

**CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
FEBRUARY 2, 2010 AGENDA**

Subject:	Type:	Submitted By:
THOMPSON CREEK GRANT ACCEPTANCE	◆ RESOLUTION ORDINANCE RECEIVE/FILE	PAM BUETHE CITY CLERK

SYNOPSIS

A resolution has been prepared authorizing the execution of an agreement with the Nebraska Emergency Management Agency (NEMA) for the award of a hazard mitigation grant from the Federal Emergency Management Agency (FEMA) for the Thompson Creek area. The monetary amount which the Federal Government will provide for their share of project costs is \$2,040,930.00.

FISCAL IMPACT

The FY 09/10 Budget contains funding for this project.

RECOMMENDATION

Approval.

BACKGROUND

At the June 19, 2007 City Council meeting, City Engineer John Kottmann presented the findings of the 2006 Thompson Creek Channel Study which was prepared to provide an evaluation of alternatives for the treatment of Thompson Creek downstream of the storm water detention structure located on the La Vista Golf Course. This topic was placed on the August 21, 2007 Council agenda as a discussion item to provide an opportunity for the Mayor and Council to discuss the study and have subsequent questions answered. A public hearing was then held on October 2, 2007 to receive public input regarding the Thompson Creek study update and a follow up homeowner survey was conducted in January 2008. The Mayor and City Council also toured the subject area.

In order to apply for funding to help address the Thompson Creek issues it was necessary to determine a solution. As such, four alternatives ranging from doing nothing to acquiring 65 homes were evaluated and considered. Based on the feedback received from residents in March 2008 the Council opted to seek funding for Option 3 which involved the acquisition of 24 properties identified on the attached aerial photo. This option was also determined to be the best compromise between minimizing the number of affected property owners, cost, achieving continuous access for creek maintenance and future stabilization projects, and advancing the master plans of the City. A grant application was submitted in June 2008.

The City recently received notification that the Thompson Creek project has been approved for funding. The grant is in the amount of \$2,040,930.00 which is 75 percent of the allowable project costs. The funds come from FEMA through the Nebraska Emergency Management Agency (NEMA). The local match is 25 percent (\$680,310.00) and would be split equally between the City of La Vista and the Papio-Missouri River NRD (\$340,155.00 each). The NRD plans to participate over a three-year period beginning with \$100,000 in the first year. This item is scheduled for consideration by the NRD Board of Directors at their February 9, 2010 Board meeting.

If the Council accepts this grant award the Grant Agreement will need to be executed to begin the process. It is anticipated that this project will take approximately 28 months to complete. The following is a **tentative** timetable of the project should the Council accept the grant:

Spring 2010	Meeting to explain the process to property owners in the Thompson Creek mitigation area.
Spring/Summer 2010	Contact with the 24 property owners regarding interest in selling.
Summer/Fall 2010	Appraisals and work with those property owners interested in selling.
Fall 2010/Winter 2011	Purchase Agreements and closing on properties
Spring 2011 – Spring 2012	Demolition

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH THE NEBRASKA EMERGENCY MANAGEMENT AGENCY (NEMA) FOR A HAZARD MITIGATION GRANT FROM THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) FOR THE THOMPSON CREEK AREA IN LA VISTA.

WHEREAS, the City Council of the City of La Vista has determined that said Thompson Creek improvements are necessary; and

WHEREAS, the FY 2009/10 budget contains funding for this project; and

WHEREAS, the project has been designated as being eligible for a grant from the Federal Emergency Management Agency; and

WHEREAS, the Nebraska Emergency Management Agency, in the role of Grantee will provide financial oversight and management of this project; and

NOW, THEREFORE BE IT RESOLVED, by the Mayor and City Council of La Vista, Nebraska, authorize the Mayor to enter into an agreement with the Nebraska Emergency Management Agency for a hazard mitigation grant from the Federal Emergency Management Agency for the Thompson Creek area in La Vista.

PASSED AND APPROVED THIS 2ND DAY OF FEBRUARY 2010

CITY OF LA VISTA

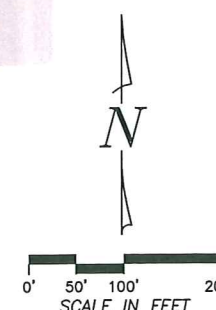
Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, CMC
City Clerk



PROPERTIES WITH ADDRESSES NOTED ARE PROPOSED FOR
VOLUNTARY ACQUISITION WITH HAZARD MITIGATION GRANT
FUNDS PROVIDED THROUGH NEMA BY FEMA.



