

## AGENDA

Nebraska Environmental Trust Board  
Special Meeting  
Thursday, May 19, 2022  
1:00 PM CST  
Via Zoom

The Ferguson House  
700 S 16<sup>th</sup> St, Lincoln, NE 68508

*The public may attend the meeting at either the physical address or via Zoom at <https://outdoornebraska.zoom.us/j/96322270903> or call 312-626-6799, Meeting ID 963 2227 0903.*

1. Call to Order
    - a. Roll call
    - b. Verify Quorum
    - c. Notice of Meeting; Published Monday, May 9, 2022
    - d. Notification of Open Meetings Act Posting
  2. Consent Agenda
    - a. Approval of April 7, 2022, Board Meeting Minutes
  3. Public Comment
  4. Board Development – Informational reviews
    - a. Grant extension request procedures
    - b. Defense Funds on Easements
  5. Public Hearing on Proposed Project Ranking Systems for Grant applications
  6. Project Ranking Systems for Grant applications
  7. Transfer of Conservation Easement Request 09-113
  8. Grants Portal annual Grants Management System Service Agreement
  9. Trust 22 Committee NET Center for Operational Excellence updates
  10. Proposed Special Ad Hoc Title 137 Committee
  11. Directors Report
  12. Next Meeting; Tuesday, August 2, 2022, NDEE, LL Room 031, 245 Fallbrook Blvd, Lincoln, NE at 1:00 pm central time.
  13. Adjourn
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\*\*This agenda contains a list of subjects known at the time of its distribution on Monday, May 9, 2022. A current copy is kept on file at the offices the Nebraska Environmental Trust, 700 S 16<sup>th</sup> Street, Lincoln, NE 68508. Except for items of an emergency nature, the agenda will not be altered later than 24 hours before the scheduled commencement of the meeting. Public comment may be offered on topics within the purview of the Board on any item before the Board by completing the sign-in sheet available at meeting. Time for each speaker should not exceed 3 minutes.

**Board Development**  
**NET Board Agenda Materials**

Item #: 2.

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Object: To implement a consent agenda

Contact Person: Karl Elmshaeuser

For: ACTION

Attachment: 11 pages

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**BACKGROUND**

The consent agenda includes a list of routine, uncontroversial items that can be approved in a single motion, no discussion, and one vote.

**EXPLANATION**

A consent agenda streamlines the approval of regular and routine agenda items and allows the Board to focus on more substantive issues. For a consent agenda to work, it is essential that all members review the items prior to the meeting. Although a member may request a consent agenda item to be moved to the regular agenda for discussion during a meeting, it is best to bring issues to the attention of the Executive Director prior to the meeting. If further discussion is needed, the item can be placed on the regular agenda.

**Consent Agenda Items:**

**a. April 7, 2022, Board Meeting Minutes**

Members may ask in advance of a meeting for a correction to unapproved minutes. If a correction is made, the draft minutes will be recirculated to the Board before the scheduled meeting.

**PROPOSAL**

To use a consent agenda to assist in making meetings more productive, members more engaged, and allow more time for strategic issues requiring debate and deliberation.

Recommended motion, "I move that the Board approves the Consent Agenda."

## MINUTES

Nebraska Environmental Trust Board  
Second Quarter Meeting  
Thursday, April 7, 2022  
1:00 PM

### 1. Call to Order

The second quarter meeting of the Nebraska Environmental Trust Board was called to order by Chairman Andersen at 1:00 PM in the LL Hearing Room 031, 245 Fallbrook Blvd, Lincoln, Nebraska.

Roll call was conducted and a quorum was present.

Advance public notice of the meeting and public hearing was published in the Lincoln Journal Star on March 28, 2022. The agenda and documents to be considered at the meeting were provided. The Open Meetings Act was posted in the meeting room entrance.

#### Members present:

**District I:** Mr. Jeff Kanger, Lincoln. **District II:** Mr. Felix Davidson, Valley; Mr. Paul Dunn, Omaha; Mr. Mark Quandahl, Omaha. **District III:** Chairman Josh Andersen, Edgar; Mr. Rod Christen, Steinauer; **State Agency Representatives:** Dr. Gary Anthon, Director, Nebraska Department of Health and Human Services; Mr. Tim McCoy, Director, Nebraska Game & Parks Commission; Mr. Tom Riley, P.E., Director, Nebraska Department of Natural Resources.

#### Members absent:

**District I:** Mr. James Hellbusch, Columbus; Mr. John Orr, Blair. **District III:** Mr. Quentin Bowen, Humboldt. **State Agency Representative:** Vice Chairman Jim Macy, Director, Nebraska Department of Environment and Energy; Mr. Steve Wellman, Director, Nebraska Department of Agriculture.

Mr. Macy arrived after roll call at 1:03 p.m.

#### Staff present:

Mr. Karl Elmshaeuser, Executive Director; Ms. Holly Adams, Grants Administrator; and Ms. Sandra Weaver, Office Specialist.

### 2. Consent Agenda

#### Background on consent agenda items

The consent agenda included the March 3, 2022, Board meeting minutes, financial reports, approval to set financials aside for audit, and the Grant Administration Report.

**Motion by** Mr. Davidson, seconded by Mr. Riley, "I move to approve the consent agenda."

**Voting Aye:** Dunn, Quandahl, Davidson, Christen, McCoy, Anthon, Riley, Macy, Kanger, Andersen.

**Absent:** Bowen, Hellbusch, Orr, Wellman.

**10 Voted Aye. Motion carried.**

### 3. Public Comment

Ms. Lindsay Rogers, Nebraska Game and Parks Commission, commented on the extension request for grant project 20-191-2.

Mr. Timothy McCoy, Nebraska Game and Parks Commission, commented on the extension request for grant project 18-114-2.

Mr. Don Blankenau, representing Central Platte NRD, commented on the request to transfer the conservation easement on grant project 09-113.

Mr. Tim Kalkowski, Nebraska Grazing Lands Coalition, commented on the organization's accomplishments through grants funded by the Nebraska Environmental Trust.

Mr. Wayne Rasmussen, Nebraska Grazing Lands Coalition, commented on the organization's purpose and the extension request for grant project 19-107-3.

Mr. Alex McKiernan, Nebraska Grazing Lands Coalition, commented on the extension request for grant project 19-107-3.

Mr. Tyler Weishahn, Lower Big Blue NRD, commented on the extension requests for 20-186-2 and 20-187-2.

Mr. Dayle Williamson, Friends of the Environmental Trust, commented on the proposed bylaw amendments.

Mr. David Geier, Nebraska Gamblers Assistance, commented on the organization's history and the sublease of its office at the Ferguson House.

#### 4. Board Development – Informational reviews

##### Background on informational reviews

Board development provides an opportunity for Board members and staff to review statutes, rules and regulations, and policies and procedures and become more familiar with the documents that govern NET's operations.

##### **a. Records Retention Policy**

Schedule 124, State Agencies General Records, February 2, 2020, contains records common to most state government agencies. The retention schedule, which is approved by the State Records Administrator, provides ongoing authority to dispose of records. The Nebraska Environmental Trust policy Section II: Committees, C. Grants Committee, contains the records policy for grants. Executive Director Elmshaeuser stated an update for the Board policy would be needed to reflect current processes and requirements. Internal controls need to be established to retrieve, evaluate, organize, and process NET records for disposition.

##### **b. Public Records Requests**

Neb. Rev. Stat. § 84-712 contains the basic rule for open public records. The Nebraska Public Records Statutes may be found at <https://ago.nebraska.gov/public-records>. Executive Director Elmshaeuser noted that the federal term *Freedom of Information Act (FOIA)* is often confused for a Nebraska public records request. A copy of the Nebraska Environmental Trust (NET) public records policy was provided and will be reviewed later for possible changes.

Chairman Andersen proposed changing the agenda order to address agenda item 8 before agenda item 5, allowing the Board to utilize revised amendments during the remainder of the meeting.

**Motion by** Mr. Quandahl, seconded by Mr. Davidson, "I move that agenda item 8 is addressed before agenda item 5.

**Discussion:** None.

**Voting Aye:** Quandahl, Davidson, Christen, McCoy, Anthone, Riley, Macy, Kanger, Andersen.  
**Voting Nay:** Dunn.  
**Absent:** Bowen, Hellbusch, Orr, Wellman.  
**9 Voted Aye. 1 Voted Nay. Motion carried.**

The Board addressed agenda item 8 before agenda item 5 as approved by affirmative vote.

## 5. Finance Committee Report and Recommendations

### a. Charge Point History and Contract

#### Background for Charge Point

Executive Director Elmshaeuser outlined the history of the Charge Point station located on the Ferguson House property. Installation of a Charge Point station for an electric vehicle was approved by the NET Board on November 3, 2015. The meeting minutes stated the plug-in would be installed at no cost through a Nebraska Community Energy Alliance (NCEA) grant and the Trust would only need to pay for electricity. Although the installation was free, the Charge Point agreement specifies the subscriber is solely responsible for the maintenance, service, repair, and replacement. Electricity fees are in addition to the agreement expenses. Currently, NET is paying \$705 a year for a service plan and \$789 was paid in 2019 for plug repair, parts and shipping. Total revenue received since 2016 is less than \$700.

Executive Director Elmshaeuser asked the Board to consider whether budgeting and expending funds should be continued for the service plan, electricity, and potential maintenance costs. The current service agreement expires in December 2023.

Mr. Macy requested that the consequences of proprietary versus open source be investigated and to make sure state requirements for the Charge Point installation were followed.

### b. Nebraska Gamblers Assistance Sublease

#### Background for Sublease

On July 1, 2004, the NET entered into a Property Management Agreement with the Department of Administrative Services (DAS) for the Ferguson House and is allowed to sublease. Problem Gambling has had a sublease with NET since 2014. In FY 2021-22, NET is charged \$280 a month by DAS for the space and Problem Gambling pays \$625 rent per month to NET. Additional overhead expenses such as utilities are paid by NET. The last sublease expired on December 31, 2021.

**Motion by** Mr. Kanger, seconded by Mr. Davidson, “I move that the Nebraska Commission on Problem Gambling be given a thirty day notice of cancellation with a month to month provision until the Department of Administrative Services finds a new location not to exceed 12 months from the notice.”

**Discussion:** Mr. Davidson stated that the Environmental Trust should be focused on the administration of the Environmental Trust and not real estate management. The general direction for staff should be to find a suitable office, focus on the work of the Trust, and extricate themselves from real estate management.

**Voting Aye:** Anthone, Riley, Macy, Kanger, Dunn, Quandahl, Davidson, Christen, McCoy, Andersen.

**Absent:** Bowen, Hellbusch, Orr, Wellman.

**10 Voted Aye. Motion carried.**

**c. Finance Committee Report**

Finance Committee Chairman Quandahl reported the Finance Committee met on March 10, 2022, and discussed budget status adjustments and grant contract revisions.

**d. Basic Grant Contract Review and Approval**

Background of Grant Contract Review

The Trust 22 Committee has been working with the State of Nebraska Center of Operational Excellence (COE) to improve NET processes. Efforts are carried out within the statutes, bylaws, rules and regulations, as well as current NET policies. A need was identified to improve the way contractual grant requirements are addressed.

Mr. Quandahl reported the Board directed the Finance Committee to review and suggest revisions to the current NET Grant Contract at its meeting on April 8, 2021. Executive Director Elmshaeuser, Grants Administrator Adams, Mr. Quandahl, Chairman Andersen, Mr. Davidson, and the Finance Committee, the COE, and the Attorney General's Office participated in the contract draft review. Input into the draft contract also included recommendations from the 2021 audit from the Auditor of Public Accounts, the 2021 DAS Operations Assessment, previous resolutions and specifications from the NET Board, and best practices for grant administration. Suggestions from the Friends of the Nebraska Environmental Trust and grantees were also taken into consideration. DocuSign will be implemented with the new contract. The Finance Committee Chairman, a representative from the Attorney General's office, and the NET Executive Director met for a final review to incorporate additional changes as needed.

**Motion by** Mr. Kanger, seconded by Mr. Davidson, "I move that the NET Board approves the standard conditions grant contract that is applicable to all grants and the Executive Director shall have discretion to negotiate specific conditions as allowed in Title 137, Chapter 9, Section 002."

**Discussion:** None.

**Voting Aye:** Riley, Macy, Kanger, Dunn, Quandahl, Davidson, Christen, McCoy, Anthone, Andersen.

**Absent:** Bowen, Hellbusch, Orr, Wellman.

**10 Voted Aye. Motion carried.**

The meeting recessed at 3:00 p.m. and reconvened at 3:10 p.m.

**e. Budget Adjustments for FY 2022-23 NET and Ferguson House**

Background of Budget Adjustments

The Finance Committee develops the biennial and annual budget for Board approval; develops policy guidelines for Board approval regarding fund solicitation, receipt, and fund development programming; makes recommendations to the Board on designation of receipts to the Funds of the Trust; and carries out any responsibility, duty or authority delegated to it by the Board.

Executive Director Elmshaeuser reported LB 380, 2021 and LB 1101, 2022 have set the expenditure authorization for FY 2022-23, the second year of the biennium budget. Rollover amounts from FY 2021-22 are not finalized. The focus for FY 2022-23 will be on internal budget items for the grant portal, grant monitoring, and website development. These items have been identified as priorities through the Trust 22 Committee's efforts as part of the Center of Operational Excellence NET Board project.

**Motion by** Mr. Quandahl, seconded by Mr. Davidson, “I move that the Nebraska Environmental Trust Board allow the Executive Director to make internal budget adjustments as needed to be efficient and effective with the appropriations as set by the Nebraska legislature for the Nebraska Environmental Trust for fiscal year 2022-23 by statutes and as reviewed by the Finance Committee.”

**Discussion:** None.

**Voting Aye:** Macy, Kanger, Dunn, Quandahl, Davidson, Christen, McCoy, Anthone, Riley, Andersen.

**Absent:** Bowen, Hellbusch, Orr, Wellman.

**10 Voted Aye. Motion carried.**

**f. Ferguson House notice to terminate agreement**

Background of Budget Adjustments

The NET entered into a Property Management Agreement with DAS on July 1, 2004, for the Ferguson House. From the agreement, “Additionally, notwithstanding anything else contained in this paragraph, any of the parties has a right to terminate this Property Management Agreement for any reason upon twelve (12) months written notice to the other party.”

