



REQUEST FOR QUOTATION

PROJECT: P23-014: In-Channel Disking
LOCATION: Pawnee, Ft Kearny, Gibbon-Shelton, Clark Island and Chapman
 Habitat Complexes
NEAR: Kearney, NE
REQUEST DATE: August X, 2023
CLOSING DATE: August X, 2023 – 5:00 pm CST
START OF PROJECT: August X, 2023
POINT OF CONTACT: Tim R. Tunnell, Land Coordinator
 Headwaters Corporation
 4111 4th Ave, Suite 6
 Kearney, NE 68845
tunnellt@headwaterscorp.com

The undersigned acknowledges receipt of the following plans and specifications:

- # 1 () Whooping Crane Incidental Take Avoidance Procedures
- # 2 () Construction Specifications
- # 3 () Sheet 1 - Cover
- # 4 () Sheet 2 – Site Layout
- # 5 () Sheet 3 – Pawnee Complex
- # 6 () Sheet 4 – Ft Kearny Complex
- # 7 () Sheet 5 – Minden-Gibbon Complex
- # 8 () Sheet 6 – Clark Island Complex
- # 9 () Sheet 7 – Chapman Complex



NOTE: Mobilization price is requested as a lump sum per complex disked. Payment will be made on actual complexes mobilized to and disked by each contractor. Disking price requested are hourly rates for equipment and operators. Payment will be made on actual hours worked.

Item No.	Description	Unit	Estimated Quantity	Bid Unit Price
1	Mobilization/Demobilization Pawnee Complex	LS	1	\$_____
2	Mobilization/Demobilization Fort Kearny Complex	LS	1	\$_____
3	Mobilization/Demobilization Minden-Gibbon Complex	LS	1	\$_____
4	Mobilization/Demobilization Clark Island Complex	LS	1	\$_____
5	Mobilization/Demobilization Chapman Complex	LS	1	\$_____
6	In-channel Disking (10 ft disk)	Hour	=====	\$_____
7	In-channel Disking (16 ft disk)	Hour	=====	\$_____
8	In-channel Mowing	Hour	=====	\$_____



PROJECT DURATION:

The Contractor, under this agreement, shall commence this work within 10 calendar days of the date of NOTICE TO PROCEED (anticipated around **August X, 2023**). If work is done during the period of October 9 and November 15 contractor must adhere to the “Whooping Crane Incidental Take Avoidance Procedures” or shut down completely during this time period. Work should be completed within 60 days.

WORK COMPLETION DATE: N/A

Submitted by: _____

(Company)

(Individual – Print)

(Sign/Date)



PLATTE RIVER RECOVERY IMPLEMENTATION PROGRAM

Whooping Crane Incidental Take Avoidance Procedures

1. Between the dates of March 6 and April 29, or October 9 and November 15, the CONTRACTOR will not begin work within 0.25 miles of the Platte River channel until one of the following requirements has been met each day: 1) The CONTRACTOR observes the airplane conducting whooping crane surveys during their daily flights over the work area without circling back to verify a whooping crane sighting; 2) it is at least one (1) hour after sunrise and the CONTRACTOR has visually confirmed there are no whooping cranes or large white birds in the work area; or 3) the Executive Director's Office (EDO) has confirmed the lack of whooping cranes in the work area. If the CONTRACTOR has any suspicion or question as to whether or not a whooping crane is present in the area, they will not start work until confirmation is made by the EDO or the bird(s) are observed leaving on their own accord by the CONTRACTOR who has reported the observation to the EDO and has been granted permission to begin work. ***The CONTRACTOR will contact the EDO immediately by telephone any time they suspect they may have observed a whooping crane; no other contacts will be made until approved by the EDO.*** The primary and secondary EDO points of contact for potential whooping crane sightings are:

PRIMARY CONTACT

Dr. Malinda Henry

Mobile: (308) 455-0694

Office: (308) 237-5728

henrym@headwaterscorp.com

SECONDARY CONTACT

Jason Farnsworth

Mobile: (308) 991-7602

Office: (308) 237-5728

farnsworthj@headwaterscorp.com

2. The PROGRAM conducts daily whooping crane surveys by flying an airplane up the river at an elevation of 750 ft. starting one-half (1/2) hour before sunrise when conditions allow. When the plane observes a white object, they circle around to determine what it is. If a whooping crane is observed, they notify the EDO in order for the EDO to obtain a confirmation of the sighting from the ground. If the plane flies over the work area without circling, then there likely are not any whooping cranes in the area; however, the CONTRACTOR must visually confirm there are no whooping cranes or large white birds in the work area prior to beginning work each day. The EDO will contact the CONTRACTOR immediately by telephone if a potential whooping crane is identified within the area they are conducting work.
3. If the CONTRACTOR observes a whooping crane or what they suspect might be a whooping crane, the field crew must leave the area immediately, notify the EDO, and not return until permission has been granted by the EDO.



4. Between the dates of March 6 and April 29, or October 9 and November 15, the CONTRACTOR will end all activities within 0.25 miles of a Platte River channel two hours prior to sunset unless otherwise approved by the EDO. All equipment used by the CONTRACTOR will be parked and stored at least 0.25 miles from the nearest Platte River channel and behind a tree line when available.



