



# City of Grand Island

Tuesday, May 20, 2003

Council Session

## Item G17

### **#2003-145 - Approving Interlocal Agreement - Cooperative Agreement (CA) for Economic Analysis**

***Background:***

*The Platte River Cooperative Agreement (CA) is an agreement among the states of Colorado, Wyoming, Nebraska and the U.S. Department of Interior to develop an overall Platte River Basin plan for the protection of endangered species using the central Platte reach and thereby meet the Endangered Species Act Section 7 consultation requirements for all new development in the project area. The CA was formally accepted by the states and DOI in 1997. Since that time, negotiations on the comprehensive plan have been underway with the development of processes, regulations, hydrologic models, species needs determinations, and other issues which have the potential to substantially change water use practices and future development in the Platte Valley. The economic impacts of water use changes resulting from implementation of the Cooperative Agreement have the potential to substantially impact the region.*

*For evaluation of those economic impacts, a number of agencies are proposing an Interlocal Cooperative Agreement to provide direction and funding for an economic impact analysis.*

*Parties to this effort to date include:*

*Central Platte Natural Resources District,  
Upper Big Blue Natural Resources District,  
Nebraska Public Power District,  
The Central Nebraska Public Power and Irrigation District,  
Twin Platte Natural Resources District,  
Tri-Basin Natural Resources District,  
North Platte Natural Resources District,  
South Platte Natural Resources District,  
Little Blue Natural Resources District,  
Game and Parks Commission,  
City of Lexington,  
Southern Public Power District,  
Dawson Public Power District.*

*A copy of the Draft Interlocal Cooperation Agreement is attached.*

***Discussion:***

*Grand Island, with its wellfield on a river island, will be affected by any water use regulations or processes that may result from the CA; and water availability is critical to support the present and future economic vitality of the City. The economic evaluation of such a wide-*

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*ranging program as the CA is a large undertaking. The cooperation of a large number of potentially affected entities is a sound approach to provide the resources necessary to successfully complete an economic impact analysis.*

***Recommendation:***

*It is the recommendation of the Utilities Department that Grand Island participate in the Interlocal Agreement.*

***Fiscal Effects:***

*Expenditure of \$5,000 from Water Enterprise Fund 525. There are sufficient funds available.*

***Alternatives:***

*Do not participate. Fund an independent study. See attached RESOLUTION.*

**Staff Contact: Gary R. Mader**

## **INTERLOCAL COOPERATION ACT AGREEMENT Platte River Coalition for Program Evaluations**

This Agreement is entered into by and between

Central Platte Natural Resources District  
Upper Big Blue Natural Resources District  
Nebraska Public Power District  
The Central Nebraska Public Power and Irrigation District  
Twin Platte Natural Resources District  
North Platte Natural Resources District  
Tri-Basin Natural Resources District  
South Platte Natural Resources District  
Little Blue Natural Resources District  
Nebraska Department of Natural Resources  
Nebraska Game and Parks Commission  
City of Grand Island  
City of Lexington

all of which are political subdivisions or state agencies of and are situated in the State of Nebraska.

IT IS AGREED BY AND BETWEEN THE PARTIES HERETO, EACH ACKNOWLEDGING THE RECEIPT OF GOOD, ADEQUATE, AND VALUABLE CONSIDERATION, AS FOLLOWS:

1. AUTHORITY: This Agreement is made and entered into by the parties pursuant to the authority conferred upon each under the Interlocal Cooperation Act, Neb. Rev. Stat. §13-801 through §13-827.

2. COALITION: The parties herewith and hereby create the Platte River Coalition for Program Evaluations (hereinafter referred to as "ECONOMIC COALITION"). The ECONOMIC COALITION shall be governed by the terms hereof and shall be the instrument through which and by which the parties to this Agreement pursue the purposes described in this Agreement. The ECONOMIC COALITION shall be an entity separate and distinct from the respective parties hereto, and no party hereto is the agent, employee or representative of the ECONOMIC COALITION or any other party. The parties hereto agree that contracts entered into, obligations undertaken, and liabilities incurred by the ECONOMIC COALITION shall be the separate contracts, obligations and liabilities of the ECONOMIC COALITION, and not the contracts, obligations or liabilities of the respective parties hereto.

