



PLATTE RIVER RECOVERY IMPLEMENTATION PROGRAM (PRRIP -or- PROGRAM) REQUEST FOR BIDS (RFB)

1
2
3 **SUBJECT:** 2024 Whooping Crane Aerial Survey Flights
4 **CLOSING DATE:** January 31, 2024 – 5:00 pm central time
5 **PUBLIC BID OPENING:** February 1, 2024 – 2:00 pm (PRRIP office)
6 **POINT OF CONTACT:** Mallory Jaymes
7 Headwaters Corporation
8 4111 4th Ave, Suite 6
9 Kearney, NE 68845
10 (308) 380-1384
11 jaymesm@headwaterscorp.com
12

I. OVERVIEW

13
14 The Platte River Recovery Implementation Program (Program) was initiated on January 1, 2007 between
15 Nebraska, Wyoming, and Colorado and the Department of the Interior to address endangered species
16 issues in the central and lower Platte River basin. The species considered in the Program, referred to as
17 “target species,” are the whooping crane, piping plover, interior least tern (now de-listed), and pallid
18 sturgeon.

19
20 A Governance Committee (GC) has been established that reviews, directs, and provides oversight for
21 activities undertaken during the Program. The GC is comprised of one representative from each of the
22 three states, three water user representatives, two representatives from environmental groups, and
23 two members representing federal agencies. Headwaters Corporation provides the Executive Director
24 and staff for the Program, collectively known as the Executive Director’s Office (EDO). Program staff are
25 located in Nebraska and Colorado and are responsible for assisting in carrying out various Program-
26 related activities.

27
28 Whooping crane monitoring has been collected biannually by the Program since 2007 to measure
29 whooping crane use of the associated habitat reach (AHR) to determine if the program is meeting its
30 target species objectives. The GC submits this Request for Bids (RFB) to solicit bids from contractors to
31 provide aircraft and pilot(s) for spring and fall whooping crane monitoring seasons in Calendar Year
32 2024.

II. PROJECT DESCRIPTION

33
34 This scope of work set forth in this RFB includes one spring and one fall monitoring season in which two
35 Program employees will be flown daily by the Contractor’s aircraft and pilot on set transects along the
36 Platte River in search of whooping cranes. The entire search area stretches from Lexington, NE to
37 Chapman, NE and will be split in half and flown by two separate aircraft simultaneously each morning
38 during the monitoring seasons. The west half stretches from Lexington, NE to Hwy 10. The east half
39 stretches from Hwy 10 to Chapman, NE. Contractors can bid on one side or both sides of the search
40 area. In the event a contractor makes the lowest bid on both sides, but only has the means to fly one
41 side, they can pick their side of preference.
42



43 The monitoring season schedules are as follows:

44
45
46
47
48
49

- Spring: March 5, 2024 – April 19, 2024
- Fall: October 15, 2024 – November 18, 2024
(The start dates may be initiated earlier, or the end dates extended in the event whooping cranes are known to be in the area.)

50 **III. SCOPE OF WORK**

51 The Program is requesting bids to provide aircraft and pilot(s) for monitoring flights as described below:

52
53
54
55
56
57
58
59
60
61
62
63
64

- Aircraft and pilot must be available every morning for the duration of each monitoring season.
- Flights will be initiated from the Grand Island and Kearney airports 45 minutes before sunrise and monitoring will begin at their transect origin 30 minutes prior to sunrise and will last a duration of about 2 hours.
- Aircraft must seat a minimum of 2 passengers.
- Flights will be flown 750 feet above ground level at approximately 100 mph unless conditions (weather, avian species, etc.) dictate otherwise.
- Flights will proceed along predetermined transects with the river transect being flown east to west and return transects west to east.
- Aircraft must be equipped with navigation equipment necessary to follow transects and record miles flown.

65 **IV. PROJECT DURATION**

66 The Contractor under this agreement shall commence this work *March 5th, 2024* and continue through
67 *April 19th, 2024* for the spring period. Work commences again in the fall from *October 15, 2024* and
68 continue through *November 18, 2024*. The start dates may be initiated earlier, or the end dates
69 extended in the event whooping cranes are known to be in the area.