CONSTRUCTION AND MATERIAL SPECIFICATIONS

for

P23-014 In-Channel Disking

The work to be performed under these specifications consists of:

Activities in this project include disking within the channel of the Platte River at the habitat complex identified on Sheet 5-9. Target areas are heavily vegetated islands and sand bars.

Payment will be made on actual hours worked, which may be more or less than the estimate.

The work shall be performed in accordance with the drawings and specifications unless otherwise approved, in writing, by the Program's Project Engineer. For items of work requiring Program inspection and/or approval, it is the responsibility of the contractor to keep the Project Engineer informed on the status of the work so that timely inspection may be provided. Work performed without the Program being provided the opportunity for inspection may not be accepted. All work on the project will conform to the title drawings and the following applicable specifications are marked in Column No. 1.

COL. #1	SPEC. NO.	SPECIFICATION TITLE
X	CS-01	Mobilization and Demobilization
X	CS-04	In-Channel Disking



CONSTRUCTION SPECIFICATION CS-01

MOBILIZATION AND DEMOBILIZATION

1. Description.

The work shall consist of the mobilization and demobilization of the Contractor's forces and the equipment necessary for performing the work required under the Contract. Mobilization will not be considered as work in fulfilling the contract requirement for commencement of work.

2. Equipment & Materials.

2.1 Mobilization shall include all activities and costs for transportation of personnel, equipment and supplies/materials to the site, establishment of offices, buildings, and other necessary facilities for the Contractor's operations at the site.

2.2 Demobilization shall include all activities and costs for transportation of personnel, equipment and supplies/materials not used in the Contract, including the disassembly, removal and site cleanup of any offices, buildings or other facilities assembled on the site for the Contract.

2.3 This work includes mobilization and demobilization required by the Contract at the time of award. If additional mobilization/demobilization is required during the performance of the Contract due to changed, deleted or added items of work, for which the Contractor is entitled to an adjustment in the Contract price, compensation for such costs will be included in the price adjustment for the item or items of work changed or added.

2.3 The Contractor shall be responsible for all required permits for transportation of the Contractor's equipment. All equipment and materials shall be mobilized and demobilized in accordance with all local, state, and federal laws related to transportation and safety.

2.4 Upon completion of the work, the Contractor shall restore all access areas to the same condition as prior to the start of the work.

2.5 The Contractor is responsible for security of the Contractor's equipment while on site.



3. Measurement and Method of Payment

3.1 Payment shall be made as the work proceeds, after presentation of invoices by the Contractor showing specific mobilization and demobilization costs, and evidence of the charges of suppliers, subcontractors, and others.

3.2 If the total sum of such payments is less than the lump sum contract price, the unpaid balance will be included in the final contract payment. Payments for mobilization will not exceed 60% of the lump sum contract price. A minimum of 40% of the contract price will be retained until such time that demobilization is complete. Prior to signing of the contract, the Contractor shall provide the PROGRAM with a detailed Payment Schedule for costs associated with mobilization & demobilization.

3.3 Payment of the lump sum contract price for mobilization and demobilization will constitute full compensation for the completion of the work.

3.4 Payment will not be made under this item for the purchase costs of materials having a residual value, the purchase costs of materials to be incorporated in the project, or the purchase costs of operating supplies.



CONSTRUCTION SPECIFICATION CS-04

IN-CHANNEL DISKING

1. Description

In Platte River habitat restoration and enhancement projects, disking may be required in the active channel of the river to remove vegetation that has become established on islands and sand bars.

2. Construction

The in-channel area to be disked shall be as shown on the Project Construction Drawings. Construction shall be as shown in the plan view only.

2.1 Unless otherwise stated, in-channel disking shall include one pass. In areas of heavy vegetation two passes will be made with the direction of the second pass oriented perpendicular to the first.

2.2 Implement can be pull behind or 3-point mounted type but shall be able penetrate a minimum depth of 12-inches. Sufficient force must be applied through weight or hydraulics to achieve that depth.

2.3 The Contractor shall not leave piles of vegetation and/or soil caused by balling up of material during disking. Any piles shall be leveled and smoothed.

2.4 The Contractor, shall always, conduct their work in full compliance with all OSHA regulations and any other applicable local, state, or federal regulations.

3. Special Conditions

3.1 Any garbage, rubbish, trash, or similar items found during clearing, shall be set aside by the contractor, and disposed of in an approved solid waste facility. The PROGRAM has not identified any significant presence of such materials at the project location.

