementation Program ("Program"), and the U.S. Geological Survey ("USGS"), a bureau of the U.S. Department of the Interior. The following persons are authorized to represent the parties through execution of this Agreement: Diane Wilson of the Foundation, Jason Farnsworth of the Program, and Robert A. Gleason of the USGS.

2. Purpose of Agreement and Authority. The USGS has a mission to apply science to the restoration and adaptive management of impaired ecosystems. The purpose of this Agreement is to allow the Foundation, acting as the fiscal agent for the Governance Committee (GC) of the Program, to engage Dr. Aaron Pearse of the USGS as a member of the Program's Independent Scientific Advisory Committee (ISAC), utilizing his independent judgment and his advisory expertise on restoring impaired ecosystems as an employee of the USGS. This Agreement describes a **three-year (August 2022 through June 2025) commitment of service** on the part of Dr. Aaron Pearse of the USGS. The three-year term of service is at the discretion of the GC and the amount of the annual stipend payment to the USGS under this Agreement will be developed through the course of the Program's annual budget process and approved annually by the GC. There is a mutual benefit to both the Program and the USGS by accomplishing scientific research objectives of interest to both parties. The authority of the USGS to participate in this Agreement is 43 USC 36c and 43 USC 50b.

TERMS AND CONDITIONS.

3. Term of Agreement. This Agreement is effective when all parties execute it. The term of this Agreement is from the date of signing through the later of June 30, 2025 or any extension approved in writing. The services to be performed under this Agreement will commence upon signing of this Agreement.



4. Payment.

A. The Program agrees to pay the USGS a flat-rate stipend of **\$32,400** for Dr. Aaron Pearse to provide the following services to be performed in Year 1 (2022-2023) of this Agreement:

ISAC Cost Item	Estimated FY22 Cost
2022 ISAC Fall Meeting (in-person meeting in September 2022 in conjunction with GC Quarterly Meeting) <ul style="list-style-type: none"> In-person meeting in Kearney, NE to discuss status of Science Plan implementation and to support ISAC member field trips to PRRIP management and science activities on the ground 4-day meeting (1.5 day GC meeting, 1.5 day ISAC meeting, 1 day travel) = \$225/hour x 8-hour day x 4 days = \$7,200 Meeting prep & post-meeting discussion = \$225/hour x 8-hour day x 2 days = \$3,600 	\$10,800
2023 PRRIP Science Plan Reporting Session (in-person meeting in Feb. 2023) <ul style="list-style-type: none"> In-person meeting in Omaha, NE to discuss status of Science Plan implementation and annual State of the Platte Report 4-day meeting (3 days meeting, 1 day travel) = \$225/hour x 8-hour day x 4 days = \$7,200 Meeting prep & post-meeting discussion = \$225/hour x 8-hour day x 2 days = \$3,600 	\$10,800
March 2023 PRRIP GC Quarterly Meeting <ul style="list-style-type: none"> ISAC members virtually attend GC Quarterly Meeting to discuss recommendations and guidance from 2023 Science Plan Reporting Session; Chair and Vice Chair make presentation to GC on behalf of ISAC 1-day meeting = \$225/hour x 8-hour day = \$1,800 	\$1,800
Additional Document Review and/or Specific ISAC Member Input <ul style="list-style-type: none"> Review Program documents/products and provide specific guidance as requested by GC and EDO 5 days review x \$225/hour x 8-hour day = \$9,000 	\$9,000
Total	\$32,400

The stipend amounts for each task are not to be exceeded unless authorized in writing by the Program. The Agreement total amount is controlling and is a ceiling price that the USGS exceeds at its own risk. Payment shall be made directly to the USGS. Two payment options are available under this Agreement and are described in this Section. The Program agrees to pay the USGS according to OPTION 1 (the total stipend of \$32,400 will be invoiced by the USGS in August 2022 and paid in advance by the Program).

OPTION 1: This Agreement has been negotiated to be paid in advance on an annual basis, and will not be subject to interest, administrative, or penalty fees. In the event payment is not received in accordance with the billing terms/schedule, the USGS will bill based on expenses incurred and will bear interest, and other fees required by Federal Law, at the annual rate pursuant to the Debt Collection Act of 1982, (codified at 31 U.S.C. § 3717) established by the U.S. Treasury.

OPTION 2: This Agreement has been negotiated to be paid based on the expenses incurred. The USGS will submit invoices to the Program's Administrative Point of Contact, identified in Section 9, on a monthly basis. Invoices not paid within 60 days from date of bill for Local and State Government



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customers will bear Interest, and other fees required by Federal Law, at the annual rate pursuant to the Debt Collection Act of 1982, (codified at 31 U.S.C. § 3717) established by the U.S. Treasury.

B. Expenses. The USGS will also invoice the Program \$4,000 in August 2022 for advance estimated expenses associated with Dr. Aaron Pearse's anticipated travel for two (2) in-person ISAC meetings during Year 1 (2022-2023) of this Agreement (Fall 2022 ISAC meeting in Kearney, NE in September 2022; 2023 Science Plan Reporting Session in Omaha, NE in February 2023). Advance payment is to be made by the Program to the USGS for estimated expenses to be incurred by Dr. Aaron Pearse in performing the services described in 4(A) that are otherwise not reimbursed by the USGS. USGS employees are subject to the Federal Travel Regulations (FTR) and are entitled for reimbursements of travel costs that are authorized by the FTR. Expenses have been estimated according to the following guidelines:

- **Mileage** – Paid according to the prevailing Federal rate.
- **Airfare and Baggage Fees** – Actual expenses at prevailing Federal rate verified by receipts.
- **Lodging** – Actual expenses at prevailing Federal rate verified by receipts.
- **Rental Car** – Actual expenses at prevailing Federal rate verified by receipts.
- **Meals, Taxis, Parking, and Other Associated Travel Expenses** – Per Diem costs as authorized by the FTR include Meals and incidentals. Actual expenses for non-meal expenses, including administrative fees, at prevailing Federal rate verified by receipts.

C. Any advance payment of the stipend made pursuant to this Agreement shall be refunded to the extent the USGS does not perform any part of the Scope of Work for any applicable Fiscal Year. Any advance payment for any expenses shall be refunded if the expenses are not incurred.

