

Final for sig. - EV

# MEMORANDUM OF AGREEMENT

**THIS AGREEMENT** entered into on this \_\_\_\_ day of \_\_\_\_\_ in the year of 2006 by and between; The **STATE OF NEBRASKA, NEBRASKA DEPARTMENT OF NATURAL RESOURCES** hereinafter referred to as the “**STATE**”, and **FRENCHMAN VALLEY IRRIGATION DISTRICT** hereinafter referred to as the “**DISTRICT.**”

## **WITNESSETH:**

**WHEREAS**, the District has the rights to natural flow for an identified Water Supply as hereinafter defined in Paragraph II for the calendar year 2006; and

**WHEREAS**, the State desires to “purchase” and/or “lease” the use of the District’s Water Supply for the calendar year 2006; and

**WHEREAS**, the District is willing to “sell” and/or “lease” the use of its Water Supply for the calendar year 2006 to the State.

**NOW THEREFORE**, in consideration of these facts, the parties agree as follows:

## **I. DURATION OF AGREEMENT**

This agreement is for the period from the execution of this Memorandum of Agreement (hereinafter “Agreement”) to the end of the 2006 calendar year. There will be no extension or renewal of this Agreement unless further agreed to in writing by the parties.

## **II. DEFINITIONS**

For purposes of the Agreement, the following term(s) are defined as follows:

“Water Supply” or “2006 Water Supply” shall mean the total amount of natural flow that would be available to the District for beneficial use at the Headgate of Culbertson Canal during the 2006 calendar year. Based on the average of natural flow diversions, as reflected in the State’s records for the years 2001 to 2005, the expected water supply from natural flow is approximately 8000 Acre-Feet per year. Both parties agree that the actual amount of natural flow could be more or less than the five-year average.

## **III. THE DISTRICT AGREES TO PERFORM AS FOLLOWS:**

A. The District agrees to relinquish the rights to the use of its Water Supply for the period from the date of the execution of this Agreement to the end of the 2006 calendar year.

B. By execution of this Agreement, the District represents and affirms that, in accordance with all relevant state statutes and District procedures, the District has received the requisite affirmative vote of its qualified electors, at a duly authorized meeting of the District, authorizing it to enter into this Agreement.

C. The District agrees to consult and collaborate with the State, the Natural Resources Districts and other basin water resource interests during the modification of the Integrated

Management Plans and associated Rules and Regulations now in effect with the several Natural Resources Districts for the Republican River Basin. The basis of these efforts shall be consistent with the letter to Governor Dave Heineman from the Nebraska Association of Resources Districts et al. dated January 9, 2006, and the letter from the Lower Republican Natural Resources District to Governor Dave Heineman dated February 1, 2006.

D. The District agrees to defend and uphold the provisions of this Agreement to ensure the purchase and/or lease of the use of the District's 2006 Water Supply to the State.

**IV. THE STATE AGREES TO PERFORM AS FOLLOWS:**

A. The State of Nebraska will pay the sum of four hundred thousand dollars (\$400,000.00) to the District, as payment in full to purchase and/or lease the use of the District's 2006 Water Supply, within ninety (90) days of the execution of this Agreement. This payment compensates the District for relinquishing the use of its Water Supply for the calendar year 2006 to the State for the term of this Agreement.

B. The State agrees to consult and collaborate with the District, the Natural Resources Districts and other basin water resource interests during the modification of the Integrated Management Plans and associated Rules and Regulations now in effect with the several Natural Resources Districts for the Republican River Basin. The basis of these efforts shall be consistent with the letter to Governor Dave Heineman from the Nebraska Association of Resources Districts et al. dated January 9, 2006, and the letter from the Lower Republican Natural Resources District to Governor Dave Heineman dated February 1, 2006.

C. The State will continue to work with the Natural Resources Districts and surface water irrigation districts to meet Nebraska's obligations under the Republican River Compact and Settlement Agreements.

D. By execution of this Agreement, the State represents and affirms that it has appropriated and secured the funds necessary to meet its obligations under this Agreement.

E. The State agrees to defend and uphold the provisions of this Agreement to ensure the purchase and/or lease of the use of the District's 2006 Water Supply to the State.

**FRENCHMAN VALLEY IRRIGATION DISTRICT**

\_\_\_\_\_  
Clarence Jankovits, Board President  
Frenchman Valley Irrigation District

\_\_\_\_\_  
Date

**NEBRASKA DEPARTMENT OF NATURAL RESOURCES**

\_\_\_\_\_  
Ann Bleed, Acting Director  
Nebraska Department of Natural Resources

\_\_\_\_\_  
Date