PLATTE RIVER RECOVERY IMPLEMENTATION PROGRAM

SPECIFICATIONS

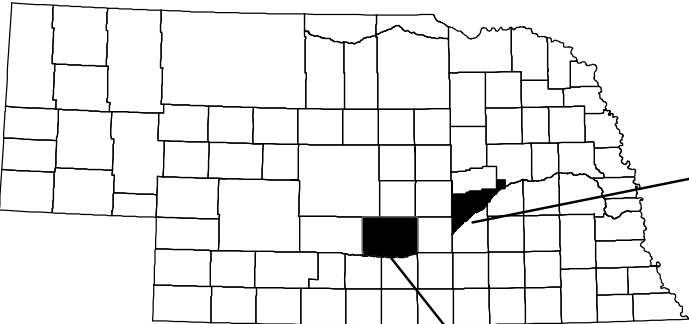
- CS-01 MOBILIZATION AND DEMOBILIZATION
- CS-04 IN-CHANNEL DISKING

2023 IN-CHANNEL DISKING
HABITAT ENHANCEMENT PROJECT

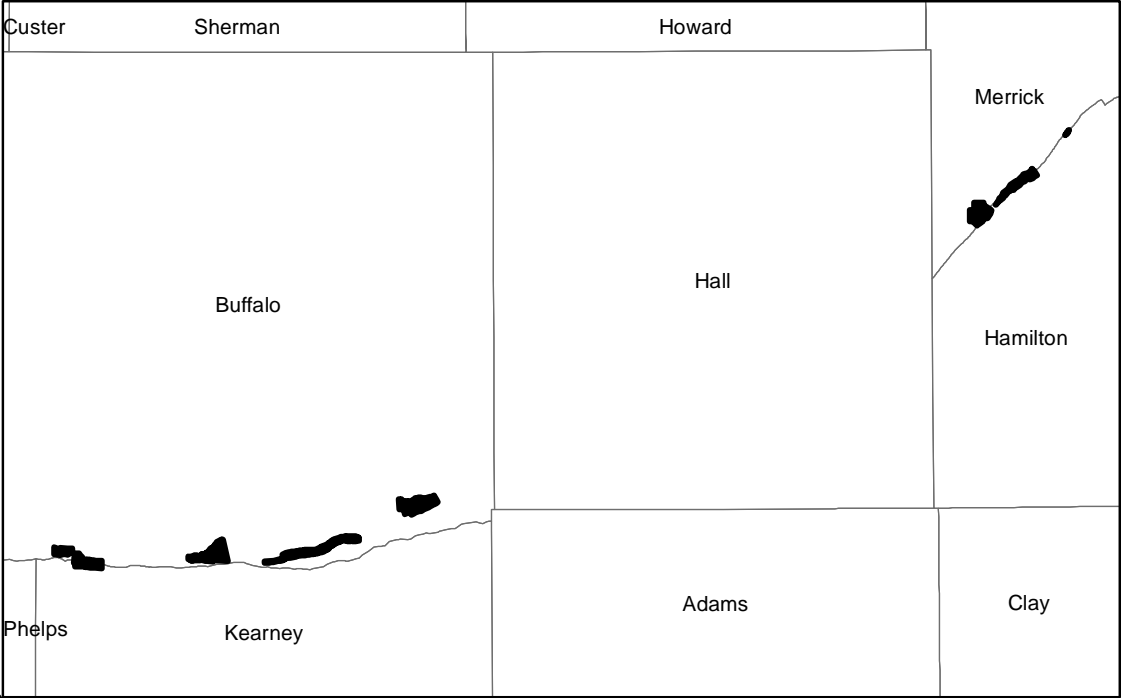
IN BUFFALO & MERRICK COUNTIES, NE

INDEX

- 1 COVER SHEET
- 2 SITE LAYOUT
- 3 PAWNEE COMPLEX
- 4 FT KEARNY COMPLEX
- 5 GIBBON-SHELTON COMPLEX
- 6 CLARK ISLAND COMPLEX
- 7 CHAPMAN COMPLEX