D. Advance payments shall go to the USGS's Administrative Point of Contact (contact information below). The Program's Technical Point of Contact will develop and distribute to the USGS's Administrative Point of Contact forms for advance payments. Invoices (Form 106) will be submitted to the Program's Billing Point of Contact (contact information below). Upon receiving an invoice from the USGS, the Program's Billing Point of Contact will advise the Foundation of approval. The Foundation will make payment of these funds directly to the USGS within 30 days. As noted, payments to the USGS shall be in advance of services but the USGS shall provide verification in the form of receipts, wherever possible, within 30 days after the travel is completed.

E. Should USGS work begin before an advance payment is received, invoices not paid within 60 days of receipt will bear interest at the rate established by the U.S. Treasury pursuant to 31 USC 3717.

F. Program Billing Point of Contact:

Mr. Jason Farnsworth, Executive Director
 Platte River Recovery Implementation Program
 Headwaters Corporation
 4111 4th Avenue, Suite 6
 Kearney, Nebraska 68845
 Phone: (308) 237-5728
 Email: farnsworthj@headwaterscorp.com



102 **5. Responsibilities of USGS.**

103
104 **A. Scope of Services.** Dr. Aaron Pearse of the USGS agrees to perform the specific services required under
105 this Agreement and specified in Section 4(A) in a satisfactory and proper manner.

106
107 **B. Personnel.** All services required hereunder will be performed by Dr. Aaron Pearse of the USGS.

108
109 **C. Subcontracts.** The USGS may not engage any subcontractors, outside associates, or consultants for
110 any part of the work to be performed pursuant to this Agreement.

111
112 **D. Requests from the Program.** The USGS shall be responsible and responsive to the Program and the
113 Executive Director's Office in their requests and requirements.

114
115 **E. Presentation of Information.** The USGS shall compile and present all information clearly and concisely
116 in a professional manner.

117
118 **F. Inspection and Acceptance.** All deliverables furnished by the USGS shall be subject to rigorous review
119 by the Program and the ED Office prior to acceptance.

120
121 **6. Responsibilities of the Program.**

122
123 **A. Designated Representative.** The Executive Director of the Program shall act as the Program's
124 administrative representative with respect to the USGS's services to be performed under this
125 Agreement and shall have complete authority to transmit instructions, receive information, and
126 interpret and define the Program's policies and decisions with respect to services covered by this
127 Agreement.

128
129 **B. Information to be furnished to the USGS.** All information as is available to the Program and necessary
130 for the carrying out work under this Agreement shall be furnished to the USGS without charge and
131 the Executive Director's Office shall cooperate with the USGS in the carrying out of the project.

132
133 **C. Review of Information.** The Executive Director's Office shall examine all information presented by the
134 USGS and shall promptly render in writing the Program's decisions pertaining thereto within specified
135 time periods.

136
137 **D. Provide Criteria.** The Executive Director's Office shall provide all criteria and full information regarding
138 its requirements for the services.

139
140 **7. Special Provisions.**

141
142 **A. No Finder's Fees.** No finder's fee, employment agency fee, or other such fee related to the
143 procurement of this Agreement shall be paid by either party.

144
145 **B. Publication.** It is understood that the results of this work may be available to the USGS for publication
146 and use in connection with related work. Use of this work for publication and related work by the
147 USGS must be conducted with prior authorization from the Program's Technical Point of Contact.



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- 148 **C. Publicity.** Any publicity or media contact associated with the USGS's services and the result of those
149 services provided under this Agreement shall be the sole responsibility of the Program. Media
150 requests of the USGS should be directed to the Program's Technical Point of Contact.
151
- 152 **D. Monitor Activities.** The Program shall have the right to monitor all Agreement-related activities of
153 USGS. This shall include, but not be limited to, the right to make site inspections at any time, to bring
154 experts and consultants on site to examine or evaluate completed work or work in progress, and to
155 observe all USGS personnel in every phase of performance of Agreement-related work.
156
- 157 **E. Kickbacks.** The USGS certifies and pledges that no gratuities, kickbacks or contingency fees were paid
158 in connection with this Agreement, nor were any fees, commissions, gifts, or other considerations
159 made contingent upon the award of this Agreement. If the USGS breaches or violates this provision,
160 the Program may, at its discretion, terminate this Agreement without liability to the Program.
161
- 162 **F. Debarment and Suspension.** The USGS certifies by signing this Agreement that neither the USGS nor
163 Dr. Aaron Pearse are presently debarred, suspended, proposed for debarment, declared ineligible, or
164 voluntarily excluded by any federal department or agency from participation in the transaction
165 covered by this Agreement.
166
- 167 **G. Anti-Lobbying.** The USGS makes the representations set forth on the Certification Regarding
168 Lobbying, which is attached as Exhibit A and incorporated by reference as part of this Agreement. The
169 USGS shall execute such Certification at the time of executing this Agreement.
170
- 171 **H. Office Space, Equipment, and Supplies.** The USGS will supply its own office space, equipment, and
172 supplies.
173
- 174 **8. General Provisions.**
175
- 176 **A. Amendments.** Any changes, modifications, revisions, or amendments to this Agreement which are
177 mutually agreed upon by the parties to this Agreement shall be incorporated by written instrument,
178 executed and signed by all Parties to this Agreement.
179
- 180 **B. Applicable Law/Venue.** This Agreement is subject to interpretation under State of Nebraska and
181 Federal law. If there is inconsistency between the laws, then Federal law is controlling. Both parties
182 hereby agree and consent to the exclusive jurisdiction of a court of competent jurisdiction.
183
- 184 **C. Assignment/Agreement Not Used as Collateral.** Neither party shall assign or otherwise transfer any
185 of the rights or delegate any of the duties set forth in this Agreement without the prior written consent
186 of the other party. The USGS shall not use this Agreement, or any portion thereof, for collateral for
187 any financial obligation, without the prior written permission of the Program.
188
- 189 **D. Audit/Access to Records.** Except as inconsistent with or contrary to applicable Federal law and
190 regulation, USGS agrees to jointly cooperate with the Collaborator to account in a reasonable manner
191 for any work performed and costs incurred under this Agreement during normal working hours and
192 without additional cost to USGS. Any costs to conduct any audit will be covered fully by the



Collaborator. The parties understand that USGS cannot be subject to a contingent liability or future obligation that would cause USGS to be in violation of the Anti-Deficiency Act.