**Motion by** Mr. Quandahl, seconded by Mr. Davidson, “I move that the Nebraska Environmental Trust notifies the Nebraska Department of Administration Services in writing that the Nebraska Environmental Trust will terminate the Ferguson House Property Management Agreement on June 30, 2023.”

**Discussion:** Mr. Riley expressed concern about where the Board would move. Executive Director Elmshaeuser clarified that although there would be a termination notice to DAS, the NET would have a 12-month period to either move or modify the contract.

**Voting Aye:** Macy, Kanger, Dunn, Quandahl, Davidson, Christen, McCoy, Anthone, Riley, Andersen.

**Absent:** Bowen, Hellbusch, Orr, Wellman.

**10 Voted Aye. Motion carried.**

**6. Grant Modification Requests**

Background of Grant Modification Requests

Grantees may submit budget and project modifications and extension requests to be reviewed by the Board. These requests do not change the scope of the project. If approved, their letter of request and any attachments are a binding amendment to their grant agreement.

Executive Director Elmshaeuser provided Board policy, Section VI, I. Grant Modification Requests, language from Title 137, Chapter 9, Section 010, and Neb. Rev. Stat § 81-15,175. Grants Administrator Adams reported many of the grant projects would expire on June 30, 2022. A large number of extension requests were received because the next quarterly meeting will be in August. Mr. Dunn reminded the Board that before the policy change, staff could have extended a grant project up to a total of three years without Board approval. Ms. Adams noted the modification request policy had been applied early for consistency and to avoid confusion between the 2022 projects and existing grant projects.

Chairman Andersen recommended addressing the extension and the budget modification requests at the same time for projects 19-107-3 and 19-205-2.

- a. **Extensions (27): Project number 18-107-3, 18-114-2, 18-116-2, 18-182, 19-104-3, 19-107-3, 19-110-3, 19-111-2, 19-162-3, 19-173-3, 19-194, 19-205-2, 20-121-2, 20-123-2, 20-134-2, 20-165-2, 20-182-2, 20-186-2, 20-187-2, 20-188-2, 20-191-2, 20-193-2, 21-106, 21-118, 21-139, 21-169, 21-173, and 21-213**

**Motion by** Mr. Kanger, seconded by Mr. Macy, “I move to approve the Department of Natural Resources’ request to extend project 18-107-3 for one year.”

**Discussion:** None.

**Voting Aye:** Kanger, Dunn, Quandahl, Davidson, Christen, McCoy, Anthone, Macy, Andersen.

**Abstained:** Riley.

**Absent:** Bowen, Hellbusch, Orr, Wellman.

**9 Voted Aye. 1 Abstained. Motion carried.**

**Motion by** Mr. Kanger, seconded by Mr. Davidson, “I move to approve Nebraska Game and Parks Commission’s request to extend project 18-114-2 for one year.”

**Discussion:** None.

**Voting Aye:** Dunn, Quandahl, Davidson, Christen, Anthone, Macy, Kanger, Andersen.

**Abstained:** McCoy, Riley.

**Absent:** Bowen, Hellbusch, Orr, Wellman.

**8 Voted Aye. 2 Abstained. Motion carried.**

**Motion by** Mr. Kanger, seconded by Mr. Davidson, “I move to approve the Nebraska Game and Parks Commission’s request to extend project 19-194 for six months.”

**Discussion:** None.

**Voting Aye:** Dunn, Quandahl, Davidson, Christen, Anthone, Riley, Macy, Kanger, Andersen.

**Abstained:** McCoy.

**Absent:** Bowen, Hellbusch, Orr, Wellman.

**9 Voted Aye. 1 Abstained. Motion carried.**

**Motion by** Mr. Kanger, seconded by Mr. Davidson, “I move to approve the Nebraska Game and Parks Commission’s request to extend project 20-191-2 for one year.”

**Discussion:** None.

**Voting Aye:** Dunn, Quandahl, Davidson, Christen, Anthone, Riley, Macy, Kanger, Andersen.

**Abstained:** McCoy.

**Absent:** Bowen, Hellbusch, Orr, Wellman.

**9 Voted Aye. 1 Abstained. Motion carried.**

**Motion by** Mr. Davidson, seconded by Mr. Macy, “I move to approve the Nebraska Grazing Lands Coalition’s request to extend project 19-107-3 for six months.”

**Discussion:** Chairman Andersen noted that there was also a budget modification request for project 19-107-3.

The motion was withdrawn by Mr. Davidson and there were no objections from the Board.

**Motion by** Mr. Davidson, seconded by Mr. Macy, “I move to approve the Nebraska Grazing Lands Coalition’s request to extend project 19-107-3 for six months and approve the requested budget modification to move funding from the Equipment and Liability Insurance categories into the Education and Burn Boss categories.”

**Discussion:** Mr. Riley noted project 19-107-3 might not be completed in six months because of possible drought.

**Motion as amended by** Mr. Riley, seconded by Mr. Macy, “I move to change the six-month extension to a one-year extension for project 19-107-3.

**Voting Aye:** Davidson, Christen, McCoy, Anthone, Riley, Macy, Kanger, Dunn, Andersen.

**Voting Nay:** Quandahl.

**Absent:** Bowen, Hellbusch, Orr, Wellman.

**9 Voted Aye. 1 Voted Nay. Motion carried.**

**Original motion as amended by** Mr. Davidson, seconded by Mr. Macy, “I move to approve the Nebraska Grazing Lands Coalition’s request to extend project 19-107-3 for one year and approve the requested budget modification to move funding from the Equipment and Liability Insurance categories into the Education and Burn Boss categories.”

**Discussion:** Mr. Quandahl stated he would vote no since he believed the modifications would be appropriate for a new grant application or grant cycle. The three-year deadline in statute is included in the grant contract.

**Voting Aye:** Davidson, Christen, McCoy, Anthone, Riley, Macy, Kanger, Dunn, Andersen.

**Voting Nay:** Quandahl.

**Absent:** Bowen, Hellbusch, Orr, Wellman.

**9 Voted Aye. 1 Voted Nay. Motion carried.**

**Motion by** Mr. McCoy, seconded by Mr. Davidson, “I move to approve the Board of Regents (BOR) - University of Nebraska Lincoln’s request to extend project 19-205-2 for six months and to approve the budget modification request to move funding from the Benefits and Travel categories into the Salaries, Supplies, and Operating categories.”

**Discussion:** Mr. Quandahl stated he would vote no since he believed moving funding into Salaries, Supplies, and Operating categories is a separate grant request.

**Voting Aye:** Christen, McCoy, Anthone, Riley, Dunn, Davidson.

**Voting Nay:** Andersen, Kanger, Quandahl.

**Abstained:** Macy.

**Absent:** Bowen, Hellbusch, Orr, Wellman.

**6 Voted Aye. 3 Voted Nay. 1 Abstained. Motion carried.**

**Motion by** Mr. Riley, seconded by Mr. Davidson, “I move to approve the extension requests for the balance of the grant projects listed on pages 6-2 through 6-5.

**Discussion:** Mr. Christen noted an extension request was received for project 21-173 even though all of the awarded funding had been paid to the grantee. Ms. Adams stated the equipment was purchased but an extension was needed to use the equipment to complete the project proposed in the original application. Mr. Dunn questioned whether the motion should be amended to list each project number individually to clarify which projects were approved for an extension.

**Motion as amended by** Mr. Dunn, seconded by Riley, “I move to approve extension requests for projects 18-116-2, 18-182, 19-104-3, 19-110-3, 19-111-2, 19-162-3, 19-173-3, 20-121-2, 20-123-2, 20-134-2, 20-165-2, 20-182-2, 20-186-2, 20-187-2, 20-188-2, 20-193-2, 21-106, 21-118, 21-139, 21-169, 21-173, and 21-213.”

**Discussion:** Mr. Davidson suggested tasking staff with some tactical problem solving to improve the process for the grant modifications going forward and report any recommendations to the Board.

**Voting Aye:** McCoy, Anthone, Riley, Macy, Kanger, Dunn, Quandahl, Davidson, Christen, Andersen.

**Absent:** Bowen, Hellbusch, Orr, Wellman.

**10 Voted Aye. Motion carried.**

**Original motion as amended by** Mr. Riley, seconded by Davidson, “I move to approve the extension requests for 18-116-2, 18-182, 19-104-3, 19-110-3, 19-111-2, 19-162-3, 19-173-3, 20-121-2, 20-123-2, 20-134-2, 20-165-2, 20-182-2, 20-186-2, 20-187-2, 20-188-2, 20-193-2, 21-106, 21-118, 21-139, 21-169, 21-173, and 21-213.”

**Discussion:** Mr. Quandahl questioned why some grants were not completed and stated since he could not vote to approve all of the extension requests in the motion, his vote would be no. Mr. Christen noted there were some inconsistencies in the way the Board handled extensions. Mr. Davidson identified a need to concentrate on the important agenda items and reduce time spent on administrivia.

**Voting Aye:** McCoy, Anthone, Riley, Macy, Kanger, Dunn, Davidson, Christen.

**Voting Nay:** Andersen, Quandahl.

**Absent:** Bowen, Hellbusch, Orr, Wellman.

**8 Voted Aye. 2 Voted Nay. Motion carried.**

**b. Budget (2): Project number 19-107-3 and 19-205-2**

Budget modifications for projects 19-107-3 and 19-205-2 were addressed in agenda section 6.a with their project extension requests.

**7. Transfer of Conservation Easement Request 09-113**

Background of Bylaws Amendments

The Executive Director received an email from an attorney representing the Central Platte NRD with a request concerning the ability to transfer a conservation easement that was initially funded by the Environmental Trust. The Attorney General’s office reviewed the documents and advised Board action and the chairman’s signature if approved, as done in a 2013 transfer.

**Motion by** Mr. Macy, seconded by Mr. Davidson, “I move to table the transfer of conservation easement request 09-113 until the next meeting to obtain sufficient information to make a decision.”

**Discussion:** None.

**Voting Aye:** Anthone, Macy, Kanger, Dunn, Quandahl, Davidson, Christen, Andersen.

**Abstained:** McCoy, Riley.

**Absent:** Bowen, Hellbusch, Orr, Wellman.

**8 Voted Aye. 2 Abstained. Motion carried.**

Executive Director Elmshaeuser was asked to get an opinion from the Attorney General's office as to whether the Board has authority to allow part of the permanent easement acres to be transferred. Other information requested is what the intended use is, whether there is similar or more protection with the proposed transfer, and if the county has given approval.

The Board advanced to agenda item 9, since agenda item 8 was addressed before agenda item 5.

## 8. Bylaws Amendments

### Background of Bylaws Amendments

The proposed changes to the bylaws were submitted in writing at the previous quarterly meeting held on February 3, 2022, as required by Article VII, Amendments of Bylaws, Section 1.

#### a. Article III, Section 2, change who can place agenda items

**Motion by** Mr. Quandahl, seconded by Mr. Christen, "I move to adopt the proposed language for Article III, Section 2, 'An agenda shall be developed and maintained by the Executive Director of the Nebraska Environmental Trust. Items may be placed on the agenda by the Chairperson, or the Executive Director. A tentative agenda shall be provided to all members at least ten days prior to the meeting. Except for items of an emergency nature, the agenda shall not be altered later than 24 hours prior to the commencement of the meeting.'"

**Discussion:** Mr. Dunn noted he would vote against the proposed amendment because a Board member would not be guaranteed a means of adding an item to the agenda. Chairman Andersen clarified Board members may contact the Chairperson or the Executive Director to request an item be added after receiving the draft agenda at least 10 days before the meeting. The agenda can be changed no later than 24 hours before the meeting.

**Voting Aye:** Quandahl, Davidson, Christen, McCoy, Anthone, Riley, Macy, Kanger, Andersen.

**Voting Nay:** Dunn.

**Absent:** Bowen, Hellbusch, Orr, Wellman.

**9 Voted Aye. 1 Voted Nay. Motion carried.**

#### b. Article III, Section 3, change to majority present and voting

**Motion by** Mr. Quandahl, seconded by Mr. Riley, "I move to adopt the proposed language for Article III, Section 3, 'A simple majority of the members of the Board shall constitute a quorum and a majority of the Board members present and voting shall be required to take action and make determinations.'"

**Discussion:** Executive Director Elmshaeuser clarified that abstentions do not count as a yes or no vote. A majority of yes votes from those present would be needed to pass a motion. Mr. Dunn expressed concern that fewer yes votes could pass a motion.

**Voting Aye:** Quandahl, Davidson, Christen, McCoy, Anthone, Riley, Macy, Kanger, Andersen.

**Abstaining:** Dunn.

**Absent:** Bowen, Hellbusch, Orr, Wellman.

**9 Voted Aye. 1 Abstained. Motion carried.**

#### c. Article III, Section 4, change from 14 days to 10 days

**Motion by** Mr. Quandahl, seconded by Davidson, "I move to adopt the proposed language for Article III, Section 4, 'A schedule for quarterly meetings of the Board shall be established when the Board establishes the annual grant calendar. Except for emergency situations, written

notice of the time and place of all special meetings shall be made in advance to all Board members no less than 10 calendar days prior to the meeting.”

**Discussion:** None.

**Voting Aye:** Davidson, Christen, McCoy, Anthone, Riley, Macy, Kanger, Dunn, Quandahl, Andersen.

**Absent:** Bowen, Hellbusch, Orr, Wellman.

**10 Voted Aye. Motion carried.**

**d. Article III, Section 5, Rescind, already in Open Meetings Act**

**Motion by** Mr. Quandahl, seconded by McCoy, “I move to rescind Article III, Section 5.”

**Discussion:** None.

**Voting Aye:** Christen, McCoy, Anthone, Riley, Macy, Kanger, Dunn, Quandahl, Davidson, Andersen.

**Absent:** Bowen, Hellbusch, Orr, Wellman.

**10 Voted Aye. Motion carried.**

**e. Article IV, Section 4, change to majority present and voting**

**Motion by** Mr. Riley, seconded by Davidson, “I move to adopt the proposed language for Article IV, Section 4, ‘A simple majority of the members of a committee shall constitute a quorum. A majority of the committee members present and voting shall be required to take action. Each committee shall meet at the call of the committee chairperson and any standing committee shall also meet at the call of two or more members. Except in case of an emergency, members shall be given at least five (5) calendar days’ notice of the time and place of the meeting. Committee members may participate in a meeting by telephone or electronic conferencing so long as each member may hear all other members who are participating.”