3. PURPOSE: The ECONOMIC COALITION established hereby shall provide the authority, resources, services, studies, and facilities needed for the evaluation of the economic effects and impacts on the people and resources of the State of Nebraska of implementing and of not implementing the proposed Platte River Recovery Implementation Program and to perform and pursue such other activities concerning such other matters related to evaluating the with and without proposed Program scenarios as the ECONOMIC COALITION may determine necessary and beneficial. This Agreement shall provide the organizational and administrative structure and enumeration of the powers, privileges and authority of the financial cooperative effort and the ECONOMIC COALITION. The purpose of the ECONOMIC COALITION shall be limited to conducting the study and evaluation described above and shall exist for no other purpose. The powers, privileges and authorities of the ECONOMIC COALITION shall not exceed those powers, privileges or authorities exercised or capable of being exercised by each of the parties to this Agreement, nor shall they be used in a manner that is in violation of any of the parties' public purposes.

4. BOARD OF DIRECTORS: The affairs, actions and conduct of the business of the ECONOMIC COALITION shall be by a Board of Directors. Each member of the Board of Directors shall be entitled to one vote and the majority of the votes cast on any issue shall determine the issue, except where a higher percentage shall be specifically required by this Agreement or by-laws adopted by the Board. The Board of Directors shall be composed of thirteen members, one each representing each of the parties to this Agreement. Each director and any designated alternate shall be duly and properly appointed by the respective governing body or other administrative head of each of the separate and individual parties to this Agreement, but it shall not be required that any director of the ECONOMIC COALITION so appointed be a publicly elected member of the governing body of any party to this Agreement. Each Board member shall serve at the pleasure of his or her respective organization. Any vacancy, which occurs in the Board, shall be filled within 60 days through the appointment of a replacement by the represented party. Members of the Board of Directors shall select from their membership a Chairman, Vice Chairman, and Secretary/Treasurer. The Board of Directors shall exercise authority over the ECONOMIC COALITION in accordance with applicable laws, shall set the ECONOMIC COALITION'S policies, and shall delegate executive, supervisory and organizational authority to its officers and committees. Meetings of the Board of Directors shall be conducted at least annually and at such other times as may be required by the business of the ECONOMIC COALITION. A majority, i.e. seven of the members of the Board of Directors shall constitute a quorum for the transaction of business. A lesser number in attendance at any meeting shall have power to adjourn.

5. CHAIR, VICE CHAIR, AND SECRETARY/TREASURER: The Chair shall: preside at all the meetings of the Board of Directors; decide all questions of order; with advice of the Board appoint the members to all committees except the executive committee; be an ex-officio member of all committees; and have such general powers and duties of supervision and management as shall be necessary and germane or required for the execution and prosecution of the affairs of the ECONOMIC COALITION. The Vice Chair shall serve in the absence of the Chair and in the Chair's absence shall have all of the powers and duties of the Chair and shall have such other powers and duties as the Chair or Board of Directors shall from time to time delegate to the Vice Chair. The Secretary/Treasurer to the Board shall keep minutes of all meetings conducted by the ECONOMIC COALITION and shall be the keeper of the records of the ECONOMIC COALITION. The Secretary/Treasurer shall prepare and submit to the Coalition members in writing a monthly report of the state of the finances of the ECONOMIC COALITION and pay ECONOMIC COALITION money only upon authorization signed by the Chair of the Board or in the absence of the Chair by the Vice Chair. Payment of all accounts after authorization shall be made by check signed by the Secretary/Treasurer. The Secretary/Treasurer shall serve without bond. In addition to the foregoing, the officers shall have such other and additional duties, powers, privileges and authority as the Board of Directors may, in by-laws or otherwise, determine appropriate or necessary and by Board action delegate or direct.

6. COMMITTEES: The Board of Directors or the Chair shall have the power to establish such committees as may be necessary, appropriate or beneficial to the conduct of the affairs of the ECONOMIC COALITION. Each such committee shall have such powers, duties and authorities as shall be delegated to it by the Board of Directors, which powers, duties, and authorities shall not be inconsistent with or exceed those powers and duties granted to the ECONOMIC COALITION under this Agreement. The Board of Directors is authorized to designate from its members an executive committee which shall consist of the ECONOMIC COALITION'S Chair, Vice Chair, Secretary/Treasurer and the Chairs of the various committees established by the Board, which executive committee shall have and may exercise only such powers and authorities as are delegated to it by the Board of Directors. The designation of any committees and the delegation thereto of authority shall not operate to relieve the Board of Directors or any member thereof of any responsibility imposed by this Agreement nor shall the Board of Directors delegate to any committee the authority to set policy or to make expenditures

on behalf of the ECONOMIC COALITION. Any committee established by the Chair shall be approved by the Board at its next meeting.