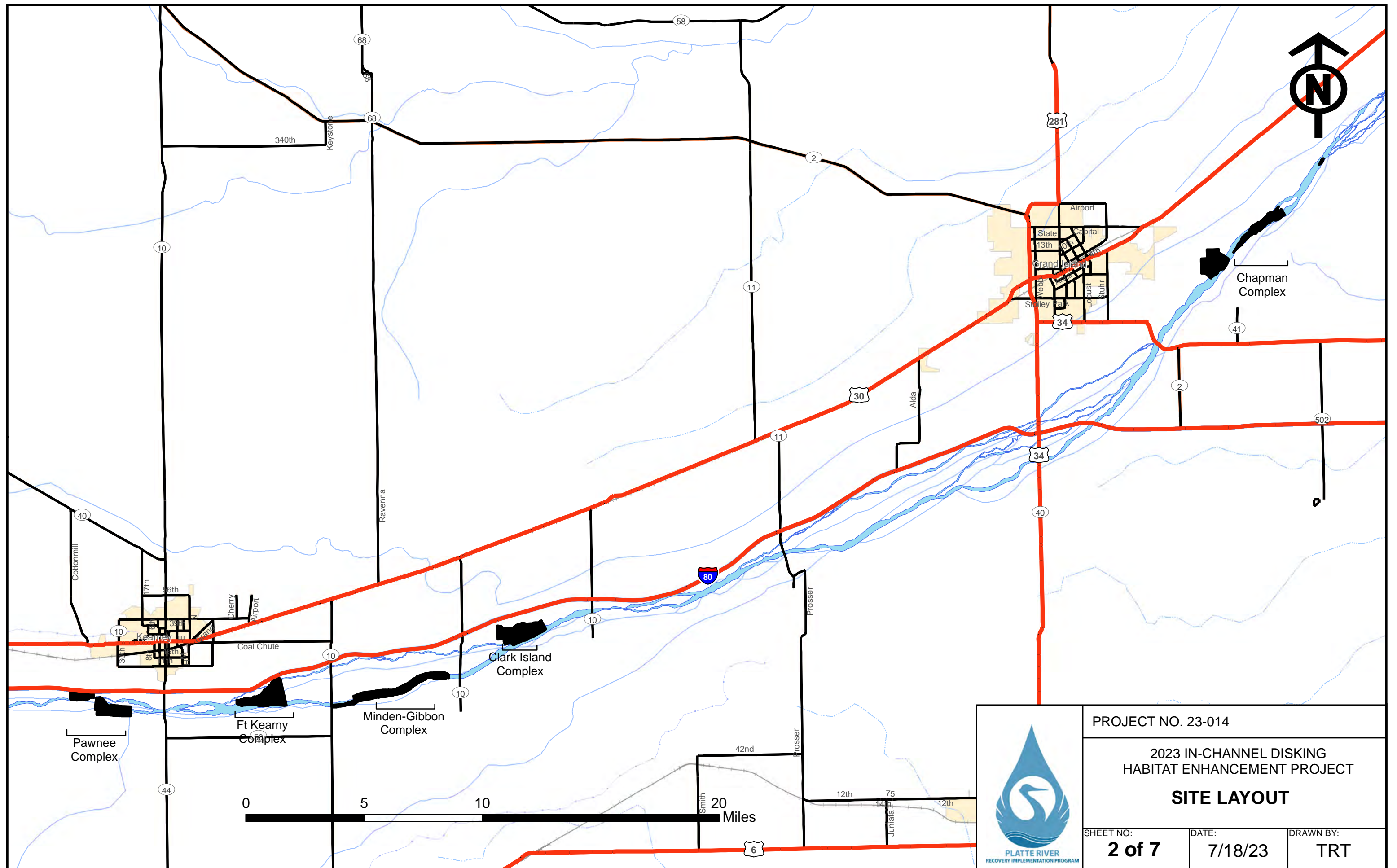
PROJECT
LOCATION



CAUTION

The Platte River Recovery Implementation Program will not be responsible for, or liable for, unauthorized changes to, or uses of these plans. All changes to the plans must be writing and must be approved by the Program.

	PROJECT NO. 23-014		
	2023 IN-CHANNEL DISKING HABITAT ENHANCEMENT PROJECT COVER SHEET		
	SHEET NO: 1 of 7	DATE: 7/18/23	DRAWN BY: TRT



PROJECT NO. 23-014		
2023 IN-CHANNEL DISKING HABITAT ENHANCEMENT PROJECT		
SITE LAYOUT		
SHEET NO: 2 of 7	DATE: 7/18/23	DRAWN BY: TRT

NOTES:

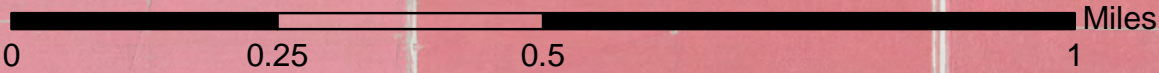
- 1) Project Engineer will review limits of cross-disking with contractor in the field prior to commencement of work.
- 2) Target areas are highlighted in yellow. Areas of dense vegetation (>18 inches) shall be disked twice. The second disking pass shall be perpendicular to the first if possible.



Target Area for Disking
(Approx 5 acres)

Target Area for Disking
(Approx 8 acres)

Target Area for Disking
(Approx 7.5 acres)



PROJECT NO. 23-014

2023 PAWNEE COMPLEX
HABITAT ENHANCEMENT PROJECT

IN-CHANNEL DISKING

SHEET NO: 3 of 7	DATE: 7/18/23	DRAWN BY: TRT
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NOTES:

- 1) Project Engineer will review limits of cross-disking with contractor in the field prior to commencement of work.
- 2) Target areas are highlighted in yellow. Areas of dense vegetation (>18 inches) shall be disked twice. The second disking pass shall be perpendicular to the first if possible.



Target Area for Disking
(Approx 6 acres)



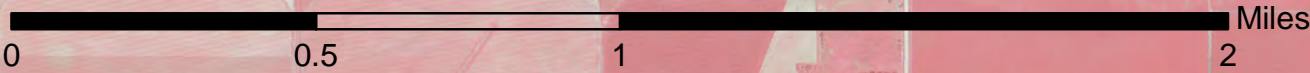
PROJECT NO. 23-014		
2023 FT KEARNY COMPLEX HABITAT ENHANCEMENT PROJECT		
IN-CHANNEL DISKING		
SHEET NO: 4 of 7	DATE: 7/18/23	DRAWN BY: TRT

NOTES:

- 1) Project Engineer will review limits of cross-disking with contractor in the field prior to commencement of work.
- 2) Target areas are highlighted in green. Areas of dense vegetation (>18 inches) shall be disked twice. The second diskling pass shall be perpendicular to the first if possible.



Target Area for Disking
(Approx 300 acres)



PROJECT NO. 23-014

2023 MINDEN-GIBBON COMPLEX
HABITAT ENHANCEMENT PROJECT

IN-CHANNEL DISKING

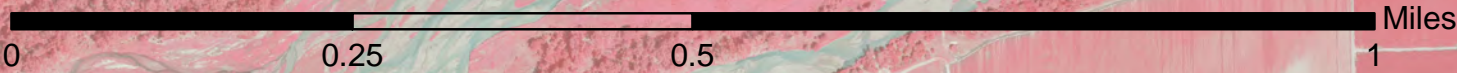
SHEET NO: 5 of 7	DATE: 07/14/23	DRAWN BY: TRT
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NOTES:

- 1) Project Engineer will review limits of cross-disking with contractor in the field prior to commencement of work.
- 2) Target areas are highlighted in yellow. Areas of dense vegetation (>18 inches) shall be disked twice. The second disking pass shall be perpendicular to the first if possible.