<div>171-379</div> <div>2 THOMPSON, DREESSEN & DORNER, INC. Consulting Engineers & Land Surveyors 10836 OLD MILL ROAD OMAHA, NEBRASKA 68154 PHONE: 402.330.8860 FAX: 402.330.8865 EMAIL: TD2MAL@TD2CO.COM</div>	THOMPSON CREEK HMG		sheet:	AS SHOWN
	CITY OF LA VISTA		date:	1-27-2010
			drawn by:	RTM
			checked by:	JMK
			PROPERTY EXHIBIT	

GRANT AGREEMENT**between****Nebraska Emergency Management Agency (NEMA)****And****LA VISTA, THE CITY OF****PROJECT TITLE: Thompson Creek****GRANT AGREEMENT NO: DR-1674-NE****PROJECT NO: 0055****FEDERAL TAX ID#: 47-6050031****SCOPE OF WORK**

This Grant Assistance Agreement (AGREEMENT) is to provide (SUBGRANTEE) with federal assistance from the NAME OF GRANT PROGRAM funds for the above-referenced mitigation grant. The federal share shall not exceed \$2,040,930.00 or 75% of actual allowable project costs, whichever is less. The SUBGRANTEE shall provide at least \$680,310.00 (25%) through local non-federal (cash and/or in-kind) sources for actual allowable project costs. These funds are to assist the SUBGRANTEE with completing the approved scope of work in accordance with the work schedule, milestones, and scope of work that was submitted to and approved by the Nebraska Emergency Management Agency (NEMA) and the Federal Emergency Management Agency (FEMA). Any changes to the approved scope of work and/or amount budgeted must be submitted to and approved by NEMA prior to executing the changes. The SUBGRANTEE is required to obtain all necessary permits before construction begins.

AGREEMENTS

NEMA will provide financial oversight and management in the role of GRANTEE based on the grant guidance, the grant financial guide and all other applicable State and federal guidelines. The GRANTEE will provide technical assistance and direction to the SUBGRANTEE on programmatic and financial requirements. The GRANTEE will provide all appropriate documents and forms and make payments to the SUBGRANTEE to complete the approved scope of work.

The GRANTEE is responsible for monitoring SUBGRANTEE activities to provide reasonable assurance that the SUBGRANTEE administers federal awards in compliance with federal and State requirements. Responsibilities include the accounting of receipts and expenditures, cash management and the maintaining of adequate financial records. Additionally, the SUBGRANTEE will be monitored quarterly by the GRANTEE to ensure that the program goals, objectives, timelines, budgets, and other related program criteria are being met.

Monitoring will be accomplished through a combination of quarterly reporting, reviewing of expenditures for reimbursement, and when necessary; on-site monitoring. Monitoring will involve the review and analysis of the financial, programmatic, and administrative issues relative to the program, and will identify areas where technical assistance and other support may be needed.

The SUBGRANTEE will pass appropriate resolutions to assure NEMA that it is participating, and will continue to participate, in the National Flood Insurance Program, if mapped.

The SUBGRANTEE and the SUBGRANTEE's AUTHORIZED REPRESENTATIVE agree to provide all supervision, inspection, accounting, and other services necessary to complete the scope of work from inception to closeout with the requirements set forth below.

I. ACTIVITY COMPLETION TIMEFRAME

The approved activity completion timeframe for this grant is from *10/23/2009 through 02/23/2012*. All work must be completed prior to the activity completion timeframe ending. The SUBGRANTEE shall not incur costs or obligate funds for any purpose pertaining to the operation of the project, program, or activities beyond the expiration date of the activity completion timeframe.

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If a time extension is needed it must be requested at least 75 days prior to the activity completion timeframe end date. All requests must be supported by adequate justification submitted to NEMA in order to be processed. This justification is a written explanation of the reason or reasons for the delay; an outline of remaining funds available to support the extended activity completion timeframe; and a description of performance measures necessary to complete the project. Without the justification, extension requests will not be processed.

II. AUTHORITIES AND REFERENCES.

The SUBGRANTEE shall comply with all applicable laws, regulations and policies as defined in the State of Nebraska Hazard Mitigation Administrative Plan. A non-exclusive list of laws and regulations commonly applicable to FEMA grants follows hereto for reference only.

- OMB Circular A-102 – Uniform Administrative Requirements for Grants and Cooperative Agreements with State and Local Governments as implemented in 44 CFR Part 13
- Title 2 CFR Part 225 (OMB Circular A-87) – Cost Principles for State and Local Governments
- OMB Circular A-133 – Audits of States, Local Governments, and Non-Profit Organizations
- Robert T. Stafford Disaster Assistance and Emergency Relief Act (Stafford Act), 42 U.S.C. 5133, as amended by Section 102 of the Disaster Mitigation Act of 2000 (DMA)
- Title 44 of the Code of Federal Regulations (CFR)
- SUBGRANTEE's application that was received and approved by NEMA and FEMA
- State of Nebraska Administrative Plan for the Hazard Mitigation Grant Program

III. GRANT MANAGEMENT SYSTEM

To ensure that federal funds are awarded and expended appropriately, the SUBGRANTEE will establish and maintain a grant management system. The standards for SUBGRANTEE organizations stem from the Office of Management and Budget's (OMB) Uniform Administrative Requirements and Cost Principles. State, local and tribal organizations must follow the uniform administrative requirements standards in OMB Circular A-102, and cost principle standards in OMB Circular A-87. These standards combined with the audit standards provided within OMB Circular A-133, plus the requirements of the federal Cash Management Improvement Act constitute the basis for all policies, processes and procedures set forth in this grant management system for the SUBGRANTEE.

