

INTERLOCAL AGREEMENT FOR OBTAINING SEEDLING TREES AND SHRUBS

BETWEEN

PARTICIPATING NATURAL RESOURCES DISTRICTS AND THE NEBRASKA ASSOCIATION OF RESOURCES DISTRICTS

This Interlocal Agreement (“Agreement”) initially made and entered into effective September 25, 2001, by and between the undersigned participating natural resources districts (“participating NRDs”), political subdivisions of the State of Nebraska and the Nebraska Association of Resources Districts (“NARD”) is hereby modified and extended as of the Effective Date of October 1, 2018.

WITNESSETH:

RECITALS

A. Participating NRDs are public agencies within the meaning of the Interlocal Cooperation Act, *Neb. Rev. Stat.* §§ 13-801 to 13-827 and also have the authority pursuant to *Neb. Rev. Stat.* § 2-3235 to cooperate with or to enter into agreement with any cooperator, any agency, governmental or otherwise, or any owner or occupier of lands within the district for the carrying out of projects for the benefit of the district as authorized by sections 2-3201 to 2-3257 and 2-32,109 to 2-32,114.

B. Among the purposes of natural resources districts, are erosion prevention and control, soil conservation and forestry and range management.

C. The NARD was created for the purpose of, among others, providing services to member natural resources districts throughout the State of Nebraska. By the execution of the Acceptance and Approval of this Agreement, the NARD agrees to act on behalf of the participating NRDs as provided for herein.

D. The NARD intends to enter into an agreement with the USDA Forest Service (“Forest Service”), a copy of which is attached hereto as Exhibit “A” and incorporated herein by this reference, for the benefit of participating NRDs, which provides, among other things, for the NARD to acquire seedling trees and shrubs for distribution throughout the State of Nebraska.

E. Participating NRDs, pursuant to this Agreement, desire to designate the NARD its agent to act on their behalf with respect to the acquisition, payment and distribution of the seedling trees and shrubs which NARD intends to acquire pursuant to the agreement with Forest Service attached as Exhibit “A”.

NOW, THEREFORE, in consideration of the above recitals and the mutual promises and covenants contained herein, the NARD and the participating NRDs agree as follows:

1. Each participating NRD designates the NARD its agent to act on their behalf for the purposes of acquiring trees and shrubs from the Forest Service and agrees to order, pay for, and accept delivery of the seedling trees and shrubs obtained by the NARD from the Forest Service, in accordance with the provisions of this Agreement.
2. The NARD, by accepting the designation as the agent of the participating NRDs, agrees to act on behalf of participating NRDs to acquire seedling trees and shrubs from the Forest Service pursuant to the agreement between the Forest Service and the NARD attached as Exhibit "A", and the provisions of this Agreement.
3. By October 1 of each year, the NARD and/or the Forest Service in cooperation with NARD will send each participating NRD firm prices and inventories for seedlings that will be harvested the following spring. If participating NRDs order more seedlings than are available, NARD agrees to allocate proportionally among participating NRDs the seedlings that are available based on the amounts ordered by participating NRDs. The NARD and/or the Forest Service in cooperation with the NARD agree to confirm the orders of participating NRDs for seedlings by November 15 of each year.
4. A form for ordering seedling trees and shrubs is attached hereto as Exhibit "B", and each participating NRD agrees to complete and deliver such order to the Forest Service by November 1st of each year. The information on each form may be changed and adjusted after it has been received by the NARD and/or the Forest Service in cooperation with the NARD until March 1 of each year. Between February 1 and April 1, orders may be increased but not decreased. After April 1, no changes or adjustments to orders will be accepted by NARD. After April 1, participating NRDs may purchase additional seedlings directly from the Forest Service, if available.
5. The Forest Service, pursuant to its agreement with the NARD, has agreed to cut, dig, lift, transport to packing shed, grade, prepare for shipping and place the seedlings in cold storage in as short a timeframe as possible, prior to May 1 of each year, weather permitting. The NARD may provide an individual to monitor the quality of seedlings that are transported, stored, handled and shipped prior to leaving the Nursery.
6. Each participating NRD agrees to pay the NARD on or before June 15 of each year for the seedling trees and shrubs that it has ordered. If the NARD provides an individual to monitor the quality of the seedlings, the participating NRDs agree to share the cost of such individual by paying the NARD each participating NRDs' proportionate share of such cost. Participating NRDs agree to pay the NARD any additional charges that the NARD Board of Directors determines to be reasonable and necessary, including but not limited to administrative and marketing charges not to exceed 3 cents/per seedling. In addition, participating NRDs agree to pay the NARD a late fee, the amount to be determined by the NARD Board of Directors, in the event participating NRDs do not pay by June 15 of each year.

