



LOWER PLATTE SOUTH natural resources district

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AGENDA ITEM
#9

Memorandum

Date: July 14, 2023

To: MoPac-Lied Connector Subcommittee Members

From: Paul Zillig, General Manager

RE: MoPac – Lied Connector Subcommittee Meeting Minutes.

The MoPac-Lied Connector Subcommittee met at 5:00 pm on Thursday, July 13, 2023 at the NRD Office in Lincoln. Subcommittee members present included Ray Stevens, Christine Lamberty, Melissa Baker, Luke Peterson, John Yoakum, and Anthony Schutz. Others present included Dave Landis, Corey Wasserburger, Mike Sousek, Dave Potter, Will Inselman, Ari Kennedy, and myself.

Chair Stevens opened the meeting and welcomed the attendees. The only action item was to consider recommending approval of a trail development and maintenance fund project agreement with the State of Nebraska, Game and Parks Commission, for the MoPac – Lied Connector Trail “MoPac GAP Project”. Staff reported that we’ve been working with Nebraska Game and Parks Commission staff on updating the draft agreement to obligate the \$8.3M approved by the Legislature for this project. The agreement spells out the process to follow, reimbursement requirements, guidelines, reporting, and the usual agreement terms, a copy of the draft agreement is attached.

The Subcommittee discussed the project status and the agreement. It was moved by Anthony, seconded by Yoakum, and unanimously approved by the Subcommittee to recommend the Board of Directors approve the trail development and maintenance fund project agreement with the State of Nebraska, Game and Parks Commission, for the MoPac – Lied Connector Trail “MoPac GAP Project”. Staff did report that NRD Legal Counsel had reviewed the document, unfortunately, the copy provided did not include NRD Legal Counsel’s recommended changes. A copy with those changes is also attached and should be acted upon by the Board. ** I recommend Chair Stevens makes a motion at the Board Meeting to **recommend the Board of Directors approve the “Trail Development and Maintenance Fund Project Agreement with the State of Nebraska, Game and Parks Commission, for the MoPac – Lied Connector Trail “MoPac GAP Project” which includes NRD Legal Counsel’s recommended changes.** This motion will require a second.

The last item on the agenda was a report that the Cass County Commissioners will consider approval of an interlocal agreement spelling out our efforts to work together on determining the location of the MoPac GAP Project and that Cass County would acquire any non public right-of-way required for the project. Cass County is scheduled to consider this interlocal agreement at their meeting on July 18th. Staff reported that, if approved, the interlocal agreement would then be taken up by this Subcommittee and the Board in August.

There being no further business the meeting adjourned at 5:20 pm.

PDZ/pz

Encl. 2

cc: Seglin & Wasserburger

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**STATE OF NEBRASKA
GAME AND PARKS COMMISSION**

TRAIL DEVELOPMENT AND MAINTENANCE FUND PROJECT AGREEMENT

THIS AGREEMENT, made and entered into, by and between the Lower Platte South NRD, sponsor, hereinafter referred to as the "RECIPIENT," and the Nebraska Game and Parks Commission, a duly organized and acting agency of the State of Nebraska, hereinafter referred to as "NGPC" for the purpose of completing the MoPac Gap Project, hereinafter referred to as the "PROJECT."

WITNESSETH:

WHEREAS, the RECIPIENT desires to acquire, construct, develop, or maintain a public recreation trail project, which project is more particularly described hereafter; and

WHEREAS, NGPC has the authority to enter into this Agreement and is required to secure from the RECIPIENT necessary assurance that said RECIPIENT has available sufficient funds to meet its share of the cost of the acquisition, construction, development, and maintenance of the trail and that said trail will be operated and maintained at the expense of the RECIPIENT for public outdoor recreation use; and

WHEREAS, no work shall begin on the PROJECT until a fully executed agreement is returned to the RECIPIENT and notification of approval has been received from NGPC.