**Discussion:** Dunn noted he would vote against the proposed amendment since the Grants Committee is small and only a few votes would be needed to pass a motion at its meetings.

**Voting Aye:** McCoy, Anthone, Riley, Macy, Kanger, Quandahl, Davidson, Christen, Andersen.

**Voting Nay:** Dunn.

**Absent:** Bowen, Hellbusch, Orr, Wellman.

**9 Voted Aye. 1 Voted Nay. Motion carried.**

**f. Article VII, Section 1, change to any meeting of the Board**

**Motion by** Mr. Riley, seconded by Davidson, “I move to adopt the proposed language for Article VII, Section 1, ‘These bylaws may be amended at any meeting of the Board by action of the Board provided that the amendment has been submitted in writing at the previous Board meeting.’”

**Discussion:** Mr. Dunn questioned what bylaw change would be so critical that the Board would need to vote before its next quarterly meeting. Mr. Davidson and Mr. Kanger spoke in favor of amending Article VII, Section 1, because the Board’s ability to conduct its business was impaired when issues arose from the audit and performance review.

**Voting Aye:** McCoy, Anthone, Riley, Macy, Kanger, Quandahl, Davidson, Christen, Andersen.  
**Voting Nay:** Dunn.  
**Absent:** Bowen, Hellbusch, Orr, Wellman.  
**9 Voted Aye. 1 Voted Nay. Motion carried.**

Chairman Andersen announced all of the proposed amendments to the bylaws passed and would become effective immediately.

After addressing agenda item 8, the Board went to agenda item 5.

## **9. Trust 22 Committee**

### **a. NET Center for Operational Excellence updates**

Mr. Kanger reported two working groups focused on grant eligibility and scoring in relation to Title 137. Applicants of adopted projects will be required to address the eligibility questions themselves for the Grants Committee to review. Scoring sheets and processes for the Grants Committee are being updated. Several provisions in Title 137 were flagged as being vague or needing review. Recommendations are being tested with existing applications and an application-working group will be formed.

### **b. Endowment Fund Discussion**

Mr. Davidson stated there were questions and a lack of understanding about the Endowment Fund. At a prior meeting, staff was asked to give the Board the history of the Fund and report on possible options for its use. Executive Director Elmshaeuser reported the Nebraska Environmental Endowment Fund was created under Nebraska Statute 81-15,174.01. Once money is placed in the Fund, only the interest may be expended. Mr. Dunn noted he had been on the Board since the inception of the Endowment Fund and conveyed its history to the Board. Executive Director Elmshaeuser was tasked with finding out what can and cannot be done with the Endowment Fund.

## **10. Directors Report**

Executive Director Elmshaeuser reported staff evaluations were completed. The Grant Assistant position has not been filled and the job opening will be reposted. DocuSign for the grants portal is in the implementation process. Mr. Elmshaeuser reported receiving an invitation and attending a ribbon cutting ceremony in Omaha with the Grants Administrator on March 28, 2022. Omaha Metro Transit exhibited three fully electric busses that were funded in part by the Nebraska Environmental Trust. The buses reflect a new initiative to reduce Omaha Metro's carbon footprint. Mr. Elmshaeuser noted several other Trust-funded projects were discovered near the event. The NET Board members were thanked for their hard work.

## **11. Next Meeting**

Tuesday, August 2, 2022, Location and Time TBD

## **12. Adjourn**

Chairman Andersen adjourned the meeting at 4:47 PM.

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Karl L. Elmshaeuser  
Executive Director

## Grant Modification Requests

### NET Board Agenda Materials

Item #: 4.a

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Object: Review administrative process

Contact Person: Karl Elmshaeuser

For: Discussion

Attachments: 4 pages

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#### **BACKGROUND**

Grantees can submit budget and project modifications and extension requests. These requests do not change the scope of the project. If approved, their letter of request, any attachments are a binding amendment to their grant agreement. The Board acts if the request changes the contract expiration or exceeds a \$10,000 budget category request.

#### **EXPLANATION**

Title 137, Chapter 9, Section 010: If a grantee wishes to modify a project other than one covered by Section 006 above, the grantee must submit a proposed amendment to the grant agreement including a revised line item budget. The proposed amendment must be submitted to the Executive Director at least thirty (30) days prior to the requested changes with an explanation of need. The Executive Director will then either approve or deny the proposal and inform the grantee in writing of his or her decision

Nebraska Statute 81-15-175 (6)...No commitment shall exceed three years without formal action by the board to renew the grant or contract...

Adopted Policies, Section VI, I. Grant Modification Requests

1. Requests for extensions to the funding period may be approved by the Board if the request is received by the Trust prior to the expiration date of the funding period. This policy is effective starting with the 2022 grant cycle.
2. Requests for budget changes within a grant may be approved by staff if less than \$10,000 and received by the Trust prior to the expiration date of the funding period. This policy is effective starting with the 2022 grant cycle.

#### **PROPOSAL**

Implement administrative process with new extension requests.

## Adopted Policies of the Nebraska Environmental Trust Board

\*In addition to the Bylaws of the Nebraska Environmental Trust

Grants issued for the purpose of acquiring title to real property to a grantee(s) which does not have the statutory ability to pay property taxes shall be accompanied by a one-time payment to the county (ies) affected. The payment shall be 15 (fifteen) times the amount of the total property tax due in the last calendar year, less the levy amount which would have been due to the grantee(s).

**Proposed Date:** 10/27/1999 Ad-Hoc Committee on Property Tax Abatement

**Adopted Date:** 11/09/1999

**Revised Date:** 04/07/2005

### G. Defense Funds on Easements

The Nebraska Environmental Trust acknowledges the importance of maintaining a defense fund on easements when Trust funding is involved. The Trust will require a Defense Fund of at least 10% of the appraised value at time of acquisition for enforcement and defense of the conservation easement. Investment or interest income may be used for annual monitoring expenses. Defense funds are an eligible expense for applications. The Trust will waive the Defense Fund Requirement for Government Agencies Including Natural Resource Districts.

**Proposed Date:** 07/12/2015 Land Ad-Hoc Committee

**Adopted Date:** 07/13/2015

### H. Release of Easements

The Trust will allow the release of easements acquired in whole or in part with Trust funds in cases where the land will be enrolled in another conservation program/practice that provides similar or more protection. The Trust Fund will require receipt of a pro-rated refund of the amount originally paid for the easement. The refund will be determined by dividing the amount the Trust contributed by the term of the easement to calculate an annual amount and then multiplying the annual amount by the number of years remaining on the easement.

**Proposed Date:** 01/29/2004

**Adopted Date:** 01/29/2004

### I. Grant Modification Requests

1. Requests for extensions to the funding period may be approved by the Board if the request is received by the Trust prior to the expiration date of the funding period. This policy is effective starting with the 2022 grant cycle.
2. Requests for budget changes within a grant may be approved by staff if less than \$10,000 and received by the Trust prior to the expiration date of the funding period. This policy is effective starting with the 2022 grant cycle.
3. All remaining project funds shall be returned to the Trust.

**Proposed Date:** 11/13/2006 Grants Committee

**Adopted Date:** 11/13/2006 Board Action

**Revised Date:** 04/08/2021 Board Action

## Nebraska Environmental Trust Grant Modification Requests

During the course of administering a project, situations may occur that require a change in the original terms of the Grant Contract (Grant) agreement. These changes are referred to as a grant modification.

A Grantee must request approval from the Nebraska Environmental Trust (NET) for **any modification or amendment** to the Grant agreement. When submitting the request for approval, the Grantee must complete and submit the Grant modification request to the appropriate NET staff and if approved within the Grant Portal.

Common amendment requests include:

- Revisions to the budget
- Extensions of the agreement end date
- Decreases in proposed accomplishments
- Amendments to program guidelines

The NET will review amendment requests using the following factors:

- The effect the amendment will have on the points earned in the grant project selection process,
- Whether the amendment is appropriate and will enhance the overall impact of the original project,
- Grantee's performance and capacity (may require an on-site visit),
- Performance by the Grantee, as evidenced by consistent grant extensions, modifications, project delays, unresolved monitoring issues
- Project progress and financial drawdown in keeping with approved grant contract spending plan, timelines, and
- Any other relevant information.

If a Grantee wishes to modify a project other than one covered by Title 137, Section 006 (construction project), the Grantee must submit a proposed amendment to the Grant agreement including a revised line item budget. The proposed amendment must be submitted to the Executive Director at least thirty (30) days prior to the requested changes with an explanation of need. The Executive Director will then either approve or deny the proposal and inform the Grantee in writing of his or her decision.

Request for extensions to the funding period may be approved by the Board if the request is received by the Trust prior to the expiration date of the funding period. Requests for budget changes within a grant may be approved by staff if less than \$10,000 and received by the Trust prior to the expiration date of the funding period.

The NET informs the Grantee if the modification or amendment is approved or denied. In most cases when the modification or amendment is approved, the NET will provide the Grantee with a formal agreement amendment, which will need to be executed by the Grantee and the NET. In other cases, the NET may simply notify the Grantee that the modification has been approved. Grantee should never assume that a modification or amendment has been, or will be approved, and no action should be taken until approval from the NET is received by the Grantee.

Grantee should be aware that changes to the budget that allocate funds from one activity to another activity may require the Grantee to provide additional matching funds for the project, as the proportion of match to Grant funds that was approved during the application phase must be maintained when the budget is modified.

Additional items may be required to accompany the submission of the Grant Agreement Amendment or Modification Request depending on the type of amendment request. Indented below is a list of the common types of agreement amendments and attachments to be submitted to the NET with the Grant Agreement Amendment Request, or as otherwise instructed. For all other agreement amendments not included in the list, please contact NET staff to determine what information may be required to process your request.

#### **Changes to the Budget/Sources and Uses**

- Attachment 1: Letter from the Grantee Contract Signing Official including:
  - 1) Certification that the Grantee governing body has approved the budget amendment;
  - 2) Identification and reasons for the proposed budget amendment; including
    - a. Changes to the nature of the project requiring the amendment
    - b. Steps being taken to avoid any future amendment requests for the same reasons
  - 3) If additional local matching funds are required as a result of this amendment, certification that such funds are available.
  - 4) If the amendment includes a new activity, certification that the activity meets the grant objective.
- Attachment 2: If the budget amendment will affect major milestones, a revised performance plan showing when major milestones will be completed for each activity.

#### **Extensions of the Agreement End Date**

- Attachment 1: A letter from the Grantee Contract Signing Official stating the following:
  - 1) Certification that the Grantee governing body has approved the extension;
  - 2) Identification and reasons for the proposed amendment; including
    - a. Changes to the nature of the project requiring the amendment;
    - b. Steps being taken to avoid any future amendment requests for the same reasons
  - 3) If additional local matching funds are required as a result of this extension, certification that such funds are available.
- Attachment 2: A revised performance plan showing when major milestones will be completed for each activity.

#### **Decreases in Proposed Accomplishments**

- Attachment 1: A letter from the Grantee Contract Signing Official stating the following:
  - 1) Certification that the local governing body has approved the decrease in proposed accomplishments;
  - 2) Identification and reasons for the proposed amendment; including
    - a. Changes to the nature of the project requiring the amendment;
    - b. Steps being taken to avoid any future amendment requests for the same reasons
  - 3) If additional local matching funds are required as a result of this decrease, certification that such funds are available.
- Attachment 2: A revised performance plan showing when major milestones will be completed for each activity.

Extra, left over or idle funds are required to be released back to the NET as stated in the Grant contract. Small balances may be impractical to use the funds responsibly, efficiently, and/or without incurring an inordinate amount of costs. Extensions, modifications or amendments will not be granted where activity underway cannot be demonstrated and performance of the approved grant application is not maintained.

DRAFT

## Defense Funds on Easements Policy

### NET Board Agenda Materials

Item #: 4.b

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Object: Review NET policy

Contact Person: Karl Elmshaeuser

For: Discussion

Attachments: 7 pages

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#### **BACKGROUND**

The NET Board in July of 2015 implemented a policy to require a defense of easements fund by grantees if a conservation easement was part of a grant request.

#### **EXPLANATION**

A NET Board member requested a history and update on the status of this policy. The policy is attached as well as the minutes from the Land Ad-hoc committee, the minutes of the July 13, 2015, NET Board meeting, the proposed policy and changes at that meeting, and the FAQ from the NET website concerning the Defense Fund Policy.

The Defense Fund is not an account or funds held by the NET. These are funds set aside by the Grantee and were provided by the NET when the grant was awarded. NET does not monitor these funds.

#### **PROPOSAL**

Possible consideration to review and modify the policy in the future.

## Adopted Policies of the Nebraska Environmental Trust Board

\*In addition to the Bylaws of the Nebraska Environmental Trust

Grants issued for the purpose of acquiring title to real property to a grantee(s) which does not have the statutory ability to pay property taxes shall be accompanied by a one-time payment to the county (ies) affected. The payment shall be 15 (fifteen) times the amount of the total property tax due in the last calendar year, less the levy amount which would have been due to the grantee(s).

**Proposed Date:** 10/27/1999 Ad-Hoc Committee on Property Tax Abatement

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### G. Defense Funds on Easements

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**Proposed Date:** 07/12/2015 Land Ad-Hoc Committee

**Adopted Date:** 07/13/2015

### H. Release of Easements

The Trust will allow the release of easements acquired in whole or in part with Trust funds in cases where the land will be enrolled in another conservation program/practice that provides similar or more protection. The Trust Fund will require receipt of a pro-rated refund of the amount originally paid for the easement. The refund will be determined by dividing the amount the Trust contributed by the term of the easement to calculate an annual amount and then multiplying the annual amount by the number of years remaining on the easement.

**Proposed Date:** 01/29/2004

**Adopted Date:** 01/29/2004

### I. Grant Modification Requests

1. Requests for extensions to the funding period may be approved by the Board if the request is received by the Trust prior to the expiration date of the funding period. This policy is effective starting with the 2022 grant cycle.
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3. All remaining project funds shall be returned to the Trust.

**Proposed Date:** 11/13/2006 Grants Committee

**Adopted Date:** 11/13/2006 Board Action

**Revised Date:** 04/08/2021 Board Action

## MINUTES

### Nebraska Environmental Trust Land Ad-hoc Committee Meeting

July 12, 2015

The Land Ad-hoc Committee of the Nebraska Environmental Trust met on Sunday, July 12, 2015. The meeting was called to order at 2:00 p.m.