7. This agreement may be executed at different times and places, and in one or more separate counterparts by the NARD and each participating NRD, all of which collectively shall constitute one Agreement, and the parties hereto may rely on facsimile or electronic copies of signatures for the purposes of final execution, and upon execution the NARD and each NRD is bound by the agreement of the Effective Date.

8. The NARD will be bound as the designated agent for the participating NRDs by executing the Acceptance and Approval at the end of this Agreement.

9. This agreement will continue in full force and effect from the Effective Date until September 30, 2021 at which time the agreement between NARD and U.S. Forest Service expires, unless this Agreement is terminated sooner or extended by the written agreement of the participating NRDs and Accepted and Approved by the NARD.

IN WITNESS WHEREOF, the NARD and participating NRDs have executed this Agreement on the date shown opposite their signatures.

Dated _____, 2018

_____ NATURAL RESOURCES DISTRICT, a political subdivision of the State of Nebraska,

By: _____
Authorized Representative

ACCEPTED AND APPROVED:

Dated September 5, 2018

NEBRASKA ASSOCIATION OF RESOURCES DISTRICTS,

By: 
Dean Edson, NARD Executive Director

**SALES AGREEMENT
(NARD Exhibit A)
Between
USDA FOREST SERVICE
NEBRASKA NATIONAL FOREST, BESSEY NURSERY
and the
NEBRASKA ASSOCIATION OF RESOURCES DISTRICTS**

THIS SALES AGREEMENT is hereby entered into by and between the USDA Forest Service, Nebraska National Forest, hereinafter referred to as the Forest Service, and the Nebraska Association of Natural Resources Districts, hereinafter referred to as the NARD under the provisions of Section 9 of the Granger-Thye Act of April 24, 1950. This sales Agreement supersedes the Memorandum of Understanding dated July 17, 1978, and updates the October 2001, October 2006, October 2009 and October 2012 agreements and all amendments thereof.

A. PURPOSE:

To provide tree and shrub seedlings to the NARD to be used for the purpose of establishing forests, woodlots, windbreaks, and wildlife areas throughout the State of Nebraska.

B. STATEMENT OF MUTUAL INTERESTS AND BENEFITS.

The Forest Service is authorized to sell forest tree and shrub seed and nursery stock to the NARD at rates not less than the actual or estimated costs of producing such seed or nursery stock per Section 9 of Granger-Thye Act of April 24, 1950.

The NARD is a subdivision of local government and is responsible for the collection of fees incurred by the Natural Resources Districts during their participation in the Conservation Tree Program. The NARD is acting on behalf of its participating members in accordance with the Interlocal Agreement for Obtaining Seedling Trees and Shrubs between the NARD and its Participating Members dated October 1, 2015.

The Forest Service and the NARD have a mutual interest and responsibility to maintain, develop and distribute tree and shrub seedlings for the best interest of the people of Nebraska and the Nation.

C. FOREST SERVICE SHALL:

1. Grow from seed or asexually propagate at the Bessey Nursery tree and shrub seedlings produced for distribution and/or experiments of the species grown from native or approved seed sources where appropriate and available for the species variety in quantities as is determined through historical sowing records.
2. Furnish annually, by October 1, a firm price and inventory for seedlings to be provided the following spring. The price, per thousand, will be by seedling age class and will be based on the most recent production costs of the seedlings on inventory and weekly status report of lifting, packing, sowing or crop condition.