NOW, THEREFORE, the Parties, in consideration of the mutual and reciprocal covenants contained herein, the sufficiency of which is hereby acknowledge, agree, and covenant with each other as follows:

1. The RECIPIENT agrees and warrants that it owns in fee simple, the property upon which the PROJECT, hereinafter described on page 4, is to be located; or the RECIPIENT possesses a legally binding document ensuring public access to the property and will work with Cass County in determining the selected route and acquiring any additional public right-of-way.
2. The RECIPIENT by this Agreement does hereby dedicate the PROJECT and the real estate upon which the PROJECT is located to the use and benefit of the public for purposes of outdoor recreation.
3. The PARTIES agree that the PROJECT shall begin as soon as possible and shall be completed by December 31, 2028. Extensions are permitted with reasonable justification.
4. The RECIPIENT agrees to construct, develop, maintain, and operate said PROJECT in conformity with laws of the United States and the State of Nebraska. All rules and regulations of the various State of Nebraska departments, agencies, and commissions which have or obtain jurisdiction over the PROJECT or its operation, and all appropriate city and county laws, rules, and regulations. Required reviews prior to construction include:

- a. State Historical Preservation Office
 - b. Threatened and Endangered Species
 - c. Wetland Delineation
 - d. Construction Storm Water
 - e. Additional permits or reviews as needed depending on project scope
5. The RECIPIENT, as owner or operator of this project agrees that it will follow design standards of the existing MoPac trail and implement trail signage conforming with Manual on Uniform Traffic Control Devices (MUTCD) standards.
 6. The RECIPIENT shall establish and maintain separate accounts for the PROJECT, either independently or within its existing accounting system, identifiable as the Project Account. All charges to the Project Account shall be supported by properly executed invoices, contracts or vouchers evidencing in proper detail the nature and propriety of the charges, in accordance with the rules and regulations of NGPC. All checks, invoices, contracts, vouchers, orders or other accounting documents pertaining in whole or in part to the PROJECT shall be clearly identified and readily accessible.
 7. The RECIPIENT shall advise NGPC of the progress of the PROJECT at such times and in such manner as NGPC may require. At minimum a biannual progress report will be required up to the point of construction; at which point quarterly progress reports will be required.
 8. NGPC may conduct program compliance and project inspections, which shall include, but not limited to items listed on the reimbursement form.
 9. The RECIPIENT shall retain for a period of three years after the final closeout date, all programs and financial records of the PROJECT.
 10. NGPC agrees to secure from the State of Nebraska \$8,300,000 in funds as provided in LB 1011 and as are made available by the State government, for said PROJECT and make payment to the order of the RECIPIENT at project completion or receipt of a completed request for reimbursement report from the RECIPIENT. If additional funds are needed, the RECIPIENT will request additional funds from the State of Nebraska.
 11. Payments to the RECIPIENT by NGPC shall be on the following conditions:
 - a. That said funds have been made available to NGPC for such payment by the State of Nebraska.
 - b. That a Request for Reimbursement report with supporting documentation has been presented by the RECIPIENT to NGPC as evidence that items for which reimbursement is sought have been received, the work accomplished, and invoices paid.
 12. The Parties mutually agree that this Agreement is to be binding upon and inure to the benefit of their respective successors and assigns.
 13. NGPC does not waive its sovereign immunity by entering into this Agreement and fully retains all immunities and defenses provided by state law.

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14. The RECIPIENT certifies and warrants that no gratuities, kickbacks, or contingency fees were paid in connection with this Agreement, nor were any fees, commissions, gifts or other considerations made contingent upon the award of this Agreement.
15. The RECIPIENT agrees to credit State of Nebraska Trail Development and Maintenance Fund administered by the NGPC with a sign in the PROJECT.
16. The RECIPIENT agrees to defend and hold harmless NGPC and the State of Nebraska from any and all claims, lawsuits, losses and liability arising out of the Recipient's failure to perform any of the recipient's duties or obligations hereunder or in connection with the negligent performance of the recipient's duties or obligations.
17. This agreement cannot be amended or modified except by written instrument executed by all of the parties hereto.

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Lower Platte South NRD

Political Subdivision

Project Number

MoPac Gap Trail Project

Project Title

Project Scope (Description of the Project)

This project would develop a trail between Elmwood on the MoPac East Trail and Lied Platte River Bridge Trailhead. Estimated number of miles to complete this segment is 8-9. These 8-9 trail miles would provide a continual trail from the City of Lincoln to the City of Omaha. The trail would be least 8' wide and consist of an appropriate trail surface.