On conference call: Mr. Dave Sands, Nebraska Land Trust

Attendee's present: Rod Christen, Paul Dunn, Bob Krohn, Gerry Lauritzen-Chair, Bruce Sackett, Sherry Vinton, Mark Brohman, Marilyn Tabor, and Lori Moore.

Agenda Item 3: Discuss Continuing to Allow Conservation Defense Funds to be an Eligible Trust Expense and Maintaining the 10% of Purchase Price Requirement. Mr. Brohman distributed the current policy of the Trust that requires a defense fund of at least 10% of the appraised value for enforcement and annual monitoring expenses. Questions brought up: Did the Committee want to make a change, to not allow eligible expenses currently eligible under the grant? Does the committee want to reduce the amount currently required to defend the easement? Mr. Krohn asked Ms. Tabor if we received a report from our grantee's detailing their expenses. Ms. Tabor explained that she reviews annually; if an issue, it would become apparent they would have to dig into defense funds. The committee recommended that Ms. Tabor include this information as part of the annual land inventory. Ms. Vinton suggested possibly rewording to only earnings on invested principal, although principal could be used; and if used we would want to know why in their report. Discussion.

Agenda Item 4: Discussion of Conservation Defense Insurance. Mr. Sands explained that there was only one firm offering insurance and this is in the second year they've offered the policy, the firm was TerraFirma, incorporated in Vermont. The cost of that insurance was \$50 per easement per year, with a cap of \$500,000 and a \$5,000 deductible. The committee asked Mr. Sands how the money was spent monitoring and how much money the Land Trust spends. They track mileage, personnel time, and spend \$40,000 for monitoring annually. They develop a long-term relationship with the land owner as the monitoring is always done in person which includes 28 easements that span the state of Nebraska.

It was suggested that we lower the rate if they carry insurance that's available; it was pointed out that some organizations can't be certified. Or if an organization's conservation defense fund reaches \$500,000 to possibly setting the dollar amount or the percentage lower if they carry insurance. It was also suggested to ask the landowner to donate 2%, if it involved NRCS, you could not ask for more than 2% without requesting a waiver. Members were feeling that this was getting complicated and if the Trust was not participating in the defense funds this was not an incentive to purchase insurance. Mr. Sackett expressed that he was in favor of fee simple, not easement. Mr. Sands informed the group that Nebraska is envied nationwide. The group questioned if the funds were replenished after the fact, Mr. Sands informed the group that they have to replenish the fund as per their own policy.

**Motion by Ms. Vinton to amend the language, seconded by Mr. Brandt to change Section VI. F. Defense Funds on Easements to:** The Nebraska Environmental Trust acknowledges the importance of maintaining a defense fund on easements when Trust funding is involved. The Trust will require a Defense Fund of at least 10% of the appraised value at the time of acquisition for enforcement and defense of the conservation easement. Investment or interest income may be used for annual monitoring expenses. This may be included as an eligible expense in applications. The Trust will Waive the Defense Fund Requirement for Government Agencies including Natural Resource Districts.

**Voting Aye:** Mr. Brandt, Ms. Lauritzen and Ms. Vinton. Motion carried.

Ms. Lauritzen recommended a five minute break at 4:06 p.m. the meeting reconvened at 4:14 p.m.

Agenda Item 5. Discussion of Mineral Rights and Future Trust Grant Requirements. Currently we encourage the applicants to research mineral rights before applying for the grant. Mr. Sackett thinks that our application guidance is good and it makes sense. The group decided to leave this as is.

Mr. Sands left the conference call at 4:28 p.m.

Agenda Item 6. Discussion of Ducks Unlimited Revolving Funds. Mr. Brohman passed around a spreadsheet of the Ducks Unlimited NET Grants with Revolving Funds. The group discussed the Verona property and Schroeder property in length. Mr. Dunn questioned if revolving funds include restoration, as the spreadsheet didn't show habitat restoration.

There were no persons in attendance for Public Comment and Good of the Order.

The meeting was adjourned at 4:46 p.m.

Respectfully submitted,



Mark Brohman,  
Executive Director

## MINUTES

Nebraska Environmental Trust  
3rd Quarter Board Policy Discussion Session  
Monday, July 13, 2015  
1:30 p.m.  
Lied Lodge Conference Center, Steinhart Lodge  
Nebraska City, Nebraska

The Nebraska Environmental Trust Board met at the Lied Lodge Conference Center, Steinhart Lodge in Nebraska City, Nebraska for the transaction of business. Advance public notice was given through release to news media and official public notice in the "Lincoln Journal Star" on Friday, June 12, 2015.

Chairman Brandt called the meeting to order at 1:52 p.m.

Roll call was conducted and a quorum was established.

**Members present were:** Mr. Rick Brandt, Lincoln; Mr. Rod Christen, Steinauer; Mr. Jim Douglas, Nebraska Game and Parks Commission, Mr. Paul Dunn, Omaha; Ms. Gloria Erickson, Holdrege; Mr. Jim Heilbusch, Columbus; Mr. Greg Ibach, Nebraska Department of Agriculture; Mr. Bob Krohn, Omaha; Ms. Gerry Lauritzen, Omaha; Mr. Jim Macy, Nebraska Department of Environmental Quality; Mr. Kevin Peterson, Osceola; and Ms. Sherry Vinton, Whitman.

**Members absent were:** Ms. Courtney Phillips, Division of Public Health, Nebraska Department of Health and Human Services; Dr. Jim Schneider, Nebraska Department of Natural Resources.

**Staff present were:** Mr. Mark Brohman, Executive Director; Ms. Marilyn Tabor, Grants Administrator; Ms. Allison Alley, Grants Assistant; and Ms. Sheila Johnson, Public Information Officer and Ms. Lori Moore, Administrative Secretary.

**Agenda Item #3: Public Information Update.** Ms. Johnson presented the report. She wanted to highlight the planning for the annual report her theme will be based on the outcome of the board decision. She has come up with "New Horizons" and "Exploring New Territories." She reported that she and Marilyn were working on a new electronic grant application process for next year.

**Agenda Item #4: John Denton, Manager of Conservation Programs NE & KS, Update of Ducks Unlimited projects and personnel.** Mr. Denton presented his report. He emphasized that there had been quite a change in staff this year. He has really been trying to play catch up in trying to get projects completed that have been delayed.

**Agenda Item #5: Report and Recommendations from Land Ad-Hoc – Land Acquisition Committee.** Ms. Lauritzen presented the report from the committee. She reported that only one recommendation was made, this is to the Defense Funds on

Easements. A handout was provided to the board with the new wording added in bold face type. Mr. Dunn noted that there was one additional change that wasn't on the hard copy that's a grammatical correction. The change was to Defense funds are eligible expense in applications. Mr. Douglas wanted to know more about the discussion regarding allowing the Nebraska Land Trust (NLT) with insurance not being required. Ms. Lauritzen explained that this was discussed at length. Mr. Sands was very instrumental and had a lot of information for the committee; right now NLT is the only organization in Nebraska that has the defense fund insurance. The committee felt that at this time because the insurance is so new that we not require the defense fund insurance until we know more about it. Ms. Vinton added that this clarifies our original intent, it really didn't read as Mark said we are practicing. So she felt it was important that we do clarify to reflect our current practice. This way we are clear with all of our partners, because if we don't they could start utilizing the principal for monitoring expenses, rather than growing the principal. Mr. Brohman added that the board may want to look at capping funds that are pooled. He noted that currently there was \$795,000 from all the groups together and that the Nebraska Land Trust had the largest chunk. The committee had discussed capping at \$500,000 for the Land Trust and they would only have to contribute 5% rather than 10%. So for now we'll keep where we are at, but in the future we may want to look at capping.

**Motion by Mr. Dunn** to table to November meeting otherwise Dunn's law will be in effect. Motion dies for lack of a second.

**Motion by Mr. Douglas** to change our policy to reflect what's written here and on the screen as done by the land committee, seconded by Gloria Erickson.

**Voting Aye:** Mr. Brandt, Mr. Christen, Mr. Douglas, Ms. Erickson, Mr. Hellbusch, Mr. Ibach, Mr. Krohn, Ms. Lauritzen, Mr. Macy, Mr. Peterson and Ms. Vinton.

**Voting Nay:** Mr. Dunn. Motion carried.

**Agenda item #6: Discuss results from the 2015 Funding Roundtable Meetings.**

Mr. Brohman presented the Agenda Item and passed around the Five-Year Funding Categories for 2011-2015 with the previous wording that was changed. Mr. Brohman wanted to share with the board how little we had changed through the years. We held three meetings this year, one in North Platte, Omaha and Lincoln. Mr. Ibach inquired when the categories take effect. The categories would take effect in 2016. The survey results were shared with the board.

Mr. Dunn left the meeting at 2:55 p.m., returned at 2:56 p.m.

Mr. Macy left the meeting at 2:58 p.m. returned at 3 p.m.

Ms. Johnson responded to Mr. Brohman's request to respond to social media. She felt it was a full time job to respond to comments made on Facebook. It was suggested that we possibly look into an intern for our social media needs. It was suggested that we bring up to the Finance Committee the need for an increase to the budget for publicity of the Trust.

F. Defense Funds on Easements

The Nebraska Environmental Trust acknowledges the importance of maintaining a defense fund on easements when Trust funding is involved. The Trust will require a Defense Fund of at least 10% of the appraised value **at time of acquisition** for enforcement and **defense of the conservation easement. Investment or interest income may be used for annual monitoring expenses.** ~~This may be included~~ Defense funds as are an eligible expense ~~in~~ for applications. The Trust will Waive the Defense Fund Requirement for Government Agencies Including Natural Resource Districts.

## Trust Funding Categories

The Trust Board discussed in depth the suggestions and comments that came from the three Funding Categories Roundtable Meetings conducted in North Platte, Lincoln and Omaha as well the Survey Forms that were returned and concluded NOT to make any changes to the existing categories or their descriptions. As such, these Categories (Habitat, Surface and Groundwater, Waste Management, Soil Management and Air Quality) will remain in effect until 2020.

During deliberation it was concluded that the existing categories were broad enough to encompass most of the ideas and suggestions that were brought up during the Roundtable meetings. The Categories and descriptions were not limiting applications; they simply outline the general funding categories the Trust funds.

For further information, contact the Trust office for questions or clarification.

## Defense Fund Policy

The Trust requires grantees obtaining conservation easements with Trust funds to establish a defense fund containing at least 10% of the easement's value. The 10% can be included in the grant application, as it is an eligible expense. The fund is to be used in the future to defend the conservation easement, but the fund can also be used for monitoring the easement.

Government agencies, including Natural Resources Districts, would not be required to set aside defense funds. Government entities would be obligated to defend conservation easements held by them and a separate fund was unnecessary.

## 2018 Nebraska Environmental Trust Annual Report

The 2017 Annual Report was published in January 2019. The 2018 grant awards marked an incredible milestone for Nebraska Environmental Trust. Over \$299 million has been awarded to more than 2,100 projects all across Nebraska.

Click on the links on the left to view the Annual Report in PDF format. You can also view the complete report in one file by [clicking here](#).



### About

- [Our Mission](#)
- [Our Funding Categories](#)
- [Our Finances](#)
- [Board and Staff](#)
- [The Ferguson House](#)
- [Legislation and Regulations](#)
- [Contact the Trust](#)

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- [Grant FAQ](#)
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- [Download Setup & Reporting Forms](#)
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- [Applications](#)
- [2020 Application List](#)
- [Nebraska Academy of Sciences](#)
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# Public Hearing

Proposed Project Ranking  
Systems for Grant Applications

# Project Ranking Systems for Grant Applications

## NET Board Agenda Materials

Item #: 5 & 6

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Object: Conduct Public Hearing, Discuss comments & proposal, approve new system

Contact Person: Karl Elmshaeuser

For: Action

Attachments: 8 pages

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### BACKGROUND

Pursuant to Chapter 7 of Title 137 and the factors set forth herein, the Executive Director shall prepare Project Ranking Systems to be used to rank all applications which are eligible. The Project Ranking Systems shall be approved by an affirmative vote of the Board after public hearing. Similarly, any subsequent amendments to a Project Ranking System shall be approved by an affirmative vote of the Board after public hearing

### EXPLANATION

Ranking Factors. The Project Ranking Systems shall assign a numeric value to each criterion and combine these values into a total score for each application. Each Ranking System shall include, but is not limited to, criteria to evaluate each application as detailed in Title 137 Chapter 7.

### PROPOSAL

The Project Ranking Systems adopted by the Board shall be used by the Grants Committee for ranking of projects as described in Chapter 8 of Title 137.

Recommended motion, "I move to approve the new Project Ranking Systems for Grant Applications using the 10 question format that follows Title 137 and allows up to 5 points per question as presented. This is to be effective as of July 1, 2022."

**81-15,173.**

Board; powers and duties.

The board shall have and may exercise the following powers and duties:

(6) Establish environmental categories for use of the funds and develop an appropriate rating system for each category;

**81-15,175.**

Fund allocations; board; powers and duties; grant award to Water Resources Cash Fund; payments; legislative intent; additional grant; additional reporting.