Target Area for Disking
(Approx 20 acres)



PROJECT NO. 23-014

2023 CLARK ISLAND COMPLEX
HABITAT ENHANCEMENT PROJECT

IN-CHANNEL DISKING

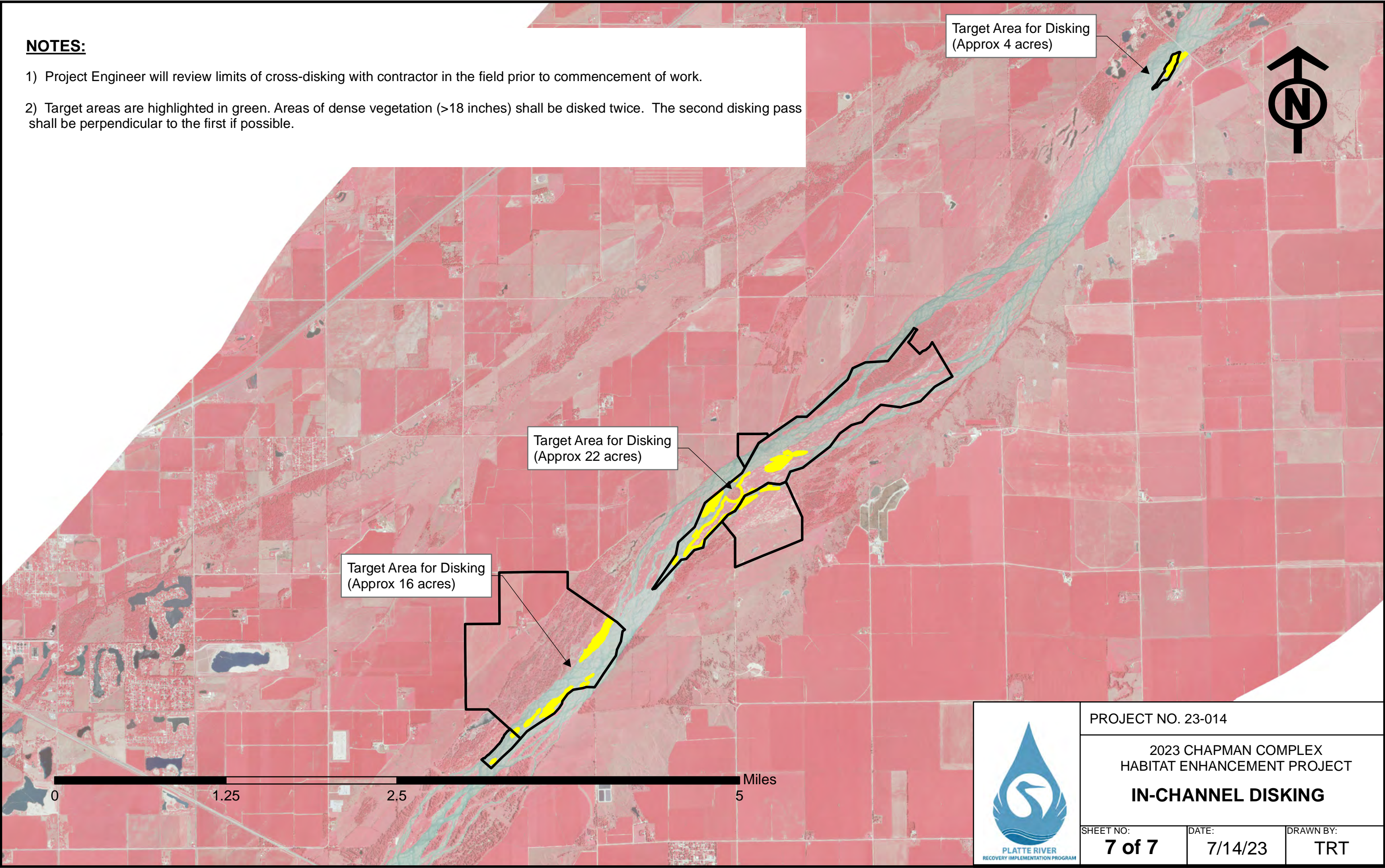
SHEET NO:
6 of 7


DATE:
7/14/23

DRAWN BY:
TRT

NOTES:

- 1) Project Engineer will review limits of cross-disking with contractor in the field prior to commencement of work.
- 2) Target areas are highlighted in green. Areas of dense vegetation (>18 inches) shall be disked twice. The second diskings pass shall be perpendicular to the first if possible.