3. Maintain a current inventory of all species throughout the ordering and distribution period and accept changes to the initial order from various NRDs for that period. No order cancellations accepted after February 1. No cancellations will be accepted for any allocated species.
4. Annually, upon delivery of seedlings, billings will be prepared and mailed to:
Nebraska Association of Resources Districts
601 So. 12th St., Suite 201
Lincoln, NE 68508
5. Deposit all cash funds received under the terms of this Agreement to the nursery Working Capital Fund (WCF.)
6. Harvest, transport to packing shed, grade, prepare for shipping and place seedlings in cold storage in as short a timeframe as possible (prior to May 1; weather permitting) and to supply all required supervision, personnel and equipment for this work.
7. Adhere to tree and shrub grading standards as established in Attachment 1 - Grading Standards, unless changes are previously agreed to.

D. THE NARD SHALL:

1. If requested, provide the Forest Service with sowing requests; noting the number of seedlings by species, variety and desired seed source no later than July 15. The minimum number of seedlings to be grown of any one species is five thousand.
2. Be charged in accordance with the annually established fees as attached for special projects such as transplanting, administrative studies, special grading, etc. (Attachment 2 – Special Project Fees).
3. Monitor the quality of seedlings transported, stored, handled, and how shipped prior to leaving the Nursery. The NARD may provide an individual(s) to monitor such activities.
4. Make payment to the Forest Service for all trees and shrub seedlings provided which meet the grading standards (Attachment 1 - Grading Standards). Payment will be made at the price provided in Item C2 above.
5. Review annually established grading standards and negotiate any recommended changes with the Forest Service. Changes to the standards will apply to tree and shrub seedlings to be introduced at the next planting season.
6. Provide the Forest Service or Comptroller General, through any authorized representative, access to and the right to examine all books, papers, or documents related to this instrument.
7. The cooperator shall furnish their tax identification number upon execution of this instrument.

E. IT IS MUTUALLY AGREED AND UNDERSTOOD BY BOTH PARTIES THAT:

1. Seedlings grown at the request and specifically for the NARD will not be considered as grown for speculative distribution by the nursery. Payment will be made by the NARD for the number of seedlings meeting specs for those requested seedlings. If the NARD does not need all of the requested seedlings, they may request the Forest Service try to sell them to other customers at a time of the NARD's choice.
2. Seedlings grown as a speculative crop using historical sowing records that are in excess of the initial NRDs' orders may be sold after the receipt of the initial NRDs' orders starting on November 15.
3. MODIFICATION. Modifications within the scope of the instrument shall be made by mutual consent of the parties, by the issuance of a written modification, signed and dated by both parties, prior to any changes being performed. The Forest Service is not obligated to fund any changes not properly approved in advance.
4. PARTICIPATION IN SIMILAR ACTIVITIES. This instrument in no way restricts the Forest Service or the Cooperator(s) from participating in similar activities with other public or private agencies, organizations, and individuals.

PRINCIPAL CONTACTS. The principal contacts for this instrument are:

Cooperator Contacts

Dean E. Edson
Executive Director
Nebraska Association of Resources
Districts
601 South 12th St., Suite 201
Lincoln, NE 68508
Phone: (402) 471-7674
Fax: (402)471-7677
E-Mail: dedson@nrdnet.org

Dustin Wilcox
Water Resources Liaison
Nebraska Association of Resources
Districts
601 South 12th St., Suite 201
Lincoln, NE 68508
Phone: (402) 471-7673
Fax: (402) 471-7677
Cell: (402) 533-9530
E-Mail: dwilcox@nrdnet.org

Forest Service Contact

Richard Gilbert
Nursery Manager

Nebraska National Forest, Bessey Nursery
40637 River Loop
P.O. Box 39
Halsey, NE 69142
Phone: (308) 533-8117
Fax: (308) 533-2310
E-Mail: regilbert@fs.fed.us