(2) The board shall establish rating systems for ranking proposals which meet the board's environmental categories and other criteria. The rating systems shall include, but not be limited to, the following considerations:

- (a) Conformance with categories established pursuant to section [81-15,176](#);
- (b) Amount of funds committed from other funding sources;
- (c) Encouragement of public-private partnerships;
- (d) Geographic mix of projects over time;
- (e) Cost-effectiveness and economic impact;
- (f) Direct environmental impact;
- (g) Environmental benefit to the general public and the long-term nature of such public benefit; and

Restatement in Code from Statute

**NEBRASKA ADMINISTRATIVE CODE**

Last Approved Date: August 8, 2002

**Title 137 - Nebraska Environmental Trust Board**

**Chapter 7 - PROJECT RANKING SYSTEMS**

- 001 Pursuant to this Chapter and the factors set forth herein, the Executive Director shall prepare Project Ranking Systems to be used to rank all applications which are eligible. The Project Ranking Systems shall be approved by an affirmative vote of the Board after public hearing. Similarly, any subsequent amendments to a Project Ranking System shall be approved by an affirmative vote of the Board after public hearing.
- 002 The Project Ranking Systems adopted by the Board shall be used by the Grants Committee for ranking of projects as described in Chapter 8.
- 003 Ranking Factors. The Project Ranking Systems shall assign a numeric value to each criterion and combine these values into a total score for each application. Each Ranking System shall include,

but is not limited to, criteria to evaluate each application to the extent that the project will accomplish the following:

- 003.01 Conform with the funding categories established pursuant to Chapter 2 of these rules. (a)
- 003.02 Produce a commitment of funds from other funding sources. (b)
- 003.03 Provide in-kind match to requested grant funds.
- 003.04 Result in a public-private partnership. (c)
- 003.05 Help the Board attain a geographic mix of projects over time. This does not mean that a strict geographic mix will be sought during each funding cycle but that points may be awarded to projects in specific areas if it becomes apparent that the area is receiving funding for proportionately fewer projects than other areas of the state. (d)
- 003.06 Be cost effective. Cost effective shall include, as applicable, a comparison of the cost of the project to its expected monetary and non-monetary benefits and whether there is another reasonably available means of accomplishing the same purpose or purposes more economically. (e)
- 003.07 Have economic impacts. (e)
- 003.08 Produce direct environmental impacts (f)
- 003.09 Produce environmental benefits to the general public, especially benefits which are long term in nature. (g)
- 003.10 Provide a plan for evaluating the results of the expenditure of grant funds. (g)

**Application Rating Criteria Matrix**

<u>Reference</u>	<u>Criteria</u>
3.01	Degree project advances categories of the Trust
none	Sound planning and design
3.09	Direct measurable environmental benefits
3.06	Cost-effective
3.09	Duration of benefits
3.03	Matching resources (monetary & in kind)
none	Prevents contamination or degradation of resources
none	Many people or communities served by project (maybe 3.05 applies?)
3.09	General public benefit
3.04	Public/private partnerships
3.07	Economic impact

3.10	Evaluation plan
none	Unique need
none	Public health
none	Innovation
none	Replication potential
none	Individual or local initiative
<u>Missing</u> 3.02	Produce a commitment of funds from other funding source
<u>Missing</u> 3.05	Geographic mix, amount of are affected by funding
<u>Missing</u> 3.08	Produce direct environmental impacts

Rating Criteria	Low		Ave.		High	
Degree project advances categories of the Trust	0	5	10	15	20	25
Sound planning and design	0	5	10	15	20	25
Direct measurable environmental benefits	0	4	8	12	16	20
Cost-effective	0	4	8	12	16	20
Duration of benefits	0	3	6	9	12	15
Matching resources (monetary & in kind)	0	3	6	9	12	15
Prevents contamination or degradation of resources	0	3	6	9	12	15
Many people or communities served by project	0	3	6	9	12	15
General public benefit	0	2	4	6	8	10
Public/Private partnerships	0	2	4	6	8	10
Economic impact	0	2	4	6	8	10
Evaluation plan	0	2	4	6	8	10
Unique need	0	1	2	3	4	5
Public health	0	1	2	3	4	5
Innovation	0	1	2	3	4	5
Replication potential	0	1	2	3	4	5
Individual or local initiative	0	1	2	3	4	5
TOTAL POINTS AVAILABLE						215

**Application Questions:**

1. Please select the funding category your project best fits in. (003.01)
  - a. **Habitat:** actions to preserve or restore native habitats and areas critical to at-risk, rare or endangered species; other preservation actions for at-risk, rare or endangered species including actions to understand ecosystem relationships which inform sound management; community habitat enhancement emphasizing native and ecologically appropriate plantings which provide food and shelter for wildlife; actions to inform and educate which contribute to the fulfillment of this category.
  - b. **Surface and Ground Water:** actions to preserve or restore lakes, waterways and ground water from degradation or depletion; actions to research, design or foster best management practices; actions to conserve water and/or efficiently and effectively manage water use; actions to inform and educate which contribute to the fulfillment of this category.
  - c. **Waste Management:** actions promoting and implementing source reduction, waste management or toxicity reduction; actions promoting and implementing the development of recycling markets; actions promoting and implementing reuse and other disposal diversion actions; actions to inform and educate which contribute to the fulfillment of this category.
  - d. **Air Quality:** actions promoting and implementing clean air strategies; including greenhouse gas *reductions*; actions to research, design or foster best management strategies; actions to inform and educate which contribute to the fulfillment of this category.
  - e. **Soil Management:** actions and strategies to preserve, conserve and restore soil health; actions to research, design or foster the implementation and management of these strategies; actions to inform and educate which contribute to the fulfillment of this category.
2. Does your project produce a commitment of funds from other funding sources? Please provide the percentage of match to the project's funds. (003.02)
3. Does your project provide in-kind match to the requested grant funds? Please explain. (003.03)
4. Does your project result in a public-private partnership? (003.04)
5. Does your project cover an area of geographical mix? (003.05)

6. Is your project cost effective? (003.06)
  - a. Please provide a comparison of the cost of the project to its expected monetary and non-monetary benefits.
  - b. Please explain whether there is another reasonably available means of accomplishing the same purpose or purposes more economically.
7. Please explain any economic impacts your project may have. (003.07)
8. Does your project produce direct environmental impacts? Please explain. (003.08)
9. Does your project produce environmental benefits to the general public? Are these results long term in nature? Please explain. (003.09)
10. Does your project have a plan for evaluating the results of the expenditure of grant funds? Please explain. (003.10)

**Project Number:**

**Sponsor:**

**Project Name:**

**Scoring Criteria:**

1. Does the project conform to the funding categories? (003.01)  
Select from Dropdown Menu  
0 – Does not meet criteria  
1 – Low  
2 – Below Average  
3 – Average  
4 – Above Average  
5 – High
  
2. Does the project produce a commitment of funds from other funding sources? (003.02)
  - a. 0 – Does not provide any match
  - b. 1 – Provides 5% - 24% match
  - c. 2 – Provides 25% - 49% match
  - d. 3 – Provides 50% - 74% match
  - e. 4 – Provides 75% - 99% match
  - f. 5 – Provides 100% match
  
3. Does the project provide in-kind match to the requested grant funds? (003.03)
  - a. 0 – Does not meet criteria
  - b. 1 – Low
  - c. 2 – Below Average
  - d. 3 – Average
  - e. 4 – Above Average
  - f. 5 – High
  
4. Does the project result in a public-private partnership? (003.04)
  - a. 0 – Does not meet criteria
  - b. 1 – Low
  - c. 2 – Below Average
  - d. 3 – Average
  - e. 4 – Above Average
  - f. 5 – High
  
5. Does this project attain a geographic mix that provides funding for a diverse area? (003.05)
  - a. 0 - Does not meet criteria
  - b. 1 – Low
  - c. 2 – Below Average
  - d. 3 – Average
  - e. 4 – Above Average
  - f. 5 – High

6. Is the project cost effective? (003.06)
  - a. 0 – Does not meet criteria
  - b. 1 – Low
  - c. 2 – Below Average
  - d. 3 – Average
  - e. 4 – Above Average
  - f. 5 – High
  
7. Does the project have economic impacts? (003.07)
  - a. 0 – Does not meet criteria
  - b. 1 – Low
  - c. 2 – Below Average
  - d. 3 – Average
  - e. 4 – Above Average
  - f. 5 – High
  
8. Does the project produce direct environmental impacts? (003.08)
  - a. 0 – Does not meet criteria
  - b. 1 – Low
  - c. 2 – Below Average
  - d. 3 – Average
  - e. 4 – Above Average
  - f. 5 – High
  
9. Does the project produce long term environmental benefits for the general public? (003.09)
  - a. 0 – Does not meet criteria
  - b. 1 – Low
  - c. 2 – Below Average
  - d. 3 – Average
  - e. 4 – Above Average
  - f. 5 – High
  
10. Does the project have a plan for evaluating the results of the expenditure of grant funds?  
(003.10)
  - a. 0 – Does not meet criteria
  - b. 1 – Low
  - c. 2 – Below Average
  - d. 3 – Average
  - e. 4 – Above Average
  - f. 5 – High

## Easement Request

### NET Board Agenda Materials

Item #: 7

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Object: To review and approve easement request

Contact Person: Karl Elmshaeuser

For: ACTION

Attachment: 18 pages

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#### **BACKGROUND**

The Executive Director received an email from an attorney representing the Central Platte NRD with a request concerning the ability to transfer a conservation easement that was originally funded using Environmental Trust funds.

#### **EXPLANATION**

The original easement, grant contract and documents from 2009 were located and provided. Correspondence and documents were shared with the Attorney General's office for review and advice.

#### **PROPOSAL**

The NET policy on Release of Easements is;

The Trust will allow the release of easements acquired in whole or in part with Trust funds in cases where the land will be enrolled in another conservation program/practice that provides similar or more protection. The Trust Fund will require receipt of a pro-rated refund of the amount originally paid for the easement. The refund will be determined by dividing the amount the Trust contributed by the term of the easement to calculate an annual amount and then multiplying the annual amount by the number of years remaining on the easement. Proposed Date: 01/29/04 Adopted Date: 01/29/04

The advice from the Attorney General's office is;

After reviewing the various documents, it appears you will need board approval and signature by the chairman as was done with the transfer back in 2013 (see attached "Inst2014-2074 (002)").

Central Platte NRD (CPNRD) holds the easement with regard to the water rights that they are now releasing and transferring to other lands. Therefore, Section J (first paragraph) of the 2009 Grant Contract (attached) is triggered and CPNRD must notify the NET and receive prior written permission from the NET (i.e. Consent of Partial Release). I don't see any issues with the transfer itself under the Grant Contract as the restriction on the number of acres irrigated will remain the same.

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**BWJ**  
BLANKENAU WILMOTH  
JARECKE LLP

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March 7, 2022

**Don Blankenau**  
Direct: (402) 475-7081  
don@aqualawyers.com

Department of Natural Resources  
Jesse Bradley  
301 Centennial Mall South  
P.O. Box 94676  
Lincoln, NE 68509-4676

**RE: Transfer of Conservation Easement on land owned by Buell, LLC**

Dear Jesse:

As I previously mentioned to you, we are in the process of finalizing the transfer of a portion of the conservation easement on land owned by Buell, LLC to other lands owned by Buell, LLC. The transfer is for a total 11.89 acres and will facilitate more efficient irrigation of the Buell, LLC lands. Importantly, it will not change the total number of acres subject to the conservation easement.

As you may recall, the conservation easement in favor of the Central Platte Natural Resources District ("CPNRD") was granted and recorded on February 23, 2009. A copy of that easement is enclosed for your files. The 11.89 acres of land under that easement, and proposed to be transferred, is identified in the "Partial Release of Deed of Conservation Easement" that I have also enclosed for the signature of the appropriate person at DNR. I have also enclosed a copy of the Deed of Conservation Easement that will convey to the CPNRD 11.89 acres of adjoining land to complete the original intent of the conservation easement.

As you know, the actual completion of this transfer of conservation easement cannot be complete until we obtain the consent of: (1) DNR; (2) The Nebraska Environmental Trust; (3) The City of Lexington; and (4) The Dawson County authority. To that end, please execute the enclosed Partial Release of Deed of Conservation Easement, where indicated, before a notary public. Please return the Release to me in the enclosed envelope. Once we have obtained the appropriate signature from DNR, we will obtain the approval of the Nebraska Environmental Trust. I am concurrently obtaining the approvals from the other two entities but as noted, but the documents cannot be finalized and recorded until ALL approvals have been received.

Thank you for your prompt attention to this matter. Please feel free to call, e-mail, or text should you have any questions or concerns.

Thank you,



Donald G. Blankenau

NEBRASKA ENVIRONMENTAL TRUST SEP 8 2009  
 2009 GRANT CONTRACT

NEBRASKA ENVIRONMENTAL TRUST

**A. PARTIES TO THE CONTRACT**

This contract is entered into by and between the Nebraska Environmental Trust (the Trust) and the **Central Platte Natural Resources District** (the Sponsor). **Exhibit "A" – "Platte Basin Habitat Enhancement Project Interlocal Cooperation Agreement"** is attached hereto and is a binding part of this contract

**B. PRIMARY CONSIDERATIONS OF THE CONTRACT**

The Sponsor submitted an application, **#09-113 Platte Basin Habitat Enhancement Project** to the Trust for a grant on or before September 2, 2008. On April 2, 2009, following evaluation of the application and any attachments, the Trust Board approved a grant in the amount of up to **\$1,275,000** to be awarded as provided by this contract consistent with the Environmental Trust Fund Act of 1992 and subsequent provisions, rules and regulations and pending available funds. The project application and all associated documents are by reference made part of this contract. By entering into this contract, the Sponsor(s) commit to the implementation of the project as described in the application, and subsequent correspondence, documentation and amendments.

At the request of the Trust, a new budget outline was prepared by the Sponsor after February 5, 2009. This outline replaces any previous project budget information submitted and is by reference made part of this grant contract.

**C. TERM OF THE FUNDING PERIOD AND CONTRACTUAL OBLIGATIONS**

The project funding period shall begin with the last date this contract is signed and shall terminate on **June 30, 2010**. Funds not expended within this period shall be immediately forfeited by the Sponsor without action by the Trust. The terms and conditions of this contract shall remain in effect for the useful life of the project and its components, except as otherwise provided.

**D. REPORTING OBLIGATIONS OF THE SPONSOR**

**1. Financial Reports and request for disbursement.**

The Sponsor hereby agrees to submit properly documented statements of costs for which grant funds are sought, pursuant to the terms of this contract, for approved grant activities on a form that will be supplied by the Trust. Proper documentation shall be considered to be original invoices containing the name, address and social security number or federal tax identification number of the vendor and an itemized list of services or goods with costs and the date of service or delivery. These statements and reports shall be signed by the project representative of the Sponsor(s).

For costs of acquisition of real property **and/or water rights** as specified in this agreement, the Sponsor shall submit a copy of the purchase agreement, title insurance commitment and appraisal **(or other agreed upon documentation)** for Trust review prior to closing.

Following closing, the Sponsor shall submit to the Trust a copy of the filed, stamped deed(s), closing statement and title policy. If documentary stamps are not affixed to the deed, the Sponsor shall provide a copy of the canceled check or other conveyance of consideration to confirm purchase price. **Evidence of retirement of the water rights will be required after closing.**

The Trust will reimburse the Sponsor for these costs following receipt of the statements and reports specified in this section, subject to conditions contained in this section, Section E and elsewhere in this contract.