7. POWERS: The ECONOMIC COALITION shall have all the additional powers, privileges and authority exercised or capable of being exercised by each of the individual and separate parties to this Agreement to achieve the purposes of the ECONOMIC COALITION as set forth in this Agreement. Such additional powers, privileges and authority shall include but not be limited to, the power, privilege and authority to:

(a) Solicit, receive and accept donations, gifts, grants, bequests, appropriations or other contributions or assistance in monies, services, materials or otherwise from the United States or any of its agencies, from the state or any of its agencies or political subdivisions, or from any persons, and to use or expend all such contributions in carrying on its operations.

(b) Establish advisory groups by appointing individuals from among the parties to this Agreement and from non-governmental entities who contribute to the costs of conducting the economic evaluation for which this agreement is executed and pay necessary and proper expenses of such groups as the Board shall determine, and dissolve such groups.

(c) Employ such persons as are necessary to carry out the purposes of the ECONOMIC COALITION and this Agreement and to pay the necessary and proper expenses of said persons.

(d) Make and execute contracts and other instruments necessary or convenient to the exercise of its powers.

(e) From time to time to make, amend and repeal by-laws, rules and regulations to carry out and effectuate its powers and purposes, which by-laws, rules and regulations shall not be inconsistent with the Interlocal Cooperation Act or this Agreement.

The foregoing clauses shall be construed both as objects and powers but no recitation, expression or declaration as to such specific powers herein enumerated shall be deemed to be exclusive and it is hereby expressly declared that all other lawful power conferred upon each of the individual and separate parties to this Agreement not inconsistent with the authorization given under the Interlocal Cooperation Act, Neb. Rev. Stat. §13-801 through §13-827 are hereby included. As used in this Agreement the term "persons" shall have the same meaning as used in Neb. Rev. Stat. §49-801(16). Provided further nothing in this Agreement shall operate to relieve any party hereto of any obligation or responsibility imposed upon it by law nor shall this Agreement or its operation preclude any party hereto from conducting or pursuing independent action in regard to each party's separate and independent obligations or responsibilities.

8. DURATION: The ECONOMIC COALITION shall commence business from and after the date on which the parties to this Agreement have executed this Agreement and the ECONOMIC COALITION and this Agreement shall continue in existence until terminated in accordance with Article 11 of this agreement.

9. FINANCES AND BUDGET: Annually or at such other frequent intervals as the Board of Directors of the ECONOMIC COALITION may determine, each of the parties hereto shall contribute such funds as are necessary to conduct the operations and to pursue the purposes of the ECONOMIC COALITION and the purposes and objects of this Agreement as provided hereinafter in this Section 9. Each of the entities hereto irrevocably commit up to the following amount of funds to accomplish the purposes of the ECONOMIC COALITION:

<u>Party</u>	<u>Contribution</u>
Central Platte Natural Resources District	\$25,000
Upper Big Blue Natural Resources District	\$5,000
Nebraska Public Power District	\$10,000 ?
The Central Nebraska Public Power and Irrigation District	\$7,500
Twin Platte Natural Resources District	\$10,000
North Platte Natural Resources District	\$10,000
Tri-Basin Natural Resources District	\$5,000
South Platte Natural Resources District	\$4,000
Little Blue Natural Resources District	\$2,500
Nebraska Department of Natural Resources	\$25,000
Game and Parks Commission	\$50,000
City of Grand Island	\$5,000
City of Lexington	\$5,000

The following initial contributions are also anticipated from the following non-governmental entities that shall, if such contribution is made, become non-voting ex-officio members of the ECONOMIC COALITION as provided in Article 14 of this agreement:

Nebraska Farm Bureau	\$15,000
Total:	\$179,000

The exact time when contributions are to be made is to be determined by the ECONOMIC COALITION as annual budgets are prepared in the manner described below, but it is anticipated that such contributions will need to be made in part in calendar year 2003 and in part in calendar year 2004. For those entities that have fiscal years starting July 1, it is anticipated that the contributions will need to be made in part in FY 03-04 and in part in FY 04-05.

Annually, beginning no more than 30 days after the formation of the ECONOMIC COALITION and commencement of business, and continuing each year thereafter during the existence of this ECONOMIC COALITION, the Board of Directors shall establish and adopt a budget for the prosecution and completion of the work undertaken by the ECONOMIC COALITION.