E. Availability of Funds. Each payment obligation of the Program is conditioned upon the availability of funds and continuation of the Platte River Recovery Implementation Program. If funds are not allocated and available for the continuance of the services performed by the USGS, the Agreement and/or applicable task order may be terminated by the Program at the end of the period for which the funds are available. The Program shall notify the USGS at the earliest possible time of the services which will or may be affected by a shortage of funds. No penalty shall accrue to the Program in the event this provision is exercised, and the Program shall not be obligated or liable for any future payments due or for any damages as a result of termination under this section. This provision shall not be construed to permit the Program to terminate this Agreement to acquire similar services from another party.

F. Award of Related Contracts. The Program may undertake or award supplemental or successor contracts for work related to this Agreement. The USGS shall cooperate fully with other contractors and the Program in all such cases.

G. Compliance with Law. The USGS shall keep informed of and comply with all applicable federal, state, and local laws and regulations in the performance of the services under this Agreement.

H. Confidentiality of Information. All documents, data compilations, reports, computer programs, photographs, and any other work provided to or produced by the USGS in the performance of this Agreement shall be kept confidential by the USGS unless written permission is granted by the Program for its release, so long as confidentiality is legally permitted by Federal laws and regulations.

I. Conflicts of Interest

(i) USGS shall not engage in providing consultation to or representation of clients, agencies or firms which may constitute a conflict of interest giving rise to a disadvantage to the Program or a disclosure which would adversely affect the interests of the Program. USGS shall notify the Program of any potential or actual conflicts of interest arising during the course of the USGS's performance under this Agreement. This Agreement may be terminated in the event a conflict of interest arises. Termination of the Agreement will be subject to a mutual settlement of accounts. In the event the Agreement is terminated under this provision, the USGS shall take steps to ensure that the file, evidence, evaluation and data are provided to the Program or its designee. This does not prohibit or affect the USGS's ability to engage in consultations, evaluations or representation under agreement with other agencies, firms, facilities, or attorneys so long as no conflict exists.

(ii) A conflict of interest warranting termination of the Agreement includes, but is not necessarily limited to, representing a client in an adversarial proceeding against the Platte River Recovery Implementation Program, its signatories, boards, commissions, or the Foundation, or initiating suits in equity including injunctions, declaratory judgments, writs of prohibition or *quo warranto*.



- J. Entirety of Agreement.** This Agreement, consisting of eleven (11) pages, represents the entire and integrated Agreement between the Parties and supersedes all prior negotiations, representations, and agreements, whether written or oral.
- K. Force Majeure.** Neither party shall be liable for failure to perform under this Agreement if such failure to perform arises out of causes beyond the control and without the fault or negligence of the nonperforming party. Such causes may include, but are not limited to, acts of God or the public enemy, fires, floods, epidemics, quarantine restrictions, freight embargoes, and unusually severe weather. This provision shall become effective only if the party failing to perform immediately notifies the other party of the extent and nature of the problem, limits delay in performance to that required by the event and takes all reasonable steps to minimize delays. This provision shall not be effective unless the failure to perform is beyond the control and without the fault or negligence of the nonperforming party.
- L. Liability.** USGS agrees to be responsible for damage to persons or property caused by the negligent or wrongful acts or omissions of USGS employees or its contractors acting within the scope of their employment in accordance with the Federal Tort Claims Act, 28 USC 2671 et seq.
- M. Independent Contractor.** The USGS shall function as an independent contractor for the purposes of this Agreement and shall not be considered an employee of the Program, Foundation, or Executive Director's Office for any purpose. The USGS shall assume sole responsibility for any debts or liabilities that may be incurred by the USGS in fulfilling the terms of this Agreement and shall be solely responsible for the payment of all federal, state and local taxes which may accrue because of this Agreement. Nothing in this Agreement shall be interpreted as authorizing the USGS or its agents and/or employees to act as an agent or representative for or on behalf of the Foundation or the Program, or to incur any obligation of any kind on the behalf of the Foundation or the Program. The USGS agrees that no health/hospitalization benefits, workers' compensation and/or similar benefits available to Foundation, Program, or Executive Director's Office employees will inure to the benefit of the USGS or the USGS's agents and/or employees as a result of this Agreement.
- N. Notices.** All notices arising out of, or from, the provisions of this Agreement shall be in writing and given to the parties at the address provided under this Agreement, either by regular mail, e-mail, or delivery in person. Notice is effective upon delivery.
- O. Ownership of Documents/Work Product/Materials.** All documents, reports, records, field notes, data, samples, specimens, and materials of any kind resulting from performance of this Agreement are at all times the property of the Program.
- P. Patent or Copyright Protection.** The USGS recognizes that certain proprietary matters or techniques may be subject to patent, trademark, copyright, license or other similar restrictions, and pledges that no work performed by the USGS or its contractors will violate any such restriction.
- Q. Taxes.** The USGS shall pay all taxes and other such amounts required by federal, state and local law, including but not limited to federal and state income taxes, social security taxes, workers' compensation, unemployment insurance, and sales taxes.



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- 283 **R. Termination of Agreement.** This Agreement may be terminated, without cause by Program upon
284 fifteen (15) days written notice. This Agreement may be terminated immediately for cause if USGS
285 fails to perform in accordance with the terms of this Agreement. The USGS shall likewise have the
286 right to unilaterally terminate the agreement for cause. In the event of termination, Program shall pay
287 the USGS for all reasonable work performed by the USGS up to the effective date of the termination.
288
- 289 **S. Third Party Beneficiary Rights.** The parties do not intend to create in any other individual or entity
290 the status of third party beneficiary, and this Agreement shall not be construed so as to create such
291 status. The rights, duties and obligations contained in this Agreement shall operate only between the
292 parties to this Agreement and shall inure solely to the benefit of the parties to this Agreement. The
293 provisions of this Agreement are intended only to assist the parties in determining and performing
294 their obligations under this Agreement.
295
- 296 **T. Time is of the Essence.** Time is of the essence in all provisions of this Agreement.
297
- 298 **U. Titles Not Controlling.** Titles of paragraphs are for reference only and shall not be used to construe
299 the language in this Agreement.
300
- 301 **V. Waiver.** The waiver of any breach of any term or condition in this Agreement shall not be deemed a
302 waiver of any prior or subsequent breach.