70

71 **V. CONTRACT TERMS**

72 The selected contractor will be retained by:

73
74
75
76
77

Nebraska Community Foundation
PO Box 83107
Lincoln, NE 68501

78 The Contract form is attached as **Exhibit A**. It is understood that the Governance Committee reserves
79 the right to accept any bid that, in its judgment, is the best bid, and to waive any irregularities in any bid.
80 Costs incurred in response to this RFB will be the responsibility of the bidder. Neither the Nebraska
81 Community Foundation nor the Governance Committee will be liable for any costs incurred by the
82 bidder in the completion and submission of the bid.

83

84 **VI. SUBMISSION REQUIREMENTS**

85 All interested parties having experience providing the services listed in this RFB are requested to submit
86 a bid.



87 **Instructions for Submitting Bids**

88 *One fully completed electronic copy of the attached Bid Form must be submitted in PDF format to*
89 *Mallory Jaymes at jaymesm@headwaterscorp.com no later than 5:00 p.m. Central Time on Wednesday,*
90 *January 31, 2024. A Bid is late if received any time after 5:00 p.m. Central Time and will not be eligible*
91 *for consideration.*

92
93 ***Bid Content***

94 Bids must include the following forms and additional documentation and attestations:

- 95 **1) Whooping Crane Bid Form** – complete attached document.
- 96 **2) Additional Documentation Required: Certificate of Good Standing** – include with bid. Obtained
97 from the Nebraska Secretary of State, will be included in the contract.
- 98 **3) Additional Documentation Required: Certificate of Insurance** – include with bid. Proof of insurance
99 will be required before a contract is issued and the insurance certificate will be included in the
100 contract. If awarded, Contractor shall represent and guarantee that all employees, agents, or
101 representatives of Contractor, and all employees, agents, or representatives of sub-contractors are
102 covered by insurance as required by Nebraska State Statute. Prior to entering into contract with
103 PRRIP, contractor shall furnish PRRIP with a Certificate of Insurance naming PRRIP as named or
104 additional insured without waiving any defense of sovereign immunity or increasing the limits of
105 PRRIP’s liability in excess of Nebraska State Statute, providing evidence that contractor has in full
106 force and effect the following minimum insurance with insurers authorized to do business in the
107 State of Nebraska. The Certificate of Insurance shall also provide that PRRIP shall be notified in
108 writing by the carrier at least 30 days prior to any cancellation of said insurance. Minimum insurance
109 requirements include:
- 110 • **General Liability Insurance** – Contractor’s insurance shall include coverage during the entire
111 term of the Contract against claims arising out of bodily injury, death, damage to or destruction
112 of the property of others, including loss of use thereof, and including products and completed
113 operations in an amount not less than \$1,000,000 per occurrence.
 - 114 • **Business Automobile Liability Insurance** – Contractor shall maintain automobile liability
115 insurance in an amount not less than \$1,000,000 per occurrence.
 - 116 • **Workers’ Compensation and Employers’ Liability Insurance** – Contractor’s insurance shall
117 include “Stop Gap” coverage in an amount not less than \$500,000 per employee for each
118 accident and disease.
- 119 **4) Attestation: Certification Regarding Lobbying** – bid must indicate Contractor’s ability to sign the
120 PRRIP Certification Regarding Lobbying during the contracting phase. The certification is included in
121 **Exhibit A.**
- 122 **5) Attestation: Conflict of Interest** – bid must include a statement noting no potential conflict of
123 interest exists between this project and other past or on-going projects, including any projects
124 currently being conducted for the Program.
- 125 **6) Attestation: Debarment and Suspension** – bid must include a statement certifying Contractor is not
126 on the federal suspended and disbarred list. A DUNS¹ and SAM² number are required to assist in
127 verification.

¹ <https://www.dnb.com/duns-number.html>

² <https://federalcontractorregistry.com/>



128 Criteria for Evaluating Bids

129 Bids will be evaluated and Contractors selected based on the following principal considerations:

- 130 1. Bid price.
- 131 2. Availability of required equipment, personnel, and skills.
- 132 3. Insurance requirements, conflict of interest statement, affirmative statement.