Concurrent with the establishment of the budget each year, the Board of Directors of the ECONOMIC COALITION shall consult with each remaining party to this Agreement and each non-voting ex officio member regarding their ability to contribute toward such funds as are necessary to conduct the operations and to pursue the purposes of the ECONOMIC COALITION. Upon completion of the budget, if it is determined that funds in addition to those committed above are needed for the ECONOMIC COALITION to pursue and complete its purposes, the Board of Directors of the ECONOMIC COALITION, after determining, as authorized by Article 7(a), whether any additional funds will be contributed by the non-voting ex officio members or other persons, shall determine the amount of any additional assessment to be submitted to each remaining party to this Agreement and shall thereafter assess each of such parties for said amount, with the funding proportion of each party no greater than the funding proportion provided herein unless otherwise agreed to by the party paying proportionately more. Upon receipt of the assessment, each remaining party shall have 60 days to pay the assessment or submit a written notice of withdrawal. In the event of such withdrawal the withdrawing party shall not be liable for the assessment imposed during the sixty days preceding the withdrawal. If withdrawal by one or more parties causes a shortage of funds that would prevent the ECONOMIC COALITION from completing its purposes in a satisfactory manner, the Board of Directors may make an additional assessment to all remaining parties. Any such additional assessments shall be in proportion to those provided herein for such remaining parties.

10. WITHDRAWAL: Any party to this Agreement may withdraw from this Agreement and from representation on the ECONOMIC COALITION upon written notification to the Chairman of the ECONOMIC COALITION. Such withdrawal shall be effective upon receipt of the written notification. Following withdrawal the withdrawn member shall no longer be a party to this Agreement, and the withdrawn member shall not be bound by this Agreement, except that (a) the withdrawn member shall not be entitled to any refund of any contribution or assessment previously paid to the efforts of the ECONOMIC COALITION, and (b) the withdrawn member shall remain liable for its share of any costs properly approved and incurred (costs for labor and services are not considered incurred until the work has been performed for the ECONOMIC COALITION) by the ECONOMIC COALITION through the effective date and time of withdrawal to the extent such costs exceed all sums available to the ECONOMIC COALITION through the date of withdrawal. Such share shall be determined in accordance with the allocation for the assessment of parties outlined in 9 above as of the date of the withdrawal notice. The parties agree that a withdrawn party shall not be liable or responsible for any costs, obligations or liabilities incurred by the ECONOMIC COALITION after such party's withdrawal. In the event of such withdrawal, the ECONOMIC COALITION shall make such adjustments as are necessary to the composition of its Board of Directors, and its future budgets and finances as are necessary to accommodate and continue the operation of the ECONOMIC COALITION in the absence of such withdrawing member.

11. PARTIAL AND COMPLETE TERMINATION: This Agreement and the ECONOMIC COALITION created hereby shall be terminated upon the earlier of the completion of its purposes and objects described herein or upon the vote of two-thirds of the then constituted Board of Directors for the complete or partial termination of the ECONOMIC COALITION and this Agreement. At such time as two-thirds of the Board of Directors shall vote to terminate the ECONOMIC COALITION and the Agreement, all outstanding debts and obligations of the ECONOMIC COALITION shall be paid, all property acquired by the ECONOMIC COALITION shall be disposed of by distribution of the same to the remaining members as represented by the Board of Directors and all unused funds and appropriations shall be returned to the then-remaining members as represented by the Board of Directors in such proportion as represented by the pro rata share paid by each member based upon the last contributions made by remaining members during the last assessment period preceding the date of termination.

12. AMENDMENT AND MODIFICATION: For all matters other than membership, this Agreement may be amended or modified upon the approval of written modifications by all then remaining parties hereto in a writing signed by and duly adopted and approved by the governing bodies of each of the remaining parties hereto.

13. CHANGE IN MEMBERSHIP: This Agreement may be amended or modified to increase or decrease its membership upon approval by 2/3rds vote of the members of the Board of Directors of the ECONOMIC COALITION. Any additional new member shall be required to have the written approval of its governing body or other administrative head and shall have admission to membership in the ECONOMIC COALITION and as a party hereto approved by a duly adopted resolution of its governing body or by such other form of approval as is appropriate for that party.

14. ADDITIONAL AND FURTHER CONTRACTS FOR SUPPORT AND MUTUAL ASSISTANCE: The ECONOMIC COALITION is authorized and empowered to seek and obtain contracts, Agreements and other arrangements whereby the ECONOMIC COALITION shall receive support and assistance for the purpose of pursuing its objects and purposes from such other entities as ECONOMIC COALITION from time to time shall determine necessary or appropriate including, but not limited to, municipalities, for-profit and non-profit organizations, and all other persons as defined by Neb. Rev. Stat. §49-801(16). Provided, however, such contract shall not exceed any authority or powers delegated to the ECONOMIC COALITION by the parties

to this Agreement and such contract shall not give rise to nor create any ability of any such third parties to participate in the management or operation of the ECONOMIC COALITION. Provided further, that upon a majority vote of the then existing members of the Board of Directors of the ECONOMIC COALITION, any person or entity providing support and mutual assistance may be allowed to appoint, for such period of time as the Board shall determine, a representative to the Board of Directors, which representative shall be a non-voting ex-officio member of the Board of Directors, but which representative shall be entitled to attend all meetings of the Board of Directors and to be appointed to such committees and attend such committee meetings as the Board of Directors shall determine.