Project Cost Data

Total Project Request: \$ 8,300,000

The State of Nebraska, represented by the Nebraska Game and Parks Commission, hereinafter referred to as the State or Commission, does on this day hereby enter into an agreement with Lower Platte South NRD, herein, referred to as the Project Sponsor, for the purpose of executing and administering the provisions of LB 1011 for the 8.3 million dollars for the Trail Development and Maintenance Fund (37-1017) for a Natural Resources District to build a trail, as applicable to agreements of this nature.

In consideration of the covenants of the Project Sponsor as hereinafter set forth, including such project plans, specifications, and supporting documents as may be attached hereto and made a part of this agreement, the State hereby agrees herein, and when funds are available, to reimburse the Project Sponsor all appropriate state funds received for eligible project expenditures.

The Project Sponsor agrees to execute this project as set forth herein and any subsequent amendments in a timely and businesslike manner for the purposes intended and in accordance with the terms, conditions, and covenants of this Agreement.

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In witness whereof, the parties hereto have executed this agreement as of the date entered below, and the covenants herein shall extend to and be binding upon the successors of the parties to this agreement.

RECIPIENT:

Date: _____

By: _____

Title: _____

Address: _____

NEBRASKA GAME AND PARKS COMMISSION:

By: _____
Recreational Trails Program Administrator

Address: 2200 North 33rd Street
PO Box 30370
Lincoln, NE 68503-0370

STATE OF NEBRASKA
GAME AND PARKS COMMISSION

TRAIL DEVELOPMENT AND MAINTENANCE FUND PROJECT AGREEMENT

THIS AGREEMENT, made and entered into, by and between the Lower Platte South NRD, sponsor, hereinafter referred to as the "RECIPIENT," and the Nebraska Game and Parks Commission, a duly organized and acting agency of the State of Nebraska, hereinafter referred to as "NGPC" for the purpose of completing the MoPac Gap Project, hereinafter referred to as the "PROJECT."

WITNESSETH:

WHEREAS, the RECIPIENT desires to acquire, construct, develop, or maintain a public recreation trail project, which project is more particularly described hereafter; and

WHEREAS, the Nebraska Legislature has appropriated \$8,300,000 for the purpose of recreational trails development, and directed NGPC to administer grants to natural resources districts to assist in completing the Missouri-Pacific trail between the cities of Lincoln and Omaha; and

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WHEREAS, NGPC has the authority to enter into this Agreement; and is required to secure from the RECIPIENT necessary assurance that said RECIPIENT has available sufficient funds to meet its share of the cost of the acquisition, construction, development, and maintenance of the trail and that said trail will be operated and maintained after completion of the PROJECT at the expense of the RECIPIENT for public outdoor recreation use; and

WHEREAS, no work shall begin on the PROJECT until a fully executed agreement is returned to the RECIPIENT and notification of approval has been received from NGPC.

NOW, THEREFORE, the Parties, in consideration of the mutual and reciprocal covenants contained herein, the sufficiency of which is hereby acknowledged, agree, and covenant with each other as follows:

1. The RECIPIENT agrees and warrants that it will ensure public access to the property upon which the PROJECT, hereinafter described on page 5, is to be located by obtaining legally binding documents to ensure such access: owns in fee simple, the property upon which the PROJECT, hereinafter described on page 5, is to be located; or the RECIPIENT possesses a legally binding document ensuring public access to the property.
2. The RECIPIENT by this Agreement does hereby dedicate the PROJECT and the real estate upon which the PROJECT is located to the use and benefit of the public for purposes of outdoor recreation.
3. The PARTIES agree that the PROJECT shall begin as soon as possible and shall be completed by December 31, 2028. Extensions are permitted with reasonable justification.