The Sponsor agrees to file such statements and reports according to the following schedule:

<u>Project Period</u>	<u>Report Due Date</u>
From inception through June 30, 2009	July 31, 2009
From July 1 through September 30, 2009	October 31, 2009
From October 1 through December 31, 2009	January 31, 2010
From January 1, 2010 through March 31, 2010	April 30, 2010
From April 1 through June 30, 2010	July 31, 2010

**2. Project progress and activity reports.**

The Sponsor agrees to provide periodic reports including a narrative description of all project activities, participants, outcomes, variances and deviations from the project application according to the above schedule.

A final report is also due 30 days after the termination of the contract. This report must include a summary of the activities, partners, and results of the project from inception to completion and include all in-kind and matching contributions. This final report must also include quantifying results and statistics about the project's success. The report should include results such as volumes recycled, acres planted, acres restored, linear feet of bank restored, etc.

#### **E. CONDITIONS GOVERNING TRANSFER OF FUNDS**

The Trust will transfer the funds specified in this contract to the Sponsor following receipt and audit of required documentation as specified in Section D. The Trust may, at its discretion, reduce the amount of any transfer or withhold payment pending resolution of any dispute regarding any expenditure, activity or statement submitted by the Sponsor.

All funds disbursed to the Sponsor pursuant to this contract shall be disbursed solely for costs necessarily incurred in the execution of the project as described in the application and associated documents, including any amendments thereto which are approved by the Trust.

Any and all interest earned by the grant funds after transfer to the Sponsor are considered a part of the grant and are subject to all requirements and conditions of the grant. Such interest is to be reported on the first report filed by the Sponsor as required in Section D of this contract after such interest is accounted to the Sponsor.

Costs paid, accrued or authorized by the Sponsor prior to the effective date of this contract shall be incurred at the risk of the Sponsor and the Sponsor shall not be entitled to reimbursement without specific Trust approval.

The Trust may suspend financial assistance provided under this contract pending corrective action required of the Sponsor by the Trust or pending a decision to terminate the grant by the Trust as described in Section K of this agreement or under any provisions of Nebraska law.

#### **F. PROJECT MODIFICATION**

The Sponsor will promptly report all proposed additions, deletions or modifications of any component of the project, or any changes in the purpose or purposes of the project by submitting to the Trust in writing a request to amend the agreement. The Trust will not be liable for funding any portion of such additions, deletions or modifications until and unless it has affirmed in writing to the Sponsor approval of the amendments proposed. Requests for extensions of the expiration date must be received prior to the expiration date of the contract to be considered. If the extension request puts the project beyond the three year project limit it must be considered by the Trust board. The board will consider whether additional time will allow the project to be completed as stated in the application and/or as previously modified and whether delays in the project timeline are due to circumstances beyond the control of the sponsor. Any funds remaining at the end of the project period will be returned to the Trust.

#### **G. PUBLIC NOTICE OF GRANT AWARD**

The Sponsor agrees to provide prominent display of the Trust logo and text acknowledging the use of the grant at any project site impacted by the grant, on major pieces of equipment purchased with grant funds, and in publications referencing the funded project. Language provided by the Trust shall be included in all media releases and other publicity pieces developed by the Sponsor about the funded project.

To the extent requested by the Trust, and its agents, to include the Nebraska Lottery, the Sponsor agrees to: 1) the use of the Sponsor's name, project name and description; 2) documentation of project development activities and successes for use in broadcasts, publications and advertisements; 3) placement of signs provided by the Trust and the Nebraska Lottery on the project location or otherwise displaying acknowledgment that said project is funded, or partially funded, by the Nebraska Lottery; and 4) coordination with the Trust and the Nebraska Lottery in various events, including announcement of the grant, presentation of signs and displays, and similar events.

#### **H. LICENSES/PERMITS**

The Sponsor shall acquire, obtain or receive all state and federal licenses and/or permits required by law prior to initiation of the project. It is the responsibility of the Sponsor to discover and comply with all state, local and federal rules, regulations or laws that pertain to the implementation and completion of the project. The Sponsor shall include copies of all such licenses/permits to the Trust with the activity reports submitted to the Trust office.

## **I. SITE INSPECTIONS**

The Sponsor agrees to promptly submit to all requests for site inspections by any state or federal official acting in the course of his/her duties. The Sponsor agrees to make available all financial records and documents as necessary on request of the Trust or its agents. Financial records, supporting documents and all other records pertinent to this grant shall be retained for a period of three years following notification from the Trust Board that the grant has been officially closed, except the records shall be retained beyond the three-year period if audit findings have not been resolved.

## **J. TRANSFER/DISPOSAL OF REAL OR PERSONAL PROPERTY**

The Sponsor will not sell, lease, transfer, exchange, mortgage or encumber in any manner whatsoever all or any portion of any real (including land acquisitions, easements or improvements) or other property acquired in whole, or in part, by Trust funds without the prior written permission of the Trust, which will not be unreasonably withheld. The Sponsor shall notify the Trust in writing of any proposed sale, lease, transfer, exchange, mortgage or encumbrance at least thirty days in advance and obtain written approval from the Trust. **In addition, the Sponsor shall require all other NRD's acquiring easements with Trust funds in their respective districts to notify Sponsor in writing of any proposed sale, lease, transfer, exchange, mortgage or encumbrance of all or any portion or any real or other property in their respective districts, including land acquisitions, easements or improvements. The Sponsor shall then notify the Trust in writing of such proposed sale, lease, transfer, exchange, mortgage or encumbrance at least thirty days in advance and obtain written approval from the Trust.** In the event that the Trust does not agree to the sale, lease, transfer, exchange, mortgage or encumbrance of said property, the **entity desiring to so sell, lease, transfer, exchange, mortgage or encumber said property may repay the value of the grant to the Trust and will thereafter be released from all further obligations.** Otherwise repayment will be calculated according to the adopted policies of the Trust board regarding the transfer or sale of Trust funded equipment. The Sponsor will notify the Trust when any equipment purchased in whole or in part with grant funds is no longer usable during the service life of the equipment.

**In addition, the Sponsor shall require all landowners owning real estate burdened by conservation easements acquired in part or entirely with Trust funds, to notify the Sponsor of any sale, gift, transfer or exchange of said land burdened by said conservation easement, who will then notify the Trust in writing of all said sale, gifts, transfers or exchanges of said real estate. Such notification shall include the name, address, and telephone number of the person(s) or entity to whom said real estate is transferred. The Sponsor shall also require all other NRD's acquiring easements with Trust funds to require all landowners owning real estate in their respective districts which are burdened by conservation easements acquired in part or entirely with Trust funds, to notify said NRD, who will be responsible to notify the Sponsor of any sale, gift, transfer or exchange of said land burdened by said conservation easement as provided herein. The Sponsor will then be responsible for notifying the Trust of said sale, gift, transfer or exchange as provided herein.**

## **K. TERMINATION OF THE CONTRACT PRIOR TO EXPIRATION DATE**

The Sponsor understands and agrees that failure to comply with any of the terms of this contract may result in the revocation or cancellation of Trust approval and funding and/or a demand for repayment of any funds previously paid to the Sponsor by the Trust.

The Trust may terminate the project, in whole or in part, at any time before the expiration date of this contract whenever the Trust determines that the Sponsor has failed to comply with the conditions of the grant. The Executive Director of the Trust will promptly notify the Sponsor in writing of the determination and the reasons for the termination, together with the effective date.

By mutual agreement, the project may be terminated, modified or amended. When both parties agree to terminate the grant, in whole or in part, the parties will agree upon the termination conditions, including the effective date, and in the case of a partial termination, the portion to be terminated. The Sponsor shall not incur new obligations for the terminated portion after the effective date and shall cancel as many outstanding obligations as possible.

Trust payments to the Sponsor or recoveries by the State of Nebraska under projects terminated for cause shall be in accord with the legal rights and liabilities of the parties.

## **L. LIABILITY**

The Sponsor agrees to hold and save the State of Nebraska, the Environmental Trust Board, and their officers, agents and employees free and harmless from any and all claims, demands, damages, losses, costs, expenses or liability

due to, or incidental to, either in whole or in part, and whether directly or indirectly, the design, construction, operations, repairs, maintenance, implementation, assistance or failure of the project, or any of its works or facilities.

#### **M. ADDITIONAL TERMS AND CONDITIONS**

##### **HISTORIC PRESERVATION:**

The Sponsor agrees to undertake at its own expense any action that may be required to determine the presence of cultural resources and to undertake any subsequent measures which may be required to ensure the preservation of such resources which may be discovered. The Sponsor agrees to comply with the provisions of Section 106 of the National Historic Preservation Act of 1986, as amended, where historic structures are determined to exist on any site where Trust Funds are expended.

##### **THREATENED & ENDANGERED SPECIES:**

The Sponsor agrees to undertake at its own expense any action that may be required to ensure compliance with the Non-game and Endangered Species Act, Neb. Rev. Stat. Sections 37-430 et seq.

##### **OPERATIONS:**

All operation, replacement and maintenance of the project shall be carried out and applied in such a manner so as to accomplish the purposes of the project as set forth in the Sponsor's application and associated materials, including any amendments thereto which have been approved by the Trust, for the useful life of the project.

##### **ENGINEERING:**

The Sponsor will provide for and maintain competent and adequate architectural and engineering supervision and inspection at the construction site as appropriate to ensure that the completed work conforms substantially in accordance with the proposed plans and specifications, according to accepted standards and practices.

##### **EQUIPMENT:**

The Sponsor will report to the Trust all equipment purchased with full or partial funding on a form to be provided by the Trust. The Sponsor will identify such equipment as purchased with Trust funding in the Sponsor's inventory for the useful life of the equipment.

The Sponsor will obtain at least two (2) bids for any equipment purchased costing \$1,000.00 or more, for which more than one vendor is available. The Sponsor will provide the names of bidders to the Trust at the time a request for reimbursement is submitted. Such bids shall be held in the Sponsor's files for three (3) years.

The Sponsor agrees to purchase and maintain property insurance at its own expense to insure all equipment valued at \$1,000 or more which is purchased in whole or in part with funds received from the Trust. This insurance shall include "all risk" insurance for physical loss or damage including, without duplication of coverage, theft, vandalism, and malicious mischief. Such insurance shall be maintained on all such equipment in an amount equal to the replacement value of the equipment for the useful life of the equipment (as defined in the Nebraska Depreciation for personal property used in business tables). The Sponsor shall name the Trust beneficiary of the policy and shall assure that proof of coverage shall be kept current. Evidence of current coverage will be requested annually by the Trust office. Upon request for reimbursement the Sponsor will provide the Trust with the policy of insurance for equipment purchased, in whole or in part, with funds received from the Trust.

##### **REAL ESTATE:**

Additional conditions exist beyond the expiration date of this contract, **including** continued access to the properties affected by this contract for periodic reviews and visits. The Trust must also be notified in writing of any plans to sell, lease, transfer, exchange, mortgage or encumber the property **as provided hereinabove**. The Sponsor, or other participating NRD, will be required to obtain written Trust approval for any such transaction and negotiate the terms of the transaction with the Trust (which may include partial or whole repayment of the grant) **as provided hereinabove**. In addition, the Sponsor will be required to report to the Trust all sales, gifts, transfers or exchanges of all real estate burdened by said easements, in Sponsor's own district and as reported to Sponsor by other NRD's for transfers of said real estate located in the other NRD's districts **as provided hereinabove**. If the Trust determines, at any time prior to or following expiration of this contract, that the Sponsor has failed to comply with the terms and conditions of this contract it may take action to recover Trust contributions to the project. The terms and conditions of this contract shall survive the expiration date of this contract.



Inst. 2013 - 2074

RECORDED  
DAWSON COUNTY NE

2013 JUN 13 AM 10:28

*Ruth H Meyer*  
REGISTER OF DEEDS

22<sup>nd</sup> K  
C Allen

Return to: Cathleen H. Allen  
PO Box 790  
Grand Island NE 68802-0790  
Partial Release of Deed of Conservation Easement

PARTIAL RELEASE OF DEED OF CONSERVATION EASEMENT

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, the CENTRAL PLATTE NATURAL RESOURCES DISTRICT, a political subdivision of the State of Nebraska and JOHN R. SNIDER, a single person, REGINA HOWARD and CRAIG HOWARD, wife and husband, LARRY SNIDER and LISA SNIDER, husband and wife, and STACEY LYNN SNIDER-SIMON and BRIAN SNIDER-SIMON, wife and husband, have agreed that in consideration of the transfer of the terms and conditions of the Deed of Conservation Easement to an adjoining tract of real estate that the terms and conditions of the Deed of Conservation Easement previously executed by John R. Snider, a single person and John R. Snider, Personal Representative of the Estate of Linda Snider as Grantors and Central Platte Natural Resources District, a political subdivision of the State of Nebraska as Grantee, and recorded in the Office of the Dawson County Register of Deeds on January 5, 2011 as Instrument No. 2011-0052, shall be released as to the following described parcel of real estate only.

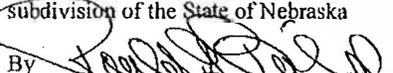
NOW, THEREFORE, in consideration of value received, in accordance with the request and consent of the parties hereto Central Platte Natural Resources District, a political subdivision of the State of Nebraska, hereby releases the following described real estate from the terms and conditions of the Deed of Conservation Easement, to-wit:

A tract of land in Section Twenty-Nine (29), Township Nine (9) North, Range Twenty-One (21) West of the Sixth Principal Meridian, Dawson County, Nebraska, more particularly described as follows:

Referring to the Northwest corner of said Section 29; thence N89°54'49"E (an assumed bearing and all bearings shown herein being relative thereto) on the north line of said Section a distance of 1766.44 feet; thence S64°25'21"E on the north line of Government Lot 1 of said Section a distance of 919.5 feet to the Northeast corner of said lot; thence S 00°24'08" E on the east line of said Lot a distance of 101.38 feet to the point of beginning; thence continuing S 00°24'08"E on the East line of Government Lots 1 and 3 of said Section a distance of 1717.46 feet; thence northwesterly on a non-tangent curve to the right with a radius of 1670.00 feet (chord bears N 08°56'45"W with a length of 1887.22 feet) an arc distance of 2005.59 feet; thence S 62°34'46"E a distance of 317.41 feet to the place of beginning.

Dated this 9<sup>th</sup> day of May, 2013.