133

134 The winning bid(s) will be selected to best meet overall project objectives. Should the successful
135 Contractor(s) be unable at any time to accomplish the work they have been contracted for or meet any
136 of the requirements or standards listed in this Bid, the next ranked Contractor may be contacted to
137 provide the required work.

138

139 **VII. CONTRACTOR SELECTION**

140 Bids will be reviewed and the award made to the lowest cost bid(s) that conform to the specifications of
141 this RFB and is/are considered to provide the most value to the Program. Bid opening will occur on
142 February 1, 2024 at 2:00 pm at 4111 4th Ave. Suite 6 Kearney, NE 68845 and will be open for public
143 attendance.

144

145 **VIII. PROGRAM PERSPECTIVE**

146 The GC of the Program has the sole discretion and reserves the right to reject any and all bids received
147 in response to this RFB and to cancel this Solicitation if it is deemed in the best interest of the Program
148 to do so. Issuance of this RFB in no way constitutes a commitment by the Program to award a contract,
149 or to pay contractor’s costs incurred either in the preparation of a response to his RFP or during
150 negotiations, if any, of a contract for services. The Program also reserves the right to make amendments
151 to this RFB by giving written notice to contractors, and to request clarification, supplements, and
152 additions to the information provided by a contractor.

153

154 By submitting a bid in response to this Solicitation, contractors understand and agree that any selection
155 of a contractor or any decision to reject any or all responses or to establish no contracts shall be at the
156 sole discretion of the Program. To the extent authorized by law, the contractor shall indemnify, save,
157 and hold harmless the Nebraska Community Foundation, the states of Colorado, Wyoming, and
158 Nebraska, the Department of the Interior, members of the GC, and the ED Office, their employees,
159 employers, and agents, against any and all claims, damages, liability, and court awards including costs,
160 expenses, and attorney fees incurred as a result of any act or omission by the contractor or its
161 employees, agents, subcontractors, or assignees pursuant to the terms of this project. Additionally, by
162 submitting a bid, contractors agree that they waive any claim for the recovery of any costs or expenses
163 incurred in preparing and submitting a bid.

164

165 **IX. AVAILABLE INFORMATION**

166 A shapefile of the transects is available on the Program website (www.platteriverprogram.org) at the
167 same location as this RFB. A map of the flight transects can be found on the last page of the Bid Form.

168



2024 WHOOPING CRANE FLIGHT BID FORM

1
2
3
4
5
6
7
8
9
10
11

PROJECT: 2024 Whooping Crane Aerial Surveys
CLOSING DATE: January 31, 2024 – 5:00 pm central time
PUBLIC BID OPENING: February 1, 2024 – 2:00 pm (PRRIP office)
CONTACT: Mallory Jaymes – Wildlife Biologist
Headwaters Corporation
4111 4th Ave, Suite 6
Kearney, NE 68845
jaymesm@headwaterscorp.com

Item No.	Description	Unit	Bid Unit Price
001	Aircraft	Hour	\$_____
002	Pilot	Hour	\$_____
003	Other (specify): _____	Hour	\$_____

12
13
14
15
16
17
18
19
20
21

Note: Price requested are hourly rates for aircraft and pilot. Payment will be made on actual hours worked and expenses incurred.

Submitting Bid for: East Leg/West Leg/Both _____
Passengers Allowed Including Pilot _____
Pilots Available During the Monitoring Season _____
Aircraft Available During each Monitoring Season _____
Aircraft and Pilot Available Daily during each monitoring season (circle one) YES / NO

22
23
24
25
26
27

____ Initial to verify that you understand the insurance requirements.
____ Initial if there is not any potential conflict of interest that exists between this project and other past or on-going projects, including any projects currently being conducted for the Program.
____ Initial to verify that as a contractor you are not suspended or debarred from receiving federal funds.