Forest Service Administrative Contact

Lori Jeffrey
~~Administrative Support Assistant~~ Program Specialist
Nebraska National Forest, Bessey Nursery
40637 River Loop
P.O. Box 39
Halsey, NE 69142
Phone: (308) 533-8104
Fax: (308) 533-2310
E-Mail: lejeffrey@fs.fed.us

5. LEGAL AUTHORITY. The cooperator has the legal authority to enter into this instrument, and the institutional, managerial and financial capability (including funds sufficient to pay nonfederal share of project costs) to ensure proper planning, management, and completion of the project.
6. ENDORSEMENT. Any cooperator contributions made under this instrument do not by direct reference or implication convey Forest Service endorsement of the cooperator's products or activities.
7. FREEDOM OF INFORMATION ACT (FOIA). Any information furnished to the Forest Service under this instrument is subject to the Freedom of Information Act (5 U.S.C. 552).
8. COMPLETION DATE. This instrument is executed as of the last date shown below and expires on September 30, 2018 at which time it will be subject to review, renewal, or expiration.

THE PARTIES HERETO have executed this agreement.

NEBRASKA ASSOCIATION OF
RESOURCE DISTRICTS

USDA FOREST SERVICE
NEBRASKA NATIONAL FOREST

DEAN E. EDSON
Executive Director

DATE

RICHARD GILBERT
Nursery Manager

DATE

ATTACHMENT 1
GRADING STANDARDS and QUALITY CONTROL MEASURES

A. Conifer nursery stock to be sold to the Natural Resources Districts will:

1. Be dormant at the time of lifting and grading.
2. Have viable well-formed terminal buds.
3. Be free of insects and disease damage.
4. Have a straight root system (no “J” roots) with minimum root-bark stripping.
5. Have a well-formed, fibrous root system.

SPECIFIC CONIFER GRADING STANDARDS BY SPECIES¹

SPECIES	MIN. TOP HEIGHT (INCHES)	MIN. CALIPER		TOP/ROOT RATIO (BY WEIGHT)		MIN. ROOT LENGTH (INCHES)
		INCHES	MM	MIN	MAX	
<i>Juniperus virginiana</i>	8	4/32	3	1:1	4:1	8
<i>Juniperus scopulorum</i>	8	4/32	3	1:1	4:1	8
<i>Pinus nigra</i>	6	6/32	5	1:1	4:1	8
<i>Pinus sylvestris</i>	6	6/32	5	1:1	4:1	8
<i>Pinus ponderosa</i>	8	6/32	5	1:1	4:1	8
<i>Pinus banksiana</i>	8	6/32	5	1:1	4:1	8
<i>Picea pungens</i>	6	4/32	4	1:1	4:1	8
<i>Picea glauca</i>	6	4/32	-3	1:1	4:1	8

¹ Tentative standards will be set for new species as requested. Final grading standards will be negotiated by the principle contacts after the third shipping season of that species.

- B. All hardwood trees and shrubs will be 12 inches in height except oaks, which will be 8 inches. Root length of hardwood will be 10 inches for all species.
- C. The USFS will perform Root Growth Potential (RGP), Plant Moisture Stress (PMS), and out planting tests in order to determine stock viability and condition for all conifer seedlings.

ATTACHMENT 2 – SPECIAL SERVICES CHARGES – BESSEY NURSERY

SERVICES

COST

Lift and Pack

Double Grading (at the request of the NARD)

Basic Cost/M + 25%

Special Root Prune (entire lot)

Basic Cost + 23%

Shipping and Distribution

Shipping via Rate Tender Agreement

Actual cost per mile according to current Bessey Nursery seedling shipment contract price

Seedling Tests

*RGP Tests

\$75.00 per test

Out planting Survival Test

\$65.00 per seed lot

* The Nursery would cover the costs of these tests where both parties benefit.