	PROJECT NO. 23-014		
	2023 CHAPMAN COMPLEX HABITAT ENHANCEMENT PROJECT		
	IN-CHANNEL DISKING		
	SHEET NO: 7 of 7	DATE: 7/14/23	DRAWN BY: TRT



CONTRACTOR NAME Nebraska Community Foundation
CONTRACTOR ADDRESS #1 PO Box 83107
CONTRACTOR ADDRESS #2 Lincoln, NE 68501-3107
FEIN FEIN 47-0769903
DUNS
SAM

PLATTE RIVER RECOVERY IMPLEMENTATION PROGRAM

Contract between Nebraska Community Foundation, Platte River Recovery Implementation Program, and CONTRACTOR NAME

2023 In-Channel Disking Services

1. **Parties.** This Contract is made and entered into by and between Nebraska Community Foundation (“Foundation”) of Lincoln, Nebraska, representing all signatories to the Platte River Recovery Implementation Program (“Program”) and **CONTRACTOR NAME** (“Contractor”). The following persons are authorized to represent the parties through this Contract: Jason Kennedy of the Foundation; Jason Farnsworth of the Program; and **NAME** of the Contractor.
2. **Purpose of Contract.** The purpose of this Contract is to allow the Foundation, acting as the fiscal agent for the Governance Committee (GC) of the Program, to retain the services of the Contractor to render certain technical or professional services hereinafter described in connection with an undertaking to be financed by the Program, and to delegate the Executive Director’s Office (“ED Office”) through its Executive Director or his designee the authority to administer this Contract.
3. **Term of Contract and Required Approvals.** This Contract is effective when all parties have executed it and all required approvals have been granted. The term of this Contract is generally from **August 31, 2023** through **December 31, 2023**. All services shall be completed during this term. The services to be performed under this Contract will commence upon receipt of authorization to proceed. If the Contractor has been delayed and as a result will be unable, in the opinion of the Program, to complete performance fully and satisfactorily within this Contract period, the Contractor may be granted an extension of time, upon submission of evidence of the causes of delay satisfactory to the Program. An extension of the contract term must be in writing, signed by both Parties in order for it to be valid.
4. **Payment.**
 - A. **Reimbursement of Expenses.** The Program agrees to pay the Contractor an amount based on the approved Bid Unit Prices included in **Exhibit A – Successful RFQ Response from Awarded Contractor**. Total Payment under this contract shall not exceed **\$85,500.00** during the contract period.
 - B. **Cost Rates.** The Bid Unit Prices for each task included in **Exhibit A** are not to be exceeded unless authorized in writing by the Program. The contract total amount is controlling and is a ceiling price that contractor exceeds at its own risk. Payment shall be made directly to the Contractor. The Contractor shall maintain hourly records of time worked by its personnel to support any audits the



Program may require. Billing reports shall be submitted no more often than monthly for activities and costs accrued since the last billing report.

- C. Billing Procedures.** The Contractor shall send billing reports for services performed for the various tasks outlined in **Exhibit A** to the ED Office (address included below). The Program's Executive Director, upon receiving the billing report, will review the bill and advance the invoice to the Bureau of Reclamation who will advise the Foundation of approval. The Foundation will make payment of these funds directly to the Contractor within 30 days of receiving notice of approval. Payments are due within 60 days of 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

D. Withholding of Payment.

- (i) When the Program has reasonable grounds for believing that the Contractor will be unable to perform this Contract fully and satisfactorily within the time fixed for performance, then the Program may withhold payment of such portion of any amount otherwise due and payable to the Contractor reasonably deemed appropriate to protect the Program against such loss. These amounts may be withheld until the cause for the withholding is cured to the Program's satisfaction or this Contract is terminated pursuant to Section 8.U. Any amount so withheld may be retained by the Program for such period as it may be deemed advisable to protect the Program against any loss. This provision is intended solely for the benefit of the Program and no person shall have any right against the Program or Foundation by reason of the Program's failure or refusal to withhold monies. No interest shall be payable by the Program or Foundation on any amounts withheld under this provision. This provision is not intended to limit or in any way prejudice any other right of the Program or Foundation.
- (ii) If a work element has not been completed by the dates established in **Exhibit A**, the Program may withhold all payments beginning with the month following that date until such deficiency has been corrected.

- E. Final Completion and Payment.** The final payment shall be made upon acceptance of the final report, receipt of the final billing, and if applicable, execution of the final contract amendment documenting the final contract amount.

5. Responsibilities of Contractor.

- A. Scope of Services.** The Contractor shall perform the specific services required under this Contract in a satisfactory and proper manner as outlined in **Exhibit A**. If there is any conflict between this Contract and the provisions of the specific requirements of **Exhibit A**, the specific requirements shall prevail.



B. Personnel. All of the services required hereunder will be performed by the Contractor or under its supervision, and all personnel engaged in the work shall be fully qualified and shall be authorized, licensed, or permitted under state law to perform such services, if state law requires such authorization, license, or permit.