28
29
30
31
32
33
34
35
36
37

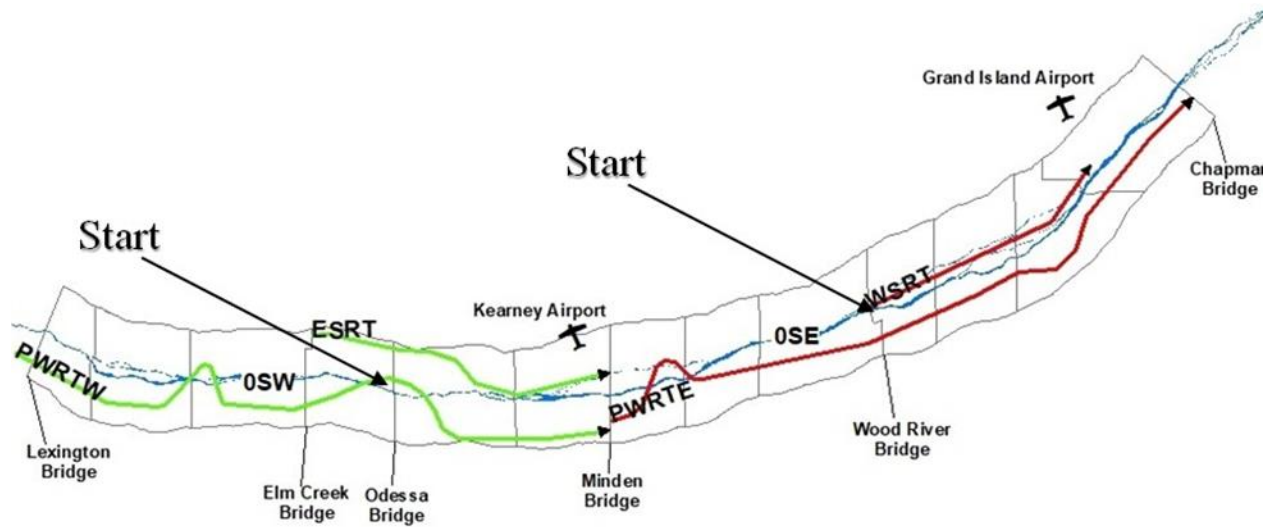
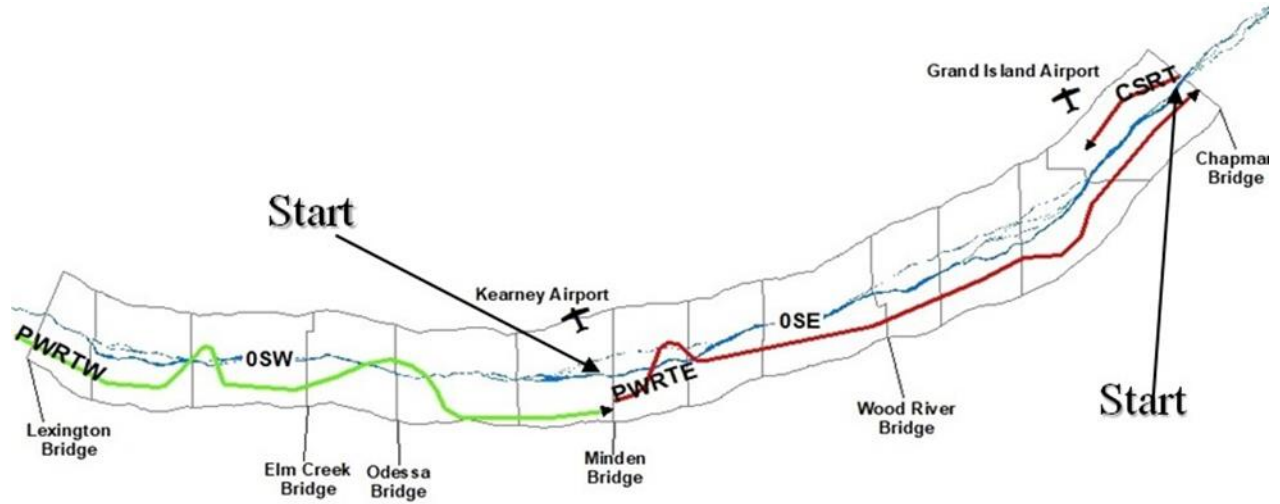
Submitted by:

Company Phone Number

Individual (Print) Sign/Date



38 Maps showing the daily alternating flight transects for both east and west contracts. The Platte
39 River shown in blue flown east to west and the return transects shown in green and red flown west
40 to east.





