

**INTERLOCAL AGREEMENT BETWEEN THE NOTRH BEND DRAINAGE DISTRICT
AND DODGE COUNTY NEBRASKA**

THIS INTERLOCAL AGREEMENT (“Agreement”) is hereby made and entered into this _____ day of _____, 2020, between, Dodge County Nebraska, a political subdivision organized and existing under the laws of the State of Nebraska, and the North Bend Drainage District, a political subdivision organized and existing under the laws of the State of Nebraska.

WHEREAS, the Interlocal Cooperation Act of the State of Nebraska, being specifically Neb. Rev. Stat. § 13-801 *et seq.* (Reissue 2012), enables separate political subdivisions of any state to cooperate on the basis of mutual advantage to provide for joint undertakings, services and facilities, in a manner and pursuant to forms of governmental organization that will accord with best geographic, economic, population, and other factors influencing the needs and developments of local communities;

WHEREAS, it is necessary for the Parties to enter into an agreement to set forth their respective rights, duties and obligations.

WHEREAS, During the March 2019 floods (4420-DR), Dodge County was requested by local authorities to assist with a breach of the North Bend Cutoff Ditch, “referred to McGinn’s Drainage Ditch” maintained by The North Bend Drainage District. Requests included coordination of USACE technical assistance, coordination of repairs, and funding support. Dodge County provided all support requested. The \$362,377.11 payment for the repair of the bank of the drainage ditch was made May 2019 by Dodge County.

WHEREAS, the project was submitted to FEMA as a Dodge County project to receive the reimbursable Federal share 75% and State share 12.5%. FEMA has determined the only way to reimburse a local entity for emergency work performed at the North Bend Cutoff Ditch is to relinquish the project to the North Bend Drainage District, the entity with legal repair and maintenance responsibility of the site.

WHEREAS, Dodge County did not hold the Easement Agreement or Memorandum of Understanding or Memorandum of Agreement for the McGinn’s Drainage Ditch at the time of repair, any reimbursement Dodge County will receive will come from the maintaining entity, the North Bend Drainage District.

WHEREAS, North Bend Drainage District will only be responsible for reimbursement to Dodge County to the extent they receive the reimbursable Federal share 75% and State share 12.5% from FEMA or any other reimbursing agency.

WHEREAS, North Bend Drainage District did not itself perform the repair of the bank of the drainage ditch, the District will not be responsible for any correction or removal of the work that was done on McGinn's Drainage Ditch as a result of the March 2019 floods (4420-DR).

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL UNDERTAKINGS AND AGREEMENTS RECITED HEREIN CONTAINED, PARTIES DO HEREBY MUTUALLY UNDERTAKE, PROMISE, AND AGREE AS FOLLOWS:

The North Bend Drainage District will, in a timely manner, make all appropriate applications to FEMA and any other reimbursing agency regarding the above-mentioned project to apply for the reimbursable Federal share of 75% and State share of 12.5%. The North Bend Drainage District will immediately forward to the County, all Federal and State dollars received for the 4420-DR NE McGinn's Drainage Ditch repair project.

Dodge County will provide reasonable assistance to The North Bend Drainage District in making the appropriate applications to FEMA and any other reimbursing agency, if requested.

1. Term. This Agreement is effective upon approval of both parties and will continue, until either party withdraws from said agreement or terminates the same upon written notification to the other party.
2. No Separate Entity. No separate legal entity is created by this agreement.
3. Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or otherwise unenforceable, that provision will be severed and the remainder of this Agreement will remain in full force and effect. The Parties further recognize that this Agreement shall be subject to amendments in laws and regulations and to new laws and regulations. Any law or regulation that invalidates, or is otherwise inconsistent with the terms of this Agreement or that would cause one or any of the Parties to be in violation of the law or regulation, shall be deemed to have superseded the terms of this Agreement, provided, however, that the Parties shall exercise their best efforts to accommodate the terms and intent of this Agreement to the greatest extent possible.

4. Third Party Rights. This Agreement does not create any third-party rights for those who are not a Party to this Agreement.
5. Assignment. This Agreement may not be assigned or transferred, whether voluntarily or by operation of law, nor may any of the duties and responsibilities be assigned or transferred, whether voluntarily or by operation of law, without prior written consent of each non-assigning Party.
6. Amendment. This Agreement may be modified only by written amendment, duly executed by authorized officials of the Parties. No alteration or variation of the terms and conditions of this Agreement shall be valid unless made in writing and signed by the Parties hereto. Every amendment shall specify the date on which its provisions shall be effective.
7. Entire Agreement. This Agreement contains the whole understanding of the Parties and supersedes all prior oral or written representations and statements among the Parties. No representations were made or relied upon by any Party other than those that are expressly set forth herein. No agent, employee or other representative of any Party is empowered to alter any of the terms hereof except as provided herein.
8. Binding Effect. This Agreement shall be binding upon the successors and assigns of the Parties hereto.
9. Captions. The captions used in this Agreement are for convenience and are not used in the construction of this Agreement.
10. Joint Work Product. This Agreement is the joint work product of all Parties; accordingly, in the event of any ambiguity, no presumption shall be imposed against or in favor of any Party by reason of document preparation.
11. Interlocal Agreements Neb. Rev. Stat. §§13-801 – 827. For purposes of that Act, this Agreement shall be administered jointly by the Parties, as provided herein. This Agreement does not contemplate acquiring, holding or disposing of joint property nor does it contemplate the levying or collecting of any tax.

IN WITNESS WHERE OF, the Parties hereto set their hands to this Agreement upon the day and year hereinafter indicated.

EXECUTED this ____ day of _____, 2020.

COUNTY OF DODGE, NEBRASKA
a political subdivision

ATTEST:

County Clerk

By _____
Chairman, Dodge County Board

EXECUTED this ____ day of _____, 2020.

NORTH BEND DRAINAGE DISTRICT
a political subdivision

ATTEST:

Clerk

By _____
Chairman,
North Bend Drainage District