15. INTEGRATION: This Agreement contains the entire agreement of the parties. No representations were made or relied upon by any party other than those expressly set forth herein. All prior and contemporaneous negotiations, discussions, memos and other writing are merged and incorporated herein, it being the intention of the parties that this be a final and full expression of their agreement. No agent, employee or other representative of any party hereto is empowered to alter any of the terms herein unless such alteration is done in writing and signed by all parties hereto.

16. ASSIGNMENT: No party hereto may assign its rights under this Agreement without the express written consent of all other parties as represented by the remaining Board of Directors at the time of the request for approval of the assignment.

IN WITNESS WHEREOF, the parties have signed and executed this agreement on the dates shown next to their respective signatures as follows.

CENTRAL PLATTE NATURAL RESOURCES DISTRICT

By \_\_\_\_\_ Date \_\_\_\_\_

UPPER BIG BLUE NATURAL RESOURCES DISTRICT

By \_\_\_\_\_ Date \_\_\_\_\_

NEBRASKA PUBLIC POWER DISTRICT

By \_\_\_\_\_ Date \_\_\_\_\_

THE CENTRAL NEBRASKA PUBLIC POWER & IRRIGATION DISTRICT

By \_\_\_\_\_ Date \_\_\_\_\_

TRI-BASIN NATURAL RESOURCES DISTRICT

By \_\_\_\_\_ Date \_\_\_\_\_



SOUTH PLATTE NATURAL RESOURCES DISTRICT

By \_\_\_\_\_ Date \_\_\_\_\_

LITTLE BLUE NATURAL RESOURCES DISTRICT

By \_\_\_\_\_ Date \_\_\_\_\_

NEBRASKA DEPARTMENT OF NATURAL RESOURCES

By \_\_\_\_\_ Date \_\_\_\_\_

NEBRASKA GAME AND PARKS COMMISSION

By \_\_\_\_\_ Date \_\_\_\_\_

THE CITY OF GRAND ISLAND

By \_\_\_\_\_ Date \_\_\_\_\_

THE CITY OF LEXINGTON

By \_\_\_\_\_ Date \_\_\_\_\_

RESOLUTION 2003-145

WHEREAS, in June, 1994, Governor Ben Nelson, the Governors of Colorado and Wyoming, and Secretary of Interior Bruce Babbitt signed a Memorandum of Agreement (MOA) to commit the Department of Interior and the states of Nebraska, Colorado and Wyoming to attempt to develop a Basinwide Recovery Program for endangered species in the Central Platte area of Nebraska; and

WHEREAS, the overall objective of the Basinwide Recovery Program is for the three states and the federal government to work together to make both water and land available for endangered species in the Central Platte area; and

WHEREAS, on November 24, 1997, by Resolution 97-329, the City of Grand Island was approved to participate in the Platte River Cooperative Agreement to develop accurate hydrology data for the Platte River Basin in Nebraska; and

WHEREAS, since 1997, negotiations on the comprehensive plan have been underway with the development of processes, regulations, hydrologic models, species needs determinations, and other issues which have the potential to substantially change water use practices and future development in the Platte Valley area; and

WHEREAS, with the City's wellfield located on a river island, it will be affected by any water use regulations or processes that may result from the Cooperative Agreement; and

WHEREAS, availability of water is critical to support the present and future economic vitality of the City of Grand Island; and

WHEREAS, it has been proposed that a number of Nebraska agencies enter into an Interlocal Cooperative Agreement to provide direction and funding for an economic impact analysis in connection with the proposed Platte River Recovery Implementation Program; and

WHEREAS, the proposed Interlocal Cooperation Act Agreement; Platte River Coalition for Program Evaluations has been reviewed and approved by the City Attorney.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the Interlocal Cooperation Agreement for Platte River Coalition for Program Evaluations is hereby approved, and the Mayor is hereby authorized and directed to execute such agreement on behalf of the City of Grand Island.

BE IT FURTHER RESOLVED, that funds in the amount of \$5,000 shall be authorized for the City's participation in such study.

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Adopted by the City Council of the City of Grand Island, Nebraska, May 20, 2003.

Approved as to Form	☐ _____
May 15, 2003	☐ City Attorney

RaNae Edwards, City Clerk