2024 PRRIP Whooping Crane Monitoring RFB – Exhibit A
PLATTE RIVER RECOVERY IMPLEMENTATION PROGRAM
PROFESSIONAL SERVICES CONTRACT

1. **Parties.** This Professional Services Contract is made and entered into by and between Nebraska Community Foundation (“NCF”), representing all signatories to the Platte River Recovery Implementation Program (the “Program”), and _____ (“Consultant”).
2. **Purpose of Contract.** The purpose of this Contract is to allow NCF, acting as the fiscal agent for the Governance Committee (GC) of the Program, to retain the services of the Consultant 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 designee the authority to administer this Contract.
3. **Term of Contract and Required Approvals.** *The term of this Contract is generally from March 1, 2024 through November 30, 2024.* 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 Consultant 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 Consultant 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 for Services.**
 - A. **Billing Amount.** The Program agrees to pay the Consultant an amount that shall not exceed \$XXX,XXX for the services described in **Exhibit A – Project Scope of Work & Budget** and based on the approved hourly rate and reimbursable price schedule depicted in **Exhibit A**.
 - B. **Billing Rates.** Consultant shall not exceed the costs and rates for each task included in **Exhibit A** unless authorized in writing by the Program. The contract total amount is controlling and is a ceiling price that Consultant exceeds at its own risk. Payment shall be made directly to the Consultant. The Consultant shall maintain hourly records of time worked by its personnel to support any audits the Program may require. Invoices shall be submitted no more often than monthly for activities and costs accrued since the last invoice.
 - C. **Billing Procedures.** The Consultant shall send invoices for services performed for the various tasks outlined in **Exhibit A** to the ED Office. Invoices shall include all services and costs accrued by Contractor and Subconsultants since the last billing report. The Program’s Executive Director, upon receiving the invoice, will review and advance the invoice to the Bureau of Reclamation who will advise NCF of approval. NCF will make payment of these funds directly to the Consultant within 30 days of receiving notice of approval. Payments are due within 60 days of the billing date.
 - D. **Withholding of Payment.**
 - (i) When the Program has reasonable grounds for believing that the Consultant 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 Consultant 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.T. 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 NCF by reason of the Program's failure or refusal to withhold monies. No interest shall be payable by the Program or NCF 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 NCF.
- (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 Consultant.**
- A. Scope of Services.** The Consultant 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 Consultant 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 required by the Consultant in connection with the services or 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 in writing by the Program during the performance of this Contract. The Consultant shall include a list of the proposed subcontractors; the scope and extent of each subcontract; and the estimated dollar amount of each subcontract prior to Contract execution to the Program for approval that will be incorporated by reference in **Exhibit A**. During the performance of the Contract, substitutions in or additions to such subcontracts will be subject to the prior written approval of the Program. Program approval of subcontractors will not relieve the Consultant from any responsibilities outlined in this Contract. The Consultant shall be responsible for the actions of any subcontractors.
- (ii) **Billings for Subcontractors.** Billings for subcontractor services will not include any mark up. Subcontract costs will be billed to the Program at the actual costs as billed to the Consultant.



Subcontract costs will be documented by attaching the subcontractor's invoice to the Consultant's invoice.