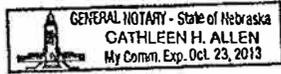
CENTRAL PLATTE NATURAL  
RESOURCES DISTRICT, a political  
subdivision of the State of Nebraska

By   
Ronald G. Bishop, General Manager

Inst. 2013 - 2074

STATE OF NEBRASKA )  
                                  ) ss:  
COUNTY OF HALL )

The foregoing Partial Release of Deed of Conservation Easement was acknowledged before me this 6<sup>th</sup> day of June, 2013, by Ronald G. Bishop, General Manager of Central Platte Natural Resources District, a political subdivision of the State of Nebraska on behalf of said Natural Resources District and known to me personally or produced satisfactory evidence of identification to me and acknowledged the execution thereof to be his voluntary act and deed as such officer on behalf of said organization.



Cathleen H. Allen  
Notary Public

My commission expires: Oct. 23, 2013

CONSENT TO PARTIAL RELEASE OF DEED OF CONSERVATION EASEMENT

The undersigned, in accordance with the terms, conditions and provisions of a certain Agreement by and among Central Platte Natural Resources District, the Nebraska Department of Natural Resources and the Nebraska Game and Parks Commission dated the 6<sup>th</sup> day of January, 2011, the Platte Basin Habitat Enhancement Project Interlocal Cooperation Agreement dated August 2, 2009 and the 2009 Grant Contract with the Nebraska Environmental Trust, hereby consent to the partial release of the Deed of Conservation Easement previously recorded with the Office of the Register of Deeds of Dawson County, Nebraska as Instrument No. 2011-0052 only as it affects the real estate above-described.

IN WITNESS WHEREOF, the undersigned has executed this instrument, or caused the due execution thereof, this 23 day of May, 2013, 2013.

NEBRASKA ENVIRONMENTAL TRUST

By Gloria Erickson  
Gloria Erickson, Chair  
By Mark A. Brohman  
Mark A. Brohman, Executive Director

NEBRASKA DEPARTMENT OF NATURAL RESOURCES

By Brian P. Dunnigan  
Brian P. Dunnigan, P.E., Director

STATE OF NEBRASKA )  
COUNTY OF PHILIPS ) ss:

The foregoing Consent to Partial Release of Deed of Conservation Easement was acknowledged before me this 25 day of May, 2013, by Gloria Erickson, Chair of Nebraska Environmental Trust on behalf of said organization and known to me personally or produced satisfactory evidence of identification to me and acknowledged the execution thereof to be her voluntary act and deed as such officer on behalf of said organization.



Michael R. Nielsen  
Notary Public

My commission expires: May 11, 2018

STATE OF NEBRASKA )  
COUNTY OF LANCASTER ) ss:

The foregoing Consent to Partial Release of Deed of Conservation Easement was acknowledged before me this 20 day of May, 2013, by Mark A. Brohman, Executive Director of Nebraska Environmental Trust on behalf of said organization and known to me personally or produced satisfactory evidence of identification to me and acknowledged the execution thereof to be his voluntary act and deed as such officer on behalf of said organization.



Marilyn J. Tabor  
Notary Public

My commission expires: March 1, 2014

STATE OF NEBRASKA )  
COUNTY OF Lancaster ) ss:

The foregoing Consent to Partial Release of Deed of Conservation Easement was acknowledged before me this 9th day of May, 2013, by Brian P. Dunnigan, P.E., Director of the Nebraska Department of Natural Resources on behalf of said organization and known to me personally or produced satisfactory evidence of identification to me and acknowledged the execution thereof to be his voluntary act and deed as such officer on behalf of said organization.

Jimm Bickler  
Notary Public

My commission expires: Oct 13, 2013



1754-95424586

COPY

## DEED OF CONSERVATION EASEMENT

This Deed of Conservation Easement ("Conservation Easement") made this 17 day of Feb., 2022, by and between Buell LLC, a Nebraska Corporation ("Grantor") and the Central Platte Natural Resources District, a political subdivision of the State of Nebraska, ("Grantee" or "District").

WHEREAS, the District is a political subdivision of the State of Nebraska and is authorized by the State of Nebraska to acquire and dispose of water and water rights and regulate ground water;

WHEREAS, the District has established a management area pursuant to the Nebraska Ground Water Management and Protection Act; and

WHEREAS, the Grantor is the owner of real estate located within the geographic area included within the management area; and

WHEREAS, the Grantor wishes to convey a conservation easement to 11.89 acres of land to the District in exchange for the District relinquishing a previously conveyed conservation easement to 11.89 acres of land owned by the Grantor;

WHEREAS, all requirements imposed pursuant to the Nebraska Conservation and Preservation Easements Act, Neb. Rev. Stat. §§ 76-2,111 through 76-2,118 have been complied within that the location planning commission, if applicable, and the appropriate governing body have approved the Deed of Conservation Easement.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and in receipt of the payment of valuable consideration to the Grantor by the Grantee, the receipt of which is hereby acknowledged, the Grantor and Grantee agree as follows:

1. The Grantor hereby assigns, transfers, and grants to the Grantee a Conservation Easement enforceable with respect to the Property of the Grantor described as follows:

A survey of a tract of land located in part of Government Lots 1 and 2 and accretion thereof, of Section 15, Township 9 North, Range 22 West of the Sixth Principal Meridian, Dawson County, Nebraska and more particularly described by metes and bounds as follows:

Beginning at a found rebar, being the West one-quarter corner of Section 15, Township 9 North, Range 22 West of the Sixth Principal Meridian, Dawson County, Nebraska; thence North 04 Degrees, 13 Minutes, 15 Seconds East and on the West line of said Section 15, a

distance of 582.21 feet to a set, capped  $\frac{5}{8}$ " rebar; thence South 52 Degrees, 26 Minutes, 46 Seconds East, a distance of 183.75 feet to a set, capped  $\frac{5}{8}$ " rebar; thence South 56 Degrees, 41 Minutes, 37 Seconds East, a distance of 156.72 feet to a set, capped  $\frac{5}{8}$ " rebar; thence South 73 Degrees, 24 Minutes, 53 Seconds East, a distance of 198.99 feet to a set, capped  $\frac{5}{8}$ " rebar; thence South 44 Degrees, 43 Minutes, 23 Seconds East, a distance of 172.79 feet to a set, capped  $\frac{5}{8}$ " rebar; thence South 68 Degrees, 09 Minutes, 43 Seconds East, a distance of 338.22 feet to a set, capped  $\frac{5}{8}$ " rebar; thence South 58 Degrees, 51 Minutes, 21 Seconds East, a distance of 131.32 feet to a set, capped  $\frac{5}{8}$ " rebar; thence South 70 Degrees, 41 Minutes, 27 Seconds East, a distance of 199.25 feet to a set, capped  $\frac{5}{8}$ " rebar; thence South 58 Degrees, 25 Minutes, 12 Seconds East, a distance of 224.56 feet to a set, capped  $\frac{5}{8}$ " rebar; thence South 61 Degrees, 16 Minutes, 52 Seconds East, a distance of 136.62 feet to a set, capped  $\frac{5}{8}$ " rebar; thence North 85 Degrees, 23 Minutes, 04 Seconds West, a distance of 1,570.79 feet to a set, capped  $\frac{5}{8}$ " rebar, being a point on the West line of said Section 15; thence North 04 Degrees, 13 Minutes, 41 Seconds East and on the West line of said Section 15, a distance of 113.77 feet to the point of beginning and containing a calculated area of 517,928.40 square feet or 11.89 acres, more or less, subject to easements and restrictions of record.

2. The terms, conditions, and restrictions of the Conservation Easement are as follows:
  - a. As used in this Conservation Easement, the term "water well" shall mean any water well as that term is defined in Nebraska statutes.
  - b. No water well capable of pumping more than 50 gallons per minute may exist or be constructed on the Property. Any water well that exists on the Property on the date of this Conservation Easement, and that is capable of pumping more than 50 gallons per minute, shall be decommissioned in accordance with all applicable statutes, rules, and regulations or permanently reduced in capacity so that it is incapable of pumping more than 50 gallons per minute. Except that any irrigation well existing on the Property on the date of this Conservation Easement that was previously used to irrigate other land in addition to the Property may continue to be used to irrigate the other land. Only land previously certified by the District for irrigation by that well may be irrigated. No additional land may ever be irrigated with the well. The pipes, pivots, and any and all other equipment formerly used to irrigate the Property must be permanently removed, detached, or otherwise disabled to the satisfaction of the District.

- c. Water wells capable of pumping 50 gallons per minute or less individually, but in excess of 50 gallons per minute collectively, may not be clustered or joined, nor may the water from such wells be commingled or in any other way combined unless the wells are used as described in Paragraph 2.b above.
- d. Water wells capable of pumping 50 gallons per minute or less may be used to provide water on the Property for (1) household and other domestic uses, or (2) watering range livestock.
- e. No use of the water from a natural stream, regardless of whether or not a permit for such use is required from the Nebraska Department of Natural Resources or any successor agency, shall be made on the Property except for providing water for range livestock on the Property.
- f. No water from any water well not located on the Property shall be used on the Property except for (1) household and other domestic uses, or (2) watering range livestock.
- g. The property must remain dryland agricultural production unless prior written approval is granted by the District to alter this prohibition. No crops, hay, grass, or other plants that could be subirrigated shall be grown on the Property. Only those items listed on Exhibit "A" may be grown on the property unless prior written approval is granted by the District.
- h. No use shall be made of the Property which will consume groundwater, including, but not limited to, the following:
  - i. No pits or other excavated areas that would expose or consume ground water shall be allowed;
  - ii. No mining, sand, or gravel operations shall be allowed;
  - iii. No industrial, commercial, agricultural, or residential development shall occur on the Property unless prior written approval is granted by the District.

3. This Conservation Easement shall be perpetual. It is appurtenant and runs with the land as an incorporeal interest in the Property and shall be enforceable against any owner or other person having any interest in the above described property including the Grantor, all persons or entities holding any interest acquired through the Grantor and all Grantor's heirs, successors, assigns, and personal representatives.

4. It is the Grantor's intent, through this Deed of Conservation Easement, to permanently transfer and surrender any rights that they or their successors, heirs, assigns, or personal representatives may have to irrigate or subirrigate the above-described property and to permanently prevent the development and use of any ground water for any uses on the Property or off, except those specifically permitted by Paragraph 2 above. The fact that the well or wells on

the Property have been decommissioned, reduced in pumping capacity to 50 gallons per minute or less, or are no longer used to irrigate the Property cannot be used to supply an offset to allow irrigation of any other land or any other water use or to justify construction of a new water well as a replacement.

5. Upon any breach of the terms of this Conservation Easement by the Grantor, the Grantee may, after reasonable notice to the Grantor, institute suits to enjoin any breach or enforce any covenant by ex parte, temporary, and/or permanent injunction either prohibitive or mandatory. The Grantee's remedies shall be cumulative and shall be in addition to any other rights and remedies available to the Grantee at law or equity. If the Grantor is found to have breached any of the terms of this Conservation Easement, the Grantor shall reimburse the Grantee for any costs or expenses incurred by the Grantee, including court costs and reasonable attorney's fees to the extent permitted by applicable law. No failure on the part of the Grantee to enforce any term of this Conservation Easement shall discharge or invalidate such terms or any subsequent breach or default.

6. The Grantee, acting by and through their respective employees and agents, have the right to enter the Property at reasonable times for the purpose of inspecting the Property to determine whether the Grantor is complying with the terms of this Conservation Easement.

*[Signatures on Following Page]*



## PARTIAL RELEASE OF DEED OF CONSERVATION EASEMENT

WHEREAS, the Central Platte Natural Resources District, a political subdivision of the State of Nebraska and Buell LLC, a Nebraska Corporation, have agreed that in consideration of the transfer of the terms and conditions of the Deed of Conservation Easement to an adjoining tract of real estate that the terms and conditions of the Deed of Conservation Easement previously executed by the prior owner and Central Platte Natural Resource District, and recorded in the Office of the Dawson County Register of Deeds on February 23, 2009 as Instrument Nos. 0518, 0519, 0520 shall be released as to the following described parcel of real estate only.

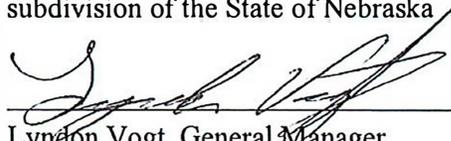
Now THEREFORE, in consideration of value received in accordance with the request and consent of the parties hereto, Central Platte Natural Resources District, a political subdivision of the State of Nebraska, hereby releases the following described real estate from the terms and conditions of the Deed of Conservation Easement, to-wit:

- 1) A tract of land in the Southeast quarter of the Northwest quarter of Section Twenty-Two (22), Township Nine (9) North, Range Twenty-Two (22) West of the 6<sup>th</sup> P.M., Dawson County, Nebraska totaling 1.42 acres;
- 2) A tract of land in the Northeast quarter of the Northwest quarter of Section Twenty-Two (22), Township Nine (9) North, Range Twenty-Two (22) West of the 6<sup>th</sup> P.M., Dawson County, Nebraska totaling 7.04 acres;
- 3) A tract of land in the Northeast quarter of the Southwest quarter of Section Fifteen (15), Township Nine (9), Range Twenty-Two (22) West of the 6<sup>th</sup> P.M., Dawson County, Nebraska totaling 3.42 acres.

*[Signatures on Following Page]*

Dated 17 day of February, 2022

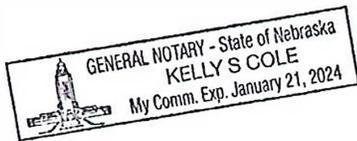
CENTRAL PLATTE NATURAL  
RESOURCES DISTRICT, a political  
subdivision of the State of Nebraska

  
\_\_\_\_\_  
Lyndon Vogt, General Manager

STATE OF NEBRASKA     )  
  ) S.S.  
COUNTY OF Hall     )

Before me, a notary public qualified in said county, personally came Lyndon Vogt, known to me to be the identical person who signed the foregoing instrument, and acknowledged the execution thereof to be a voluntary act and deed as such officer and the voluntary act and deed of said corporation.

Witness my hand and notarial seal on February 17, 2022.



  
\_\_\_\_\_  
Notary Public  
My commission expires:

**CONSENT TO PARTIAL RELEASE OF DEED  
OF CONSERVATION EASEMENT**

The undersigned, in accordance with the terms, conditions and provision of a certain Agreement by an among Central Platte Natural Resources District, the Nebraska Department of Natural Resources and the Nebraska Game and Parks Commission dated 6<sup>th</sup> day of January 2011, the Platte Basin Habitat Enhancement Project Interlocal Cooperation Agreement dated August 2, 2009 and 2009 Grant Contract with the Nebraska Environmental Trust, hereby consent to the release of the Deed of Conservation Easement to the specific lands described above, previously recorded with the Office of the Register of Deeds of Dawson County, Nebraska as Instrument No. 0519.