C. Subcontracts.

- (i) Approval Required for Subcontracts.** Any subcontractors and outside associates or consultants required by the Contractor in connection with the services, work performed or rendered under this Contract will be limited to such individuals or firms as were specifically identified in the proposal and agreed to during negotiations or are specifically authorized by the Program during the performance of this Contract. The Contractor shall submit a list of the proposed subcontractors, associates, or consultants; the scope and extent of each subcontract; and the dollar amount of each subcontract prior to Contract execution to the Program for approval. During the performance of the Contract, substitutions in or additions to such subcontracts, associates, or consultants will be subject to the prior approval of the Program. The Program approval of subcontractors will not relieve the Contractor from any responsibilities outlined in this Contract. The Contractor shall be responsible for the actions of the subcontractors, associates, and subconsultants.
- (ii) Billings for Subcontractors.** Billings for subcontractors, associates, or subconsultants services will not include any mark up. The subcontract costs will be billed to the Program at the actual costs as billed to the Contractor. Subcontract costs will be documented by attaching subcontractor billings to the Contractor's billing submittals.
- (iii) Copies of Subcontracts.** The Contractor shall provide to the Program copies of each subcontractor contract immediately following execution with the subcontractor. All subcontracts between the Contractor and a subcontractor shall refer to and conform to the terms of this Contract. However, nothing in this Contract shall be construed as making the Program a party to any subcontract entered between the Contractor and a subcontractor.
- (iv) Contracts for Subcontractors.** All subcontracts that Contractor enters into shall include any applicable provisions and certifications required by 2 CFR Part 200, including Appendix II thereto, and any other federal, state or local laws or regulations.
- (v) Debarment and Suspension.** Contractor shall not enter into subcontracts with any entity or individual that is suspended, debarred or otherwise excluded from participation in the transaction covered by this Contract.

D. Requests from the Program. The Contractor shall be responsible and responsive to the Program and the ED Office in their requests and requirements related to this Contract.

E. Reports, Maps, Plans, Models and Documents. One (1) copy of maps, plans, worksheets, logs, field notes, or other documents prepared under this Contract, and one (1) copy of each unpublished report prepared under this Contract shall be submitted to the Program.



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

6. Responsibilities of the Program.

A. Designated Representative. The Executive Director shall act as the Program's administrative representative with respect to the Contractor's service to be performed under this Contract 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 Contract.

B. Data to be Furnished to the Contractor. All information, data, reports, and maps as are available to the Program and necessary for the carrying out of the Scope of Services set forth herein shall be furnished to the Contractor without charge and the ED Office shall cooperate with the Contractor in every way possible in the carrying out of the project.

C. Review Reports. The ED Office shall examine all studies, reports, sketches, opinions of construction costs, and other documents presented by the Contractor to the Program and shall promptly render in writing the Program's decisions pertaining thereto within the time periods specified in Exhibit A.

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

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 Contractor for publication and use in connection with related work. Use of this work for publication and related work by the Contractor must be conducted with full disclosure to and coordination with the Program's Technical Point of Contact.

C. Publicity. Any publicity or media contact associated with the Contractor's services and the result of those services provided under this Contract shall be the sole responsibility of the Program. Media requests of the Contractor should be directed to the Director of Outreach and Operations in the ED Office.

D. Monitor Activities. The Program shall have the right to monitor all Contract-related activities of the Contractor and all subcontractors. 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 Contractor personnel in every phase of performance of Contract-related work.

E. Kickbacks. The Contractor 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 Contractor 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. Contractor certifies by signing this Contract that neither Contractor 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. Contractor makes the representations set forth in **Exhibit B – Certification Regarding Lobbying**, incorporated by reference as part of this Contract. The Contractor shall execute such Certification at the time of executing this Contract.

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

8. General Provisions.

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

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

C. Assignment/Contract 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 Contract without the prior written consent of the other party. The Contractor shall not use this Contract, or any portion thereof, as 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 Contractor which are pertinent to this Contract. The Contractor shall, immediately upon receiving written instruction from the Program or the Foundation, provide to the Foundation or any governmental entity, independent auditor, accountant, or accounting firm, all books, documents, papers and records of the Contractor which are pertinent to this Contract. The Contractor 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 Contractor, the contract may be terminated by the Program at the end of the period for which the funds are available. The Program shall notify the Contractor 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 Contract 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 Contractor shall cooperate fully with other contractors and the Program in all such cases.

G. Certificate of Good Standing. Contractor shall provide Certificate of Good Standing verifying compliance with the unemployment insurance and workers' compensation programs prior to performing work under this Contract.

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

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

J. Conflicts of Interest

(i) Contractor 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. Contractor shall notify the Program of any potential or actual conflicts of interest arising during the course of the Contractor's performance under this Contract. This Contract may be terminated in the event a conflict of interest arises. Termination of the Contract will be subject to a mutual settlement of accounts. In the event the contract is terminated under this provision, the Contractor 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 Contractor'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 Contract includes, but is not necessarily limited to, representing a client in an adversarial proceeding against the Program, its signatories, boards, commissions, or the Foundation, or initiating suits in equity including injunctions, declaratory judgments, writs of prohibition or *quo warranto*.

K. Entirety of Contract. This Contract, consisting of *thirteen (13)* pages, including **Exhibit A – Successful RFQ Response from Awarded Contractor** (1 page) and **Exhibit B – Certification Regarding Lobbying** (1 page), represents the entire and integrated Contract between the parties and supersedes all prior negotiations, representations, and agreements, whether written or oral.

L. Force Majeure. Neither party shall be liable for failure to perform under this Contract 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.

M. Indemnification. The Contractor 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 Contractor's failure to perform any of Contractor's duties and obligations hereunder or in connection with the negligent performance of Contractor's duties or obligations, including but not limited to any claims, lawsuits, losses or liability arising out of Contractor's malpractice. The obligations of this paragraph shall survive termination of this Contract.