- (iii) **Copies of Subcontracts.** The Consultant shall provide to the Program copies of each subcontract immediately following execution with the subcontractor. All subcontracts between the Consultant and a subcontractor shall refer to and conform to the terms of this Contract. However, nothing in this Contract shall be construed as making NCF or the Program a party to any subcontract entered between the Consultant and a subcontractor.
 - (iv) **Contracts for Subcontractors.** All subcontracts that Consultant 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.** Consultant 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 Consultant 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.** Consultant shall furnish to the Program 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.
- F. Inspection and Acceptance.** All deliverables furnished by the Consultant 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 Consultant'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 rendered under this Contract.
 - B. Data to be Furnished to the Consultant.** 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 Consultant without charge, and the ED Office shall cooperate with the Consultant 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 Consultant 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 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 full disclosure to and coordination with the ED Office.
- C. Publicity.** Any publicity or media contact associated with the Consultant's services and the result of those services provided under this Contract shall be the sole responsibility of the Program. Media requests of the Consultant should be directed to the ED Office.
- D. Monitor Activities.** The Program shall have the right to monitor all Contract-related activities of the Consultant and all subcontractors.
- 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 in **Exhibit B – Certification Regarding Lobbying**, incorporated by reference as part of this Contract. The Consultant shall execute such Certification at the time of executing this Contract.
- 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 Contract that are mutually agreed upon by the parties to this Contract shall be incorporated by written instrument and signed by the 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 Consultant 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, NCF, and any of their representatives shall have access to any books, documents, papers, and records of the Consultant that are pertinent to this Contract. The Consultant shall, immediately upon receiving written instruction from the Program or NCF, provide to NCF, the Program, or any governmental entity, independent auditor, accountant, or accounting firm, all books, documents, papers, and records of the Consultant which are pertinent to this Contract. The Consultant shall cooperate fully with NCF 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 contract 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 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 Consultant shall cooperate fully with other consultants and the Program in all such cases.
- G. Certificate of Good Standing.** The Consultant shall provide a Certificate of Good Standing from the relevant Secretary of State office prior to performing work under this Contract, to be incorporated by reference into this Contract as **Exhibit C – Consultant Certificate of Good Standing**.
- H. 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.
- I. 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 Contract shall be kept confidential by the Consultant unless written permission is granted by the Program for its release.
- J. Conflicts of Interest**
- (i)** Consultant shall not engage in providing consultation to or representation of clients, agencies, or firms that 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 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 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 Contract includes, but is not necessarily limited to, representing a client in an adversarial proceeding against the Program, its signatories, boards, commissions, or the NCF, or initiating suits in equity.
- K. 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, pandemics, 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 NCF, 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 Consultant.** The Consultant shall function as an independent contractor for the purposes of this Contract and shall not be considered an employee of the Program, NCF, 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 that 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 NCF or the Program, or to incur any obligation of any kind on the behalf of NCF or the Program. The Consultant agrees that no health/hospitalization benefits, workers' compensation and/or similar benefits available to NCF, 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 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.
- O. Notice and Approval 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 Contract.

- 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 Contract 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 warrants that no work performed by the Consultant or its subcontractors will violate any such restriction.
- R. Insurance Coverage.** The Consultant’s relevant Certificate of Insurance shall be provided to the Program and incorporated by reference into this Contract as **Exhibit D – Consultant Certificate of Insurance**. The Consultant shall not commence work under this Contract until the Consultant has obtained the following insurance coverages and provided the corresponding certificate noting such coverages:
- (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 One Million Dollars (\$1,000,000.00) per occurrence.
 - (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.
- S. 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.
- T. Termination of Contract.** This Contract may be terminated, without cause, by the Program upon fifteen (15) days’ advance written notice. This Contract may be terminated immediately for cause if the Consultant fails to cure its performance in accordance with the terms of this Contract within seven (7) days after receiving notice from the Program. In the event of a termination, the Program shall pay Consultant for all reasonable work performed up to the effective date of the termination. In the event the contract 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.



- U. 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.
- V. Time is of the Essence.** Time is of the essence in all provisions of the Contract.
- W. Titles Not Controlling.** Titles of paragraphs are for reference only and shall not be used to construe the language in this Contract.
- X. 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.
- Y. Survival.** The parties' obligations under sections 8.D. (Audit/Access to Records), 8.R. (Insurance Coverage), and 8.T. (Termination of Contract) will survive the termination of this Contract.
- Z. Entirety of Contract.** This Contract represents the entire and integrated Contract between the parties and supersedes all prior negotiations, representations, and agreements, whether written or oral.



9. Contacts.

For the Foundation:

Jason D. Kennedy, Chief Financial & Administrative Officer
Nebraska Community Foundation
PO Box 83107
Lincoln, Nebraska 68501-3107
Phone: (402) 323-7330
Email: jkennedy@nebcommfound.org
FEIN: 47-0769903

For the Consultant:

CONTACT NAME
TITLE
CONSULTANT NAME
ADDRESS 1
ADDRESS 2
ADDRESS 3
PHONE:
EMAIL:
FEIN:
DUNS:
SAM Unique Entity ID:

For the ED Office:

Mallory Jaymes, Wildlife Biologist
Platte River Recovery Implementation Program
Headwaters Corporation
4111 4th Avenue, Suite 6
Kearney, NE 68845
Phone: (308) 237-5728
Email: jaymesm@headwaterscorp.com



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.