**9. Contacts.****Administrative Point of Contact (Foundation):**

Diane M. Wilson
Manager of Public/Private Partnerships
Nebraska Community Foundation
PO Box 83107
Lincoln, Nebraska 68501-3107
Phone: (402) 323-7330
Email: dwilson@nebcommfound.org

Administrative Point of Contact (Program):

Mr. Jason Farnsworth, Executive Director
Platte River Recovery Implementation Program
Headwaters Corporation
4111 4th Avenue, Suite 6
Kearney, Nebraska 68845
Phone: (308) 237-5728
Email: farnsworthj@headwaterscorp.com

Technical Point of Contact (Program):

Dr. Chadwin Smith
Platte River Recovery Implementation Program
Headwaters Corporation
4111 4th Avenue, Suite 6
Kearney, Nebraska 68845
Phone: (402) 432-7950
Email: smithc@headwaterscorp.com

Administrative Point of Contact (USGS)

Nancy Pranke, Budget Analyst
U.S. Geological Survey
Northern Prairie Wildlife Research Center
8711 37th Street SE
Jamestown, ND 58401
Phone: (701) 253-5554
Email: npranke@usgs.gov

Technical Point of Contact (USGS):

Dr. Aaron T. Pearce
U.S. Geological Survey
Northern Prairie Wildlife Research Center
8711 37th Street SE
Jamestown, ND 58401
Phone: (701) 253-5509
Email: apearse@usgs.gov




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10. Signatures. By signing this Agreement, the undersigned certify that they have read and understood it, that they agree to be bound by the terms of this Agreement, that they have the authority to sign it, and that their respective Party agrees to be bound by the terms of the Agreement.

FOR NEBRASKA COMMUNITY FOUNDATION:


 Diane M. Wilson
 Manager of Public/Private Partnerships
 TIN# 47-0769903


 Date

FOR THE U.S. GEOLOGICAL SURVEY:

ROBERT GLEASON Digitally signed by
 ROBERT GLEASON
 Date: 2022.08.08
 15:56:50 -05'00'

Robert A. Gleason, Director
 Northern Prairie Wildlife Research Center

Date

U.S. GEOLOGICAL SURVEY ACKNOWLEDGEMENT:

I hereby certify that Dr. Aaron T. Pearce, representing the U.S. Geological Survey (a bureau of the U.S. Department of the Interior), is authorized to serve on the Independent Scientific Advisory Committee (ISAC) of the Program. I further certify that Dr. Pearce will fulfill his duties as a member of the ISAC as an employee of the USGS but will exercise independent judgment in performing this role.

ROBERT GLEASON Digitally signed by ROBERT
 GLEASON
 Date: 2022.08.08 16:00:00 -05'00'

Robert A. Gleason, Director
 Northern Prairie Wildlife Research Center

Date

PLATTE RIVER RECOVERY IMPLEMENTATION PROGRAM ACKNOWLEDGEMENT:

I hereby certify that the Governance Committee of the Platte River Recovery Implementation Program (Program) has authorized the Nebraska Community Foundation, acting as contracting agent of the Governance Committee of the Program, to enter into this Agreement.

Jason Farnsworth Digitally signed by Jason
 Farnsworth
 Date: 2022.08.08 15:22:18
 -05'00'

Jason M. Farnsworth
 Executive Director

Date



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EXHIBIT A
Certification Regarding Lobbying

The undersigned certifies, on behalf of the USGS, that to the best of his or her knowledge and belief:

1. No federal appropriated funds have been paid or will be paid, by or on behalf of the USGS, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, or the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
2. No registrant under the Lobbying Disclosure Act of 1995 has made any lobbying contacts on behalf of the USGS with respect to the federal grant or cooperative agreement under which the USGS is receiving monies.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who makes an expenditure prohibited by Section 1 above or who fails to file or amend the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

FOR THE U.S. GEOLOGICAL SURVEY:

ROBERT
GLEASON

Digitally signed by
ROBERT GLEASON
Date: 2022.08.08
16:02:26 -05'00'

Robert A. Gleason

Date



PLATTE RIVER RECOVERY IMPLEMENTATION PROGRAM

Professional Services Contract Amendment

1. **Amendment.** This is the Second Amendment to the Contract, dated June 23, 2022, between the Nebraska Community Foundation (“Foundation”), representing all Signatories to the Platte River Recovery Implementation Program (“Program”), and Michal Tal (“Consultant”) for the Consultant’s service as a Member of the Program’s Independent Scientific Advisory Committee (“ISAC”). The following persons are authorized to represent the parties through this Amendment: Jason Kennedy of the Foundation; Jason Farnsworth of the Program; and Michal Tal of the Consultant.

2. **Purpose.** This Contract Amendment is being made:
 - A) To extend the term of the Contract between the Foundation, the Program, and the Consultant for ISAC Member service from *July 1, 2024 through December 31, 2024*. Additional ISAC Member service on the part of the Consultant will be addressed through a new annual Contract or Contract Amendment to be fully executed by December 31, 2024.

 - B) To provide the Consultant with a stipend of **\$16,200** for ISAC Member service during this term including:
 - **July through September** – participation in the 2024 Summer ISAC Meeting in Kearney, NE (July 16-18, 2024); document review, comment development, ISAC coordination, virtual meetings, and additional ISAC Member expert advice as requested = **\$8,100.00**
 - **October through December** – document review, comment development, ISAC coordination, virtual meetings, and additional ISAC Member expert advice as requested = **\$8,100.00**

 - C) To authorize the Consultant to be reimbursed for travel expenses (airfare, hotel, meals, airport expenses, rental vehicle, and other associated travel costs) associated with the 2024 Summer ISAC Meeting in Kearney, NE. Travel expenses will be reimbursed at actual cost based on submitted receipts.

3. **Payment.** Under this Contract Amendment the Consultant shall send three (3) invoices to the Program:
 - **Invoice #1** – reimbursable travel expenses for the 2024 Summer ISAC Meeting; include all receipts; *submit to the Program by July 31, 2024*.
 - **Invoice #2** – first quarterly stipend invoice; \$8,100.00; *submit to the Program by September 30, 2024*.
 - **Invoice #3** – second quarterly stipend invoice; \$8,100.00; *submit to the Program by December 15, 2024*.

4. **Terms.** All other terms of the original Contract, attached as **Exhibit A – Original Contract**, remain in effect as written and fully executed on June 23, 2022.