N. Independent Contractor. The Contractor 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 Contractor shall assume sole responsibility for any debts or liabilities that may be incurred by the Contractor 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 Contractor 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 Contractor 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 Contractor or the Contractor's agents and/or employees as a result of this Contract.

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

P. Notice and Approval of Proposed Sale or Transfer of the Contractor. The Contractor 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 Contractor. Such notice shall be provided in accordance with the notice provision of this Contract.

Q. 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 Contract are at all times the property of the Program.

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

S. Insurance Coverage. The Contractor shall not commence work under this Contract until the Contractor has obtained the following insurance coverages and provided the corresponding certificates of insurance:



(i) Commercial General Liability Insurance. Contractor shall provide coverage during the entire term of the Contract against claims arising out of bodily injury, death, damage to or destruction of the property of others, including loss of use thereof, and including products and completed operations in an amount not less than Two Million Dollars (\$2,000,000.00) aggregate and One Million Dollars (\$1,000,000.00) per occurrence. These minimum limits can be met by primary and umbrella liability policies. Coverage shall include Premises-Operations, Products/Completed Operations, Contractual, Broad Form Property Damage, and Personal Injury.

(ii) Business Automobile Liability Insurance. Contractor shall maintain, during the entire term of the Contract, automobile liability insurance in an amount not less than One Million Dollars (\$1,000,000.00) per occurrence. Coverage will include bodily injury and property damage covering all vehicles, including hired vehicles, owned and non-owned vehicles.

(iii) Workers' Compensation and Employers' Liability Insurance. The Contractor shall provide proof of workers' compensation coverage. Contractor's insurance shall include "Stop Gap" coverage in an amount not less than Five Hundred Thousand Dollars (\$500,000.00) per employee for each accident and disease.

(iv) Professional Liability Insurance. The Contractor shall provide proof of Professional Liability insurance covering damages arising out of negligent acts, errors, or omissions committed by Contractor in the performance of this Agreement, with a liability limit of not less than One Million Dollars (\$1,000,000) per claim. The Contractor shall maintain this policy for a minimum of two (2) years after completion of the work or shall arrange for a two-year extended discovery (tail) provision if the policy is not renewed. The intent of this policy is to provide coverage for claims arising out of the performance of professional Services under this contract and caused by any error, omission, breach or negligent act, including infringement of intellectual property (except patent or trade secret) of the Contractor.

T. Taxes. The Contractor 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.

U. Termination of Contract. This Contract may be terminated, without cause, by the Program upon fifteen (15) days written notice. This Contract may be terminated immediately for cause if the Contractor fails to perform in accordance with the terms of this Contract. In the event of a termination, the Program shall pay Contractor for all reasonable work performed up to the effective date of the termination. In the event the contract is terminated under this provision, the Contractor shall take steps to ensure that the file, evidence, evaluation, and data are provided to the Program or its designee.

V. 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 Contract shall not be construed so as to create such status. The rights, duties and obligations contained in this Contract shall operate only between the parties to this Contract and shall inure solely to the benefit of the parties to this Contract. The



provisions of this Contract are intended only to assist the parties in determining and performing their obligations under this Contract.

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

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

Y. 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.

Z. Survival. The parties' obligations under sections 8.D. (Audit/Access to Records), 8.S. (Insurance Coverage), and 8.U. (Termination of Contract) will survive the termination of this Contract.

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

Jason Kennedy	Jason Farnsworth
Chief Financial & Administrative Officer	Executive Director
Nebraska Community Foundation	Platte River Recovery Implementation Prog.
PO Box 83107	Headwaters Corporation
Lincoln, Nebraska 68501-3107	4111 4 th Avenue, Suite 6
Phone: (402) 323-7330	Kearney, Nebraska 68845
Email: jkennedy@nebcommfound.org	Phone: (308) 237-5728
	Email: farnsworthj@headwaterscorp.com

Technical Point of Contact (Program):

Tim Tunnell
Land Coordinator
Platte River Recovery Implementation Prog.
Headwaters Corporation
4111 4th Avenue, Suite 6
Kearney, Nebraska 68845
Phone: (308) 237-5728
Email: tunnelt@headwaterscorp.com

Media Point of Contact (Program):

Alicia Uribe
Executive Office Manager
Platte River Recovery Implementation Prog.
Headwaters Corporation
4111 4th Avenue, Suite 6
Kearney, Nebraska 68845
Phone: (308) 237-5728
Email: uribea@headwaterscorp.com

Administrative & Technical Point of Contact (Contractor):

CONTRACTOR CONTACT INFORMATION



10. Signatures. By signing this Contract, 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 Contract.

FOR THE NEBRASKA COMMUNITY FOUNDATION:

 Jason D. Kennedy Date
 Chief Financial and Administrative Officer

FOR THE CONTRACTOR:

 CONTRACTOR NAME 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 M. Farnsworth Date
 Executive Director



EXHIBIT A

PLATTE RIVER RECOVERY IMPLEMENTATION PROGRAM (PRRIP -or- Program)
Successful RFQ Response from Awarded Contractor (including Bid Unit Prices and 2023 In-Channel Disking Habitat Enhancement Project Maps)



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

The undersigned certifies, on behalf of the Contractor, 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 Contractor, 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 Contractor with respect to the federal grant or cooperative agreement under which the Contractor 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 CONTRACTOR:

 CONTRACTOR NAME

 Date