IN WITNESS WHEREOF, the undersigned has executed this instrument, or caused the due execution thereof, this \_\_\_ day of \_\_\_\_\_ 2022.

Nebraska Environmental Trust

Nebraska Department of Natural Resources

BY: \_\_\_\_\_

BY: \_\_\_\_\_

BY: \_\_\_\_\_

STATE OF NEBRASKA    )  
  ) S.S.  
COUNTY OF \_\_\_\_\_)

Before me, a notary public qualified in said county, personally came \_\_\_\_\_, known to me to be the identical person who signed the foregoing instrument, and acknowledged the execution thereof to be a voluntary act and deed as such officer and the voluntary' act and deed of said corporation.

Witness my hand and notarial seal on \_\_\_\_\_, 2022.

\_\_\_\_\_  
Notary Public  
My commission expires:

STATE OF NEBRASKA    )  
  ) S.S.  
COUNTY OF \_\_\_\_\_)

Before me, a notary public qualified in said county, personally came \_\_\_\_\_, known to me to be the identical person who signed the foregoing instrument, and acknowledged the execution thereof to be a voluntary act and deed as such officer and the voluntary' act and deed of said corporation.

Witness my hand and notarial seal on \_\_\_\_\_, 2022.

\_\_\_\_\_  
Notary Public  
My commission expires:

STATE OF NEBRASKA    )  
  ) S.S.  
COUNTY OF \_\_\_\_\_)

Before me, a notary public qualified in said county, personally came \_\_\_\_\_, known to me to be the identical person who signed the foregoing instrument, and acknowledged the execution thereof to be a voluntary act and deed as such officer and the voluntary' act and deed of said corporation.

Witness my hand and notarial seal on \_\_\_\_\_, 2022.

\_\_\_\_\_  
Notary Public  
My commission expires:

## Grants Portal Management Agreement

### NET Board Agenda Materials

Item #: 8

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Object: To approve the Grants Management System Service Agreement

Contact Person: Karl Elmshaeuser

For: ACTION

Attachment: 5 pages

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#### **BACKGROUND**

The NET Board approved a policy in February of 2022 to allow the Executive Director to expend funds on behalf of the Trust to execute service agreements under \$25,000 annually. The attached agreement exceeds that amount.

#### **EXPLANATION**

The NET has had a contract with Gregoire Consulting, Inc. since 2011. In 2017 the software was significantly upgraded in collaboration with Design Studio at UNL through the Jeffrey S. Raikes School of Computer Science and Management. This is a sole source contract and documentation is provided to the Nebraska Game & Parks procurement office. The Nebraska Attorney General's office has been requested to review the contract as well. NET has a substantial investment in this software.

#### **PROPOSAL**

Recommended motion, "I move to approve the Grants Management System service agreement with Gregoire Consulting, Inc. and authorize the Executive Director to sign the contract in the amount of \$27,600."

**STATE OF NEBRASKA**  
**ENVIRONMENTAL TRUST**  
**SERVICES AGREEMENT**

This Agreement is between the Nebraska Environmental Trust, hereinafter called the Trust, and Gregoire Consulting, Inc., hereinafter called the Contractor.

**WITNESSETH:** The Trust seeks to engage the Contractor for maintenance services on the system entitled “Grants Management System”. The work will be performed beginning July 1, 2022, and ending June 30, 2023. This contract is awarded subject to the provisions and conditions contained in this Agreement:

1.       CONSIDERATIONS

The Contractor shall be paid by the Trust a total not to exceed \$27,600 for maintenance services for the duration of the Agreement. Pricing is based on a monthly service fee of \$2,300 for each of the 12 months in the duration of the agreement. Contractor will submit an invoice each month at the beginning of the month. Payment will be made contingent upon receipt of an invoice by the Trust of the products and services.

2.       CONTRACTOR’S SERVICES

The Contractor shall provide the following services:

*Gregoire Consulting, Inc. will provide support of the existing software for the Nebraska Environmental Trust Grants Portal as directed by the staff of the Environmental Trust. Development of new software features can be provided by amendment to this agreement.*

*This agreement does not cover Amazon Web Services charges for hosting the Environmental Trust Systems.*

3.       CONTRACTOR’S AGENTS

It is understood that the services provided herein shall be performed by Contractor or its agent or agents.

4.       DURATION OF THE AGREEMENT

This agreement will begin July 1, 2022, and end June 30, 2023. This Agreement will remain in effect for the term prescribed above unless sooner terminated for cause by the Trust or unless sooner terminated by either party. If terminated for cause by the Trust, or if terminated by the Contractor or by mutual consent, there shall be not less than (30) days written notice, unless otherwise mutually agreed. This Agreement may be renewed, extended or amended by mutual written agreement.

## 5. FORFEITURE OF AGREEMENT

Failure of the Contractor to comply with the terms and conditions of this Agreement in a manner which the Trust, in its sole discretion, shall deem sufficient may be considered cause for termination. Failure of the Trust to terminate upon apprehension of a violation shall not constitute a bar to termination upon repetition of the same violation or of another violation. In the event of any forfeiture or termination of this Agreement any research data, supplies, interim reports, or other product of the Contractor's efforts hereunder shall be delivered to the Trust.

## 6. SPECIAL PROVISIONS

Nothing in this agreement shall be construed as a delegation of authority of the Trust to the Contractor or its agent(s) with respect to the Agreement described herein, nor shall the Contractor or its agent(s) in any manner consider or represent itself to be an employee of the Trust. It is expressly understood by the Contractor that it is, in all instances, an independent contractor who shall provide, manage, and assume all obligations whatsoever which may occur or be required by the Workmen's Compensation laws of any state, Old Age and Survivors Insurance, Internal Revenue Acts, Income Tax of any state, and laws and regulations relating thereto, and the Contractor shall save and hold harmless the Trust against any obligation relating to any such liability.

Under Federal and/or state law, this Agreement and Contractor must not discriminate in employment on this specific agreement performance on the basis of race, color, religion, sex, age, gender, marital status, national origin, disability or political affiliation. The Contractor agrees to abide by the Nebraska Fair Employment Practices Act as provided by Neb. Rev. Stat. Sections 48-1101 through 48-1126, and the American with Disabilities Act of 1990 (P.L. 101-366) as implemented by 28 C.F.R. 3, which are made a part of and included in this Agreement by reference. The Contractor shall comply with fair labor standards as required in Neb. Rev. Stat. §§ 73-102, 73-104 through the term of this Agreement.

The Contractor agrees to have in place, during the Agreement period, a Drug Free Workplace Policy stating that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance in the workplace is prohibited. The Contractor agrees to provide a copy of its drug-free workplace policy at any time upon request by the Trust.

The Contractor warrants that its officers, stockholders, associates and employees presently have no known financial interest and shall not acquire any known financial interest, direct or indirect, which would conflict in any manner or degree with the performance of the services required by this Agreement. The Contractor shall comply with the provisions of the laws of the State of Nebraska which require disclosure for conflict of interest determinations of amounts received under this Agreement.

The Contractor certifies by signing this agreement that neither the Contractor nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded by any federal or state department or agency from participating in transactions. The Contractor also agrees to include the above requirements in any and all subcontracts into which it enters. The Contractor shall immediately notify the Trust if, during the term of this agreement, the Independent Contractor becomes debarred. The Trust may immediately terminate this

Agreement by providing the Contractor written notice if contractor becomes debarred during the term of this Agreement.

## 7. LIABILITY

It is expressly understood that the Contractor assumes full liability for the acts of its employees, agents, and officers assigned to perform the Contractor's duties hereunder, and shall reimburse the Trust for any damage to Trust property, real or personal, which may be damaged by the Contractor, its employees, agents or officers.

## 8. MISCELLANEOUS PROVISIONS

a. This agreement shall be considered to have been executed at Lincoln, Lancaster County, Nebraska, and shall be subject to the laws of the State of Nebraska. The Nebraska State Contract Claims Act is the exclusive remedy for resolving contract claims against the State.

b. The Contractor is required and hereby agrees to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324a, known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee.

c. This Agreement may not be assigned except with the written consent of the Trust.

IN WITNESS WHEREOF the parties have affixed their signature, thus entering into this agreement, the day and year first written.

## Nebraska Environmental Trust

\_\_\_\_\_  
Name

\_\_\_\_\_  
Executive Director  
Title

\_\_\_\_\_  
Date

## Contractor

\_\_\_\_\_  
Name

\_\_\_\_\_  
President  
Title

\_\_\_\_\_  
Date

# United States Citizenship Attestation Form

For the purpose of complying with Neb. Rev. Stat. §§ 4-108 through 4-114, I attest as follows:

I am a citizen of the United States.

— OR —

I am a qualified alien under the federal Immigration and Nationality Act, my immigration status and alien number are as follows: \_\_\_\_\_, and I agree to provide a copy of my USCIS documentation upon request.

**I hereby attest that my response and the information provided on this form and any related application for public benefits are true, complete, and accurate and I understand that this information may be used to verify my lawful presence in the United States.**

**PRINT NAME** Marie H Gregoire  
(first, middle, last)

**SIGNATURE** \_\_\_\_\_

**DATE** May 22, 2020

## Special Ad Hoc Committee

### NET Board Agenda Materials

Item #: 10

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Object: To establish a Special Ad Hoc Title 137 Committee

Contact Person: Josh Andersen, Karl Elmshaeuser

For: Action

Attachments: 2 pages

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#### BACKGROUND

Nebraska State Statute

81-15,173.

Board; powers and duties.

The board shall have and may exercise the following powers and duties:

(2) Keep records, conduct hearings, and adopt and promulgate rules and regulations to carry out its duties and implement the Nebraska Environmental Trust Act;

(7) Establish ad hoc advisory boards and subcommittees;

#### EXPLANATION

Title 137 covers the Rules and Regulations Governing Activities of the Nebraska Environmental Trust. They were last amended 08/08/2017.

During the Trust 22 Committee's work with the Center of Operational Excellence, several issues have been discovered that require additional efforts to resolve. One of the key issues is defining eligibility. It is recommended to establish a dedicated ad hoc committee to work over the next year to further identify, propose and resolve these issues through the formal process to amend Title 137, see attachments.

#### PROPOSAL

Recommended motion, "I move that the NET Board create an Ad Hoc Committee to focus on a review of Title 137 to determine and recommend to the NET Board procedures, policies and efficiencies as well as alignment with state statutes. The Committee shall consist of five people appointed by the chair and shall meet at least quarterly. The Committee is in place until January 1, 2024, or until the NET Board dissolves the committee, or whichever comes first."

## Title 137 – possible revisions

Title 137 items	Wording in question	Comments
Ch 5 001.04	Private benefits	What does that mean? Have board better identify what it means and how to bring clarity
Ch 5 001.11	Easements	Possibly create an eligibility statement
Ch 5 003	Clear and direct environmental benefit	Wordy and doesn't have much meaning or benefit to the document
Ch 5 001.01	Regulatory programs	Define what regulatory programs mean
Ch 7 003.06	Be cost effective	Need more specifics to lessen subjectivity
Ch 7 003.07	Economic impact	Need more specifics to lessen subjectivity
Ch 7 003.08	Environmental impact	Could be good or bad; need more specific definition
Ch 7 003.03	In-kind match	Define and specify; cash, equipment, time, other? Exclude salary benefits?
Ch 7 003.09	Long term benefits to general public	Add sustainability
Ch 9-3 003	(Uncertain if this refers to Ch 9 003, or 009.03)	
Ch 9-3 013	Board shall conduct annual reviews on all projects	
	Lack of direction regarding out-of-state eligibility	No indication if an out-of-state person/group is eligible for grant monies; no indication if out of state work is eligible for grant monies

## **Nebraska Secretary of State**

### **Overview of Regulation Process**

Just as the Nebraska Legislature passes laws under the authority granted to it by the Nebraska Constitution, state agencies adopt or promulgate regulations under the authority granted to them by the statutes passed by the Legislature. Regulations are adopted in order to clarify and define processes and requirements outlined in state law. Properly adopted regulations have the force of law.

For example, state law provides that it is illegal to drive with a blood alcohol level over .08 percent. Regulations define how testing for blood alcohol content is conducted.

Commonly referred to as "rules", "regulations" or "rules and regulations", the official name for the compiled rules and regulations of the state is the Nebraska Administrative Code.

A regulation is created, amended or repealed through the hearing and adoption process. This can take anywhere from weeks to months from start to finish. The purpose of the hearing and adoption process is to ensure that the public has an opportunity to participate in the rulemaking process and that the regulation is properly authorized by law. Unless there are special circumstances, each proposed regulation goes through a mandatory adoption process.

This adoption process is as follows:

**Rule drafting period.** The rule drafting period is the amount of time used by the agency to draft the proposed regulation and solicit input from interested parties as appropriate. Interested parties may include the public, industry associations, or persons or groups affected by the regulation. Because it is difficult to significantly change a regulation once it has been set for hearing, the drafting period is an important phase in the development of a regulation.

**Thirty-day publication notice.** Notice of the rulemaking hearing must be published at least 30 days prior to the hearing to inform the public of the proposed changes. Contents of the notice include date, time and place of the hearing, as well as a short explanation of the purpose of the proposed regulations. Notices are generally published in a newspaper of general circulation. Notices and text of the proposed changes are available on the rules tracking system (<https://www.nebraska.gov/nesos/rules-and-regs/regtrack/index.cgi>) and in the Secretary of State's Office. There is a waiver provision for the 30-day notice requirement for hearings in emergency situations.

**Public hearing.** The public hearing is an opportunity for the public to comment on proposed regulations. Agencies may take online comments as well if they choose to enable the online comment function of the rules tracking system (<https://www.nebraska.gov/nesos/rules-and-regs/regtrack/index.cgi>). The public hearing shall be held within 12 months after the effective date of the legislative bill.

**Submission for review.** After the hearing, the regulations and the accompanying material must be submitted to the attorney general and governor. The attorney general reviews the regulations for compliance with statutory and constitutional authority. The regulations then go to the governor for policy review and final approval.

**Adoption of regulations.** Upon completion of these steps, the regulations are then forwarded to the secretary of state and become law five days following receipt.