5. **Signatures.** By signing this Amendment, the undersigned certify that they have read and understood it, that they have the authority to sign it, and that their respective Party agrees to be bound by the terms of the Amendment and by the terms of the original Contract.

NEBRASKA COMMUNITY FOUNDATION:

Jason D. Kennedy
Chief Financial and Administrative Officer

Date

CONSULTANT:

Michal Tal

Date

PLATTE RIVER RECOVERY IMPLEMENTATION PROGRAM ACKNOWLEDGEMENT

I hereby certify that the Governance Committee of the Platte River Recovery Implementation Program (Program) has authorized the Nebraska Community Foundation, acting as contracting agent for the Governance Committee of the Program, to enter into this Amendment.

Jason M. Farnsworth
Executive Director

Date



PLATTE RIVER RECOVERY IMPLEMENTATION PROGRAM
Professional Services Contract Amendment
Exhibit A – Original Contract



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05/31/2023

Dr. Michal Tal
12 rue de Chaprais
25000 Besancon
France

Nebraska Community Foundation
PO Box 83107
Lincoln, NE 68501-3107
FEIN 47-0769903

PLATTE RIVER RECOVERY IMPLEMENTATION PROGRAM

FIRST AMENDMENT

To the Agreement between the Nebraska Community Foundation, Inc., Platte River Recovery Implementation Program, and Michal Tal

Independent Scientific Advisory Committee

1. Parties.

This is the First Amendment to the Agreement entered into by and between the Nebraska Community Foundation, Inc. ("Foundation") of Lincoln, Nebraska, representing all signatories to the Platte River Recovery Implementation Program ("Program"), and Michal Tal ("Consultant"), a private consultant, dated June 23, 2022. This First Amendment is made and entered into effective on the date of signing below and the final date of this Amendment will be June 30, 2024. The following persons are authorized to represent the parties through this Amendment: Jason Kennedy of the Foundation, Jason Farnsworth of the Program, and Michal Tal of the Consultant.

2. Purpose and Authority.

This First Amendment to the Agreement between the Foundation and the Consultant is being made for the following purposes:

- (1) To extend the Agreement between the Foundation and the Consultant for service on the Program's Independent Scientific Advisory Committee ("ISAC") from the effective date of the Amendment through June 30, 2024.
- (2) To provide the Consultant with a stipend of **\$32,400** in approved and available FY 2023 Program Budget Line Item ISAC-1 funds under this Amendment for the following services as outlined in the approved FY 2023 Program Work Plan:
 - In-person participation in the 2023 Fall ISAC Meeting in October 2023 in Kearney, NE.
 - In-person participation in the 2024 PRRIP Science Plan Reporting Session in February 2024 in Omaha, NE.
 - Virtual participation in the March 2024 Governance Committee ("GC") Quarterly Meeting.
 - Additional document review, specific ISAC Member input, and/or additional virtual meetings.
 - Total Stipend = \$32,400.00
 - Total Estimated Reimbursable Expenses = \$4,000.00



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The total stipend amount is not to be exceeded unless authorized in writing by the Program. All other terms of the original signed Agreement, dated June 23, 2022 and attached to this First Amendment as **Exhibit A**, remain in effect as originally written.

3. Signatures.

By signing this Contract Amendment, the undersigned certify they read and understood it, they have the authority to sign it, and their respective Party agrees to be bound by the terms of the Contract Amendment and the associated original Agreement.

FOR THE NEBRASKA COMMUNITY FOUNDATION

DocuSigned by:

Handwritten signature of Jason D. Kennedy in blue ink.

16C39FC85281461...

Jason D. Kennedy

Chief Financial and Administrative Officer

6/1/2023

Date

FOR THE CONSULTANT

DocuSigned by:

Handwritten signature of Michal Tal in blue ink.

E02C27D8EDEF49D...

Michal Tal

6/1/2023

Date

PLATTE RIVER RECOVERY IMPLEMENTATION PROGRAM ACKNOWLEDGEMENT

I hereby certify that the Governance Committee of the Platte River Recovery Implementation Program has authorized the Nebraska Community Foundation, acting as contracting agent for the Governance Committee, to enter into this Contract Amendment.

DocuSigned by:

Handwritten signature of Jason M. Farnsworth in blue ink.

7E01E31B519A409...

Jason M. Farnsworth

Executive Director

6/1/2023

Date



PRRIP – EDO Final

05/31/2023

1
2

EXHIBIT A

2022-2025 PRRIP ISAC Agreement – Tal



PRRIP – EDO Final

06/13/2022

Michal Tal
12 rue des Chaprais
25000 Besançon
France

Nebraska Community Foundation
PO Box 83107
Lincoln, NE 68501-3107

PLATTE RIVER RECOVERY IMPLEMENTATION PROGRAM

Agreement between the Nebraska Community Foundation, Platte River Recovery Implementation Program, and Michal Tal

Independent Scientific Advisory Committee

1. Parties. This Agreement is made and entered into by and between the Nebraska Community Foundation ("Foundation") of Lincoln, Nebraska, representing all signatories to the Platte River Recovery Implementation Program ("Program"), and Michal Tal ("Consultant"), a private consultant. The following persons are authorized to represent the parties through execution of this Agreement: Diane Wilson of the Foundation, Jason Farnsworth of the Program, and Dr. Michal Tal.

2. Purpose of Agreement and Authority. The purpose of this Agreement is to allow the Foundation, acting as the fiscal agent for the Governance Committee (GC) of the Program, to retain the services of the Consultant as member of the Program's Independent Scientific Advisory Committee (ISAC). This Agreement describes a **three-year (July 2022 through June 2025) commitment of service** on the part of the Consultant. The three-year term of service is at the discretion of the GC and the amount of the annual payment to the Consultant under this Agreement will be developed through the course of the Program's annual budget process and approved annually by the GC. This Agreement supersedes all previous and current related Agreements and Amendments.

TERMS AND CONDITIONS.

3. Term of Agreement. This Agreement is effective when all parties execute it. The term of this Agreement is from the date of signing through the later of June 30, 2025 or any extension approved in writing. The services to be performed under this Agreement will commence upon signing of this Agreement.



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4. Payment.