NEBRASKA COMMUNITY FOUNDATION:

Jason D. Kennedy Chief Financial and Administrative Officer	Date

CONSULTANT:

NAME	Date
TITLE	

PLATTE RIVER RECOVERY IMPLEMENTATION PROGRAM ACKNOWLEDGEMENT

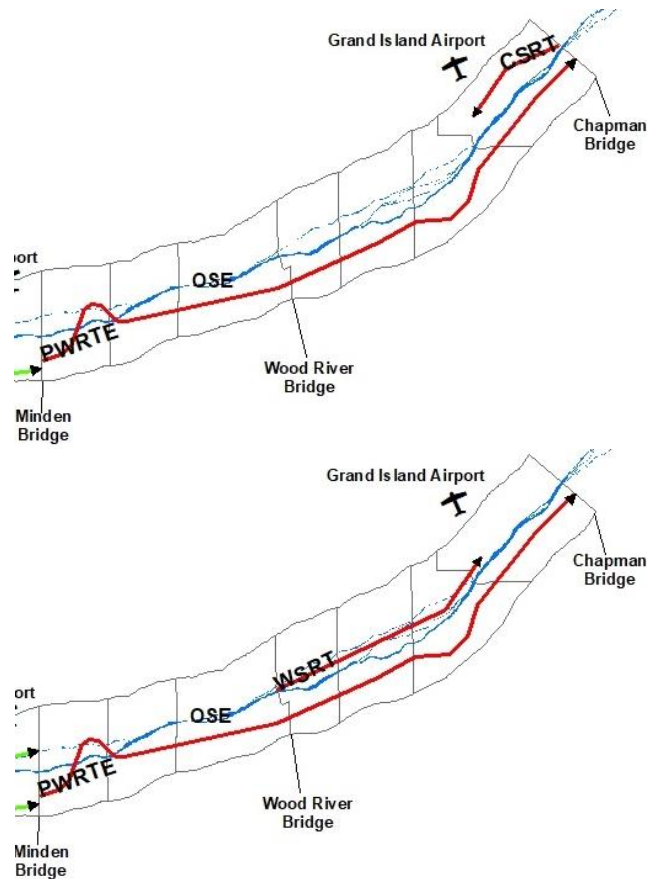
I hereby certify that the Governance Committee of the Platte River Recovery Implementation Program (Program) has authorized the Nebraska Community Foundation, acting as contracting agent of the Governance Committee of the Program, to enter into this Agreement.

Jason M. Farnsworth Executive Director	Date



PLATTE RIVER RECOVERY IMPLEMENTATION PROGRAM (PRRIP -or- Program) EXHIBIT A – Project Scope of Work & Budget

Activities in this project include providing a plane and pilot for use of flying program employees on the designated transects (shown below) to search for whooping cranes. Contractor is expected to have a plane and pilot available for use each morning of the spring and fall seasons. Transects follow the Platte River between Chapman and Minden bridges every morning and then include a transect to return to the airport that alternates daily (shown in red). Deviations from transects can occur for purposes such as the need for positive identification of birds. Flights will take place from March 5th to April 19th and October 15th to November 18th. The start dates may be initiated earlier, or the end dates extended in the event whooping cranes are known to be in the area. *Upon award of the contract, GPS coordinates for transects will be given to the contractor. Payment will be made on actual hours worked.*





HOURLY RATE AND REIMBURSABLE EXPENSES PRICE SCHEDULE

Item No.	Description	Unit	Bid Unit Price
1	Aircraft	Hour	\$XXX
2	Pilot	Hour	\$XXX
3	Other-Specify	Hour	\$XXX



**PLATTE RIVER RECOVERY IMPLEMENTATION PROGRAM (PRRIP -or- Program)
EXHIBIT B – 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:

NAME	Date
TITLE	



1
2
3

**PLATTE RIVER RECOVERY IMPLEMENTATION PROGRAM (PRRIP -or- Program)
EXHIBIT C – Consultant Certificate of Good Standing**



PLATTE RIVER RECOVERY IMPLEMENTATION PROGRAM (PRRIP -or- Program) EXHIBIT D – Consultant Certificate of Insurance