The SUBGRANTEE's grant management system must:

- Include internal controls based on the American Institute for Certified Public Accountant's (AICPA) definitions and requirements in the government-wide administrative requirements and cost principles
- Include a chart of accounts that includes a separate cost center, fund, or accounting codes for each federal grant or program
- Be in compliance with the Cash Management Improvement Act (CMIA), good business processes and Generally Accepted Accounting Principles (GAAP)
- Include procedures to minimize federal cash on hand
- Include the ability to track expenditures on a cash or accrual basis
- Include the ability to track expenditures in both financial and program budgets
- Include procedures to document all grant-related expenditures
- Include procedures to ensure expenditures are eligible and allowable
- Include the ability to fulfill government-required financial reporting forms

IV. PROCUREMENT

This agreement requires that all procurement is executed by the SUBGRANTEE. Procurement standards must be in accordance with the written adopted procedures of the SUBGRANTEE, provided that the local procurement standards conform to applicable State and Federal law and the standards identified in the 44 CFR. The SUBGRANTEE will ensure that every purchase order or other contract includes any clauses required by Federal statutes and executive orders and their implementing regulations.

V. AUDIT

SUBGRANTEE must comply with the requirements of the Single Audit Act Amendments of 1996 and the Office of Management and Budget (OMB) Circular A-133. Reference: Catalog of Federal Domestic Assistance (CFDA).

VI. PAYMENT REQUEST PROCESS

Payments to SUBGRANTEES are based on eligible expenditures that are specifically related to the approved grant budget and scope of work. SUBGRANTEES can request **Reimbursement** for allowable expenditures already paid at anytime during the activity completion timeframe.

Payments shall be limited to the documented cash requirements submitted by the SUBGRANTEE. The SUBGRANTEE must submit a completed Payment Request Form and provide supporting documentation of eligible project costs to receive payment of funds.

Reimbursement requests must include payment verification (i.e. paid invoices, receipts, payroll records with personnel activity reports, cancelled checks, general ledger print outs, etc.).

Payment of funds will not be made to a SUBGRANTEE until NEMA has this grant agreement signed and on file.

VII. Match Verification

The maximum federal share to this mitigation grant cannot exceed 75% of eligible grant expenditures. Therefore, the matching funds (cash and in-kind) must be at least 25% of eligible grant expenditures. The subgrantee is responsible for submitting proof of the local **non-federal** match that was used for their mitigation grant to NEMA. Expenditures must be in accordance with the approved scope of work and budget and in accordance with the 44 Code of Federal Regulations (CFR), Section 13.24, "Matching or cost sharing"

Cash match can be money contributed to the subgrantee by the subgrantee, other public agencies and institutions, private organizations and individuals as long as it comes from a non-federal source. Cash spent must be for allowable costs in accordance with the SUBGRANTEE's approved scope of work and budget and must be applicable to the period to which the cost sharing or matching requirement applies.

In-kind match must comply with the requirements of the 44 CFR, Section 13.24 (matching or cost sharing). The value of in-kind contributions is also applicable to the period to which the cost sharing or matching requirement applies. The in-kind match provided must be documented by the third party contributing the in-kind services. The in-kind match must be specifically stated in the SUBGRANTEE's scope of work and budget before in-kind match will be allowed to match any mitigation grant. Documentation can be a letter (on letterhead) from the third party stating the scope of their work, what is being contributed as it relates to the scope of work, the value, a statement to the effect that the value is normally charged, and a statement that the value is being waived on behalf of the subgrantee to meet the matching requirements to the subgrantee's mitigation grant or a spreadsheet detailing in-kind contributions certified by the Authorized Representative.

If the local match is insufficient to satisfy the local match requirements for receiving all available federal funds, the awarded federal funds will be reduced accordingly so as not to exceed the maximum federal share allowed under this award.

VIII. REPORTING REQUIREMENTS

The mitigation grant requires quarterly programmatic and financial reporting and progress relative to the approved scope of work. SUBGRANTEES are required to complete the quarterly progress report forms that are provided by NEMA and submit them by the 15th day following each federal fiscal quarter. (See administrative plan for specific date.)