A. **Stipend.** The Program agrees to pay the Consultant a flat-rate stipend of **\$32,400** for the following services to be performed in during Year 1 (2022-2023) of this Agreement:

ISAC Cost Item	Estimated FY22 Cost
2022 ISAC Fall Meeting (in-person meeting in September 2022 in conjunction with GC Quarterly Meeting) <ul style="list-style-type: none"> In-person meeting in Kearney, NE to discuss status of Science Plan implementation and to support ISAC member field trips to PRRIP management and science activities on the ground 4-day meeting (1.5 day GC meeting, 1.5 day ISAC meeting, 1 day travel) = \$225/hour x 8-hour day x 4 days = \$7,200 Meeting prep & post-meeting discussion = \$225/hour x 8-hour day x 2 days = \$3,600 	\$10,800
2023 PRRIP Science Plan Reporting Session (in-person meeting in Feb. 2023) <ul style="list-style-type: none"> In-person meeting in Omaha, NE to discuss status of Science Plan implementation and annual State of the Platte Report 4-day meeting (3 days meeting, 1 day travel) = \$225/hour x 8-hour day x 4 days = \$7,200 Meeting prep & post-meeting discussion = \$200/hour x 8-hour day x 2 days = \$3,600 	\$10,800
March 2023 PRRIP GC Quarterly Meeting <ul style="list-style-type: none"> ISAC members virtually attend GC Quarterly Meeting to discuss recommendations and guidance from 2023 Science Plan Reporting Session; Chair and Vice Chair make presentation to GC on behalf of ISAC 1-day meeting = \$225/hour x 8-hour day = \$1,800 	\$1,800
Additional Document Review and/or Specific ISAC Member Input <ul style="list-style-type: none"> Review Program documents/products and provide specific guidance as requested by GC and EDO 5 days review x \$225/hour x 8-hour day = \$9,000 	\$9,000
Total Stipend	\$32,400

The stipend amounts for each task are not to be exceeded unless authorized in writing by the Program. The Agreement total amount is controlling and is a ceiling price that Consultant exceeds at its own risk. Payment shall be made directly to Consultant.

B. **Expenses.** The Program agrees to pay the Consultant actual, documented, out-of-pocket expenses associated with travel for two (2) in-person ISAC meetings during Year 1 (2022-2023) of this Agreement. Such expenses incurred by the Consultant in performing the services described in 4(A) will be reimbursed unless the Consultant is reimbursed by his/her respective agency or institution. Reimbursement is conditioned on Consultant providing original receipts. Reimbursements will be paid according to the following guidelines:

- **Mileage** – Paid according to the prevailing Federal rate.
- **Airfare and Baggage Fees** – Actual expenses at a reasonable and prudent rate verified by receipts.
- **Lodging** – Actual expenses at a reasonable and prudent rate verified by receipts.
- **Rental Car** – Actual expenses at a reasonable and prudent rate verified by receipts.
- **Meals, Taxis, Parking, and Other Associated Travel Expenses** – Actual expenses at a reasonable and prudent rate verified by receipts.



C. Invoices. Consultant shall submit four (4) quarterly invoices during each year of membership on the ISAC for the services and expenses described in 4(A) and 4(B). Invoices for Year 1:

- **Invoice #1** – Submit on September 30, 2022; \$8,100 (25% of the flat-rate stipend) plus actual expenses verified by receipts.
- **Invoice #2** – Submit on December 31, 2022; \$8,100 (25% of the flat-rate stipend) plus actual expenses verified by receipts.
- **Invoice #3** – Submit on March 31, 2023; \$8,100 (25% of the flat-rate stipend) plus actual expenses verified by receipts.
- **Invoice #4** – Submit on June 30, 2023; \$8,100 (25% of the flat-rate stipend) plus actual expenses verified by receipts.

D. Billing Procedures. Consultant shall submit invoices as described in 4(C) to the Program’s Executive Director (ED). Upon receiving an invoice, the ED will review and approve the invoice and advise the Foundation of approval. The Foundation will make payment of these funds directly to Consultant within 30 days of receiving notice of approval. Payments are due within 60 days after the billing date.

Billing Point of Contact (Program):

Mr. Jason Farnsworth, Executive Director
 Platte River Recovery Implementation Program
 Headwaters Corporation
 4111 4th Avenue, Suite 6
 Kearney, Nebraska 68845
 Phone: (308) 237-5728
 Email: farnsworthj@headwaterscorp.com

E. Withholding of Payment. If a work element has not been received by the Program by the dates established in this Agreement, the Program may withhold all payments beginning with the month following that date until such deficiency has been corrected.

F. Final Completion and Payment. Final payment shall be made upon receipt of the final invoice and, if applicable, execution of the final amendment to the Agreement documenting the final contract amount.

5. Responsibilities of Consultant.

A. Scope of Services. The Consultant shall perform the specific services required under this Agreement in a satisfactory and proper manner.

B. Personnel. All services required hereunder will be performed by Consultant and Consultant shall be fully qualified and authorized, licensed, or permitted under state law to perform such services, if state law requires such authorization, license, or permit.

C. Subcontracts. Consultant may not engage any subcontractors, outside associates, or consultants for any part of the work to be performed pursuant to this Agreement.



96 **D. Requests from the Program.** The Consultant shall be responsible and responsive to the Program and
97 the ED Office in their requests and requirements.

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99 **E. Presentation of Information.** The Consultant shall compile and present all information clearly and
100 concisely in a professional manner.

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102 **F. Inspection and Acceptance.** All deliverables furnished by the Consultant shall be subject to rigorous
103 review by the Program and the ED Office prior to acceptance.

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105 **6. Responsibilities of the Program.**

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107 **A. Designated Representative.** The Executive Director of the Program shall act as the Program's
108 administrative representative with respect to the Consultant's service to be performed under this
109 Agreement and shall have complete authority to transmit instructions, receive information, and
110 interpret and define the Program's policies and decisions with respect to services covered by this
111 Agreement.

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113 **B. Information to be furnished to the Consultant.** All information as is available to the Program and
114 necessary for the carrying out work under this Agreement shall be furnished to the Consultant without
115 charge and the ED Office shall cooperate with the Consultant in the carrying out of the project.

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117 **C. Review of Information.** The ED Office shall examine all information presented by the Consultant and
118 shall promptly render in writing the Program's decisions pertaining thereto within specified time
119 periods.

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121 **D. Provide Criteria.** The ED Office shall provide all criteria and full information regarding its requirements
122 for the services.