4. The RECIPIENT agrees to construct, develop, maintain, and operate said PROJECT in conformity with laws of the United States and the State of Nebraska. All rules and regulations of the various State of Nebraska departments, agencies, and commissions which have or obtain jurisdiction over the PROJECT or its operation, and all appropriate city and county laws, rules, and regulations. Required reviews prior to construction include:
 - a. State Historical Preservation Office
 - b. Threatened and Endangered Species
 - c. Wetland Delineation
 - d. Construction Storm Water
 - e. Additional permits or reviews as needed depending on project scope
 5. The RECIPIENT, as owner or operator of this project agrees that it will follow design standards of the existing MoPac trail and implement trail signage conforming with MUTCD (["Manual on Uniform Traffic Control Devices"](#)) standards.
 6. The RECIPIENT shall establish and maintain separate accounts for the PROJECT, either independently or within its existing accounting system, identifiable as the Project Account. All charges to the Project Account shall be supported by properly executed invoices, contracts or vouchers evidencing in proper detail the nature and propriety of the charges, ~~in accordance with the rules and regulations of NGPC.~~ All checks, invoices, contracts, vouchers, orders or other accounting documents pertaining in whole or in part to the PROJECT shall be clearly identified and readily accessible.
 7. The RECIPIENT shall advise NGPC of the progress of the PROJECT at such times and in such manner as NGPC may require. At minimum a biannual progress report will be required up to the point of construction; at which point quarterly progress reports will be required.
 8. NGPC may conduct program compliance and project inspections, which shall include, but not limited to items listed on the reimbursement form.
 9. The RECIPIENT shall retain for a period of three years after the final closeout date, all programs and financial records of the PROJECT.
- ~~11.10.~~ NGPC agrees to secure from the State of Nebraska \$8,300,000 in funds as provided in LB 1011 and as are made available by the State government, for said PROJECT and make payment to the order of the RECIPIENT at project completion or receipt of a completed request for reimbursement report from the RECIPIENT. In the event that the cost to acquire, construct, and develop the PROJECT exceed \$8,300,000, RECIPIENT may request additional funds from the State of Nebraska to cover such costs.
- ~~12.11.~~ Payments to the RECIPIENT by NGPC shall be on the following conditions:
- a. That said funds have been made available to NGPC for such payment by the State of Nebraska.
 - b. That a Request for Reimbursement report with supporting documentation has been presented by the RECIPIENT to NGPC as evidence that items for which

reimbursement is sought have been received, the work accomplished, and invoices paid.

~~13.12.~~ The Parties mutually agree that this Agreement is to be binding upon and inure to the benefit of their respective successors and assigns.

~~14.13.~~ NGPC does not waive its sovereign immunity by entering into this Agreement and fully retains all immunities and defenses provided by state law.

~~15.14.~~ The RECIPIENT certifies and warrants that no gratuities, kickbacks, or ~~contingence~~ contingency fees were paid in connection with this Agreement, nor were any fees, commissions, gifts or other considerations made contingent upon the award of this Agreement.

~~16.15.~~ The RECIPIENT agrees to credit State of Nebraska Trail Development and Maintenance Fund administered by the NGPC with a sign in the PROJECT.

~~17.16.~~ The RECIPIENT agrees to defend and hold harmless NGPC and the State of Nebraska from any and all claims, lawsuits, losses and liability arising out of the Recipient's failure to perform any of the recipient's duties or obligations hereunder or in connection with the negligent performance of the recipient's duties or obligations.

~~18.17.~~ This agreement cannot be amended or modified except by written instrument executed by all of the parties hereto.

Lower Platte South NRD
Political Subdivision Project Number

MoPac Gap Trail Project
Project Title

Project Scope (Description of the Project)

This project would develop a trail between Elmwood on the MoPac East Trail and Lied Platte River Bridge Trailhead. Estimated number of miles to complete this segment is 8-9. These 8-9 trail miles would provide a continual trail from the City of Lincoln to the City of Omaha. The trail would be least 8' wide and consist of an appropriate trail surface.

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Total Project Request: \$ 8,300,000

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In consideration of the covenants of the Project Sponsor as hereinafter set forth, including such project plans, specifications, and supporting documents as may be attached hereto and made a part of this agreement, the State hereby agrees herein, and when funds are available, to reimburse the Project Sponsor all appropriate state funds received for eligible project expenditures.

The Project Sponsor agrees to execute this project as set forth herein and any subsequent amendments in a timely and businesslike manner for the purposes intended and in accordance with the terms, conditions, and covenants of this Agreement.

In witness whereof, the parties hereto have executed this agreement as of the date entered below, and the covenants herein shall extend to and be binding upon the successors of the parties to this agreement.

RECIPIENT:

Date: _____

By: _____

Title: _____

Address: _____

NEBRASKA GAME AND PARKS COMMISSION:

By: _____
Recreational Trails Program Administrator

Address: 2200 North 33rd Street
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