WAIVERS

No conditions or provisions of this AGREEMENT can be waived unless approved by NEMA and the SUBGRANTEE, in writing. Unless otherwise stated in writing, NEMA's failure to insist upon strict performance of any provision of this AGREEMENT, or to exercise any right based upon a breach, shall not constitute a waiver of any right or obligation specified under this AGREEMENT.

AMENDMENTS AND MODIFICATIONS

This AGREEMENT may be amended or modified in reference to the grant funds provided, administrative procedures, or any other necessary matter, but not to take effect until approved, in writing, by NEMA and the SUBGRANTEE.

COMPLIANCE, TERMINATION AND OTHER REMEDIES

Unless otherwise stated in writing, NEMA requires strict compliance by the SUBGRANTEE and its authorized representative(s) with the terms of this AGREEMENT, and the requirements of any applicable local, state and federal statute, rules, regulations; particularly those included in the Assurances attached to this grant agreement.

NEMA may suspend or terminate any obligation to provide funding or demand return of grant funds, following notice from NEMA, if the SUBGRANTEE fails to meet any obligations under this AGREEMENT or fails to make satisfactory progress toward administration or completion of said project.

The SUBGRANTEE understands and agrees that NEMA may enforce the terms of this AGREEMENT by any combination, or all remedies available to NEMA under this AGREEMENT, or under any other provision of law, common law, or equity.

INDEMNIFICATION

1. It is understood and agreed by NEMA and the SUBGRANTEE and its agents that this AGREEMENT is solely for the benefit of the parties to this grant and gives no right to any other party.

2. The SUBGRANTEE, on behalf of itself and its successors and assigns, agrees to protect, save, and hold harmless NEMA and the State of Nebraska, and their authorized agents and employees, from all claims, actions, costs, damages, or expenses of any nature whatsoever by reason of the negligent acts, errors, or omissions of the SUBGRANTEE or its authorized representative, its contractors, subcontractors, assigns, agents, licensees, arising out of or in connection with any acts or activities authorized by this AGREEMENT. The SUBGRANTEE's obligation to protect, save, and hold harmless as herein provided shall not extend to claims or causes of action for costs, damages, or expenses caused by or resulting from the negligent acts, errors, or omissions of NEMA, the State of Nebraska, or any of their authorized agents or employees.

3. The SUBGRANTEE further agrees to defend NEMA, the State of Nebraska, and their authorized agents and employees against any claim or cause of action, or to pay reasonable attorney's fees incurred in the defense of any such claim or cause of action, as to which the SUBGRANTEE is required to protect, save, or hold harmless said parties pursuant to paragraph 2 of this part. The SUBGRANTEE's obligation to defend, or to pay attorney's fees for the defense of such claims or causes of action as herein provided, shall not extend to claims or causes of action for costs, damages, or expenses caused by or resulting from the negligent acts, errors, or omissions of NEMA, the State of Nebraska, or any of their authorized agents or employees.

ACKNOWLEDGMENTS

The SUBGRANTEE shall include, in any public or private release of information regarding the project, language that acknowledges the funding contribution through NEMA by FEMA.

INDEPENDENT CONTRACTOR STATUS OF APPLICANT

The SUBGRANTEE, its officers, employees, agents and council members shall all perform their obligations under this AGREEMENT as an independent contractor and not in any manner as officers, employees or agents of NEMA or the State of Nebraska. All references herein to the SUBGRANTEE shall include its officers, employees, city council/board members, and agents.

RESPONSIBILITY FOR PROJECT

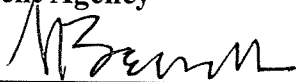
While NEMA undertakes to provide technical assistance to the SUBGRANTEE and its authorized representative in the administration of the project, said project remains the sole responsibility of the applicant in accomplishing grant objectives and goals. NEMA undertakes no responsibility to the SUBGRANTEE, or any third party, other than what is expressly set out in this AGREEMENT.

ENTIRE GRANT AGREEMENT

This AGREEMENT sets forth the entire AGREEMENT between NEMA and the SUBGRANTEE with respect to subject matter hereof. Commitments, warranties, representations and understandings or agreements not contained, or referred to, herein or amended thereto shall not be binding on either NEMA or the SUBGRANTEE. Except as may be expressly provided herein, no alteration of any of the terms or conditions of this AGREEMENT will be effective without written consent of both parties.

IN WITNESS WHEREOF, NEMA and the SUBGRANTEE have executed this AGREEMENT by the signatures of authorized persons of both entities and on the dates indicated below:

**Nebraska Emergency
Management Agency**



Al Berndt, Governors Authorized Representative Authorized Representative

Date

27 Oct 2009

Date

Signature of Alternate Authorized Representative (optional)

Date