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124 **7. Special Provisions.**

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126 **A. No Finder's Fees.** No finder's fee, employment agency fee, or other such fee related to the
127 procurement of this Contract shall be paid by either party.

128
129 **B. Publication.** It is understood that the results of this work may be available to the Consultant for
130 publication and use in connection with related work. Use of this work for publication and related work
131 by the Consultant must be conducted with prior authorization from the Program's Technical Point of
132 Contact.

133
134 **C. Publicity.** Any publicity or media contact associated with the Consultant's services and the result of
135 those services provided under this Agreement shall be the sole responsibility of the Program. Media
136 requests of the Consultant should be directed to the Director of Operations, Administration, and
137 Human Dimensions in the EDO.

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139 **D. Monitor Activities.** The Program shall have the right to monitor all Contract-related activities of
140 Consultant. This shall include, but not be limited to, the right to make site inspections at any time, to



bring experts and consultants on site to examine or evaluate completed work or work in progress, and to observe all Consultant personnel in every phase of performance of Contract-related work.

E. Kickbacks. The Consultant certifies and warrants that no gratuities, kickbacks or contingency fees were paid in connection with this Contract, nor were any fees, commissions, gifts, or other considerations made contingent upon the award of this Contract. If the Consultant breaches or violates this warranty, the Program may, at its discretion, terminate this Contract without liability to the Program, or deduct from the Contract price or consideration, or otherwise recover, the full amount of any commission, percentage, brokerage, or contingency fee.

F. Debarment and Suspension. Consultant certifies by signing this Contract that neither Consultant nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency from participation in the transaction covered by this Contract.

G. Anti-Lobbying. Consultant makes the representations set forth on the Certification Regarding Lobbying, which is attached as Exhibit A and incorporated by reference as part of this Contract. Consultant shall execute such Certification at the time of executing this Agreement.

H. Office Space, Equipment, and Supplies. The Consultant will supply its own office space, equipment, and supplies.

8. General Provisions.

A. Amendments. Any changes, modifications, revisions, or amendments to this Agreement which are mutually agreed upon by the parties to this Agreement shall be incorporated by written instrument, executed and signed by all Parties to this Agreement.

B. Applicable Law/Venue. The construction, interpretation and enforcement of this Agreement shall be governed by the laws of the State of Nebraska. The Courts of the State of Nebraska shall have jurisdiction over this Agreement and the parties.

C. Assignment/Agreement Not Used as Collateral. Neither party shall assign or otherwise transfer any of the rights or delegate any of the duties set forth in this Agreement without the prior written consent of the other party. The Consultant shall not use this Agreement, or any portion thereof, for collateral for any financial obligation, without the prior written permission of the Program.

D. Audit/Access to Records. The Program, the Foundation, and any of their representatives shall have access to any books, documents, papers, and records of the Consultant which are pertinent to this Agreement. The Consultant shall, immediately upon receiving written instruction from the Program or Foundation, provide to the Foundation or any governmental entity, independent auditor, accountant, or accounting firm, all books, documents, papers and records of the Consultant which are pertinent to this Agreement. The Consultant shall cooperate fully with the Foundation or any such governmental entity, independent auditor, accountant, or accounting firm, during the entire course of any audit authorized by or required of the Program.



- E. Availability of Funds.** Each payment obligation of the Program is conditioned upon the availability of funds and continuation of the Platte River Recovery Implementation Program. If funds are not allocated and available for the continuance of the services performed by the Consultant, the Agreement and/or applicable task order may be terminated by the Program at the end of the period for which the funds are available. The Program shall notify the Consultant at the earliest possible time of the services which will or may be affected by a shortage of funds. No penalty shall accrue to the Program in the event this provision is exercised, and the Program shall not be obligated or liable for any future payments due or for any damages as a result of termination under this section. This provision shall not be construed to permit the Program to terminate this Agreement to acquire similar services from another party.
- F. Award of Related Contracts.** The Program may undertake or award supplemental or successor contracts for work related to this Contract. The Consultant shall cooperate fully with other contractors and the Program in all such cases.
- G. Compliance with Law.** The Consultant shall keep informed of and comply with all applicable federal, state and local laws and regulations in the performance of this Contract.
- H. Confidentiality of Information.** All documents, data compilations, reports, computer programs, photographs, and any other work provided to or produced by the Consultant in the performance of this Agreement shall be kept confidential by the Consultant unless written permission is granted by the Program for its release.
- I. Conflicts of Interest**
- (i) Consultant shall not engage in providing consultation to or representation of clients, agencies or firms which may constitute a conflict of interest giving rise to a disadvantage to the Program or a disclosure which would adversely affect the interests of the Program. Consultant shall notify the Program of any potential or actual conflicts of interest arising during the course of the Consultant's performance under this Agreement. This Agreement may be terminated in the event a conflict of interest arises. Termination of the Agreement will be subject to a mutual settlement of accounts. In the event the Agreement is terminated under this provision, the Consultant shall take steps to ensure that the file, evidence, evaluation and data are provided to the Program or its designee. This does not prohibit or affect the Consultant's ability to engage in consultations, evaluations or representation under agreement with other agencies, firms, facilities, or attorneys so long as no conflict exists.
- (ii) A conflict of interest warranting termination of the Agreement includes, but is not necessarily limited to, representing a client in an adversarial proceeding against the Platte River Recovery Implementation Program, its signatories, boards, commissions, or the Foundation, or initiating suits in equity including injunctions, declaratory judgments, writs of prohibition or *quo warranto*.
- J. Entirety of Agreement.** This Agreement, consisting of eleven (11) pages, represents the entire and integrated Agreement between the Parties and supersedes all prior negotiations, representations, and agreements, whether written or oral.



- K. Force Majeure.** Neither party shall be liable for failure to perform under this Agreement if such failure to perform arises out of causes beyond the control and without the fault or negligence of the nonperforming party. Such causes may include, but are not limited to, acts of God or the public enemy, fires, floods, epidemics, quarantine restrictions, freight embargoes, and unusually severe weather. This provision shall become effective only if the party failing to perform immediately notifies the other party of the extent and nature of the problem, limits delay in performance to that required by the event and takes all reasonable steps to minimize delays. This provision shall not be effective unless the failure to perform is beyond the control and without the fault or negligence of the nonperforming party.
- L. Indemnification.** The Consultant shall indemnify and hold harmless the Foundation, the Program, the ED Office, and their officers, agents, employees, successors and assignees from any and all claims, lawsuits, losses and liability arising out of Consultant's failure to perform any of Consultant's duties and obligations hereunder or in connection with the negligent performance of Consultant's duties or obligations, including but not limited to any claims, lawsuits, losses or liability arising out of Consultant's malpractice. The obligations of this paragraph shall survive termination of this Contract.
- M. Independent Contractor.** The Consultant shall function as an independent contractor for the purposes of this Contract and shall not be considered an employee of the Program, Foundation, or ED Office for any purpose. The Consultant shall assume sole responsibility for any debts or liabilities that may be incurred by the Consultant in fulfilling the terms of this Contract and shall be solely responsible for the payment of all federal, state and local taxes which may accrue because of this Contract. Nothing in this Contract shall be interpreted as authorizing the Consultant or its agents and/or employees to act as an agent or representative for or on behalf of the Foundation or the Program, or to incur any obligation of any kind on the behalf of the Foundation or the Program. The Consultant agrees that no health/hospitalization benefits, workers' compensation and/or similar benefits available to Foundation, Program, or ED Office employees will inure to the benefit of the Consultant or the Consultant's agents and/or employees as a result of this Contract.
- N. Notices.** All notices arising out of, or from, the provisions of this Agreement shall be in writing and given to the parties at the address provided under this Agreement, either by regular mail, e-mail, or delivery in person. Notice is effective upon delivery.
- O. Notice of Proposed Sale or Transfer of the Consultant.** The Consultant shall provide the Program with the earliest possible advance notice of any proposed sale or transfer or any proposed merger or consolidation of the assets of the Consultant. Such notice shall be provided in accordance with the notice provision of this Agreement.
- P. Ownership of Documents/Work Product/Materials.** All documents, reports, records, field notes, data, samples, specimens, and materials of any kind resulting from performance of this Agreement are at all times the property of the Program.
- Q. Patent or Copyright Protection.** The Consultant recognizes that certain proprietary matters or techniques may be subject to patent, trademark, copyright, license or other similar restrictions, and pledges that no work performed by the Consultant or its contractors will violate any such restriction.



- 277 **R. Taxes.** The Consultant shall pay all taxes and other such amounts required by federal, state and local
278 law, including but not limited to federal and state income taxes, social security taxes, workers'
279 compensation, unemployment insurance, and sales taxes.
280
- 281 **S. Termination of Agreement.** This Agreement may be terminated, without cause by Program upon
282 fifteen (15) days written notice. This Agreement may be terminated immediately for cause if
283 Consultant fails to perform in accordance with the terms of this Agreement. Consultant shall likewise
284 have the right to unilaterally terminate the agreement for cause. In the event of termination, Program
285 shall pay Consultant for all reasonable work performed up to the effective date of the termination.
286
- 287 **T. Third Party Beneficiary Rights.** The parties do not intend to create in any other individual or entity
288 the status of third party beneficiary, and this Agreement shall not be construed so as to create such
289 status. The rights, duties and obligations contained in this Agreement shall operate only between the
290 parties to this Agreement and shall inure solely to the benefit of the parties to this Agreement. The
291 provisions of this Agreement are intended only to assist the parties in determining and performing
292 their obligations under this Agreement.
293
- 294 **U. Time is of the Essence.** Time is of the essence in all provisions of the Contract.
295
- 296 **V. Titles Not Controlling.** Titles of paragraphs are for reference only and shall not be used to construe
297 the language in this Contract.
298
- 299 **W. Waiver.** The waiver of any breach of any term or condition in this Contract shall not be deemed a
300 waiver of any prior or subsequent breach.

**9. Contacts.****Administrative Point of Contact (Foundation):**

Diane M. Wilson
Manager of Public/Private Partnerships
Nebraska Community Foundation
PO Box 83107
Lincoln, Nebraska 68501-3107
Phone: (402) 323-7330
Email: dwilson@nebcommfound.org

Administrative Point of Contact (Program):

Mr. Jason Farnsworth, Executive Director
Platte River Recovery Implementation Program
Headwaters Corporation
4111 4th Avenue, Suite 6
Kearney, Nebraska 68845
Phone: (308) 237-5728
Email: farnsworthj@headwaterscorp.com

Technical Point of Contact (Program):

Dr. Chadwin Smith
Platte River Recovery Implementation Program
Headwaters Corporation
4111 4th Avenue, Suite 6
Kearney, Nebraska 68845
Phone: (308) 237-5728
Email: smithc@headwaterscorp.com

Administrative and Technical Point of Contact (Consultant):

Dr. Michal Tal
12 rue des Chaprais
25000 Besançon
France
Phone: +33 (0)629347240
Email: michaltal8@gmail.com



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10. **Signatures.** By signing this Agreement, the undersigned certify that they have read and understood it, that they agree to be bound by the terms of this Agreement, that they have the authority to sign it, and that their respective Party agrees to be bound by the terms of the Agreement.

NEBRASKA COMMUNITY FOUNDATION

6/23/2022

Diane M. Wilson

Date

Manager of Public/Private Partnerships

TIN# 47-0769903

CONSULTANT

June 14, 2022

Michal Tal

Date

PLATTE RIVER RECOVERY IMPLEMENTATION PROGRAM ACKNOWLEDGEMENT

I hereby certify that the Governance Committee of the Platte River Recovery Implementation Program (Program) has authorized the Nebraska Community Foundation, acting as contracting agent of the Governance Committee of the Program, to enter into this Agreement.

6/15/22

Jason Farnsworth

Date

Executive Director



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EXHIBIT A
Certification Regarding Lobbying

The undersigned certifies, on behalf of Consultant, that to the best of his or her knowledge and belief:

1. No federal appropriated funds have been paid or will be paid, by or on behalf of Consultant, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, or the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
2. No registrant under the Lobbying Disclosure Act of 1995 has made any lobbying contacts on behalf of the Consultant with respect to the federal grant or cooperative agreement under which the Consultant is receiving monies.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who makes an expenditure prohibited by Section 1 above or who fails to file or amend the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

CONSULTANT

By: Michal Tal

A handwritten signature in black ink, appearing to read 'Michal Tal', is written over a horizontal line.

Michal Tal

June 14, 2022

Date