

MEMORANDUM

TO: Programs, Projects and Operations Subcommittee
FROM: Martin P. Cleveland, Construction Engineer
SUBJECT: Interlocal Cooperation Agreement with Sarpy County
168th Street/Bridge #147 Project at Chalco Hills Recreation Area
DATE: September 4, 2018

The 168th Street/Bridge #147 Project is planned by the Sarpy County and construction will likely commence in 2019. This project will impact the western boundary of the Chalco Hills Recreation Area, south of Hwy. 370. The District operates and maintains the federally owned Recreation Area.

The County Project is located on 168th Street between Interstate I-80 and Hwy 370 and consists of widening and paving 168th Street with a rural three-lane roadway section. The existing 168th Street is a gravel roadway with roadside ditches for drainage. Bridge #147 is located on 168th Street and is a 100-foot-long, three-span, steel beam pony truss bridge over Wehrspann Creek with a wooden deck and out-to-out width of 18 feet. The proposed bridge #147 is a 115-foot-long, three-span continuous concrete bridge with an out-to-out width of 44 feet. The 168th Street project will include paving, grading, culvert pipe, guardrail and bridge construction. Enclosed is a location map showing the project features. The County proposes to construct some of the facilities on the Chalco Hills Recreation Area property as follows:

1. Culvert and widened roadside ditch for drainage along the east side of 168th Street.
2. Roadway embankment for 168th Street widening.
3. Reconfigured field entrances into Chalco Hills Recreation Area, south and north of Bridge #147, located on 168th Street.
4. Pedestrian trail (MoPac Trail) embankment along the east side of 168th Street on and south of the Chalco Hills Recreation Area Property. This trail segment will eventually connect the MoPac Trail along Hwy 50 and run through Chalco Hills RA to connect with the trail just north of Hwy 370.

District staff have reviewed the Project Plans prepared by Alfred Benesch and Company, dated July 12, 2018 and have no objections to the plans. The Chalco Hills Recreation Area is owned by U.S. Army Corps of Engineers (USACE) and is leased by the Papio-Missouri River NRD (P-MRNRD). The P-MRNRD operates the site and maintains trails, roads, drainage and landscaping. Enclosed is a proposed interlocal cooperation agreement with Sarpy County, providing for the construction, operation and maintenance of the road and bridge improvements at Chalco Hills Recreation Area. Staff recommends approval of the Agreement.

Management recommends that the Programs, Projects and Operations Subcommittee recommend to the Board of Directors that the General Manager be authorized to execute the proposed Interlocal Cooperation Agreement with Sarpy County for the construction, operation and maintenance of 168th Street/Bridge #147 Project located partially on the Chalco Hills Recreation Area property, subject to approval by the US Army Corps of Engineers and also subject to changes deemed necessary by the General Manager and approval as to form by District Legal Counsel.

Enclosures

INTERLOCAL COOPERATION AGREEMENT
Between
PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT
AND
SARPY COUNTY, NEBRASKA
For
168TH STREET/ BRIDGE #147 EXPANSION AND IMPROVEMENTS
WITHIN
THE CHALCO HILLS RECREATION AREA

THIS INTERLOCAL AGREEMENT (hereinafter “AGREEMENT”) is made and entered into by and among the PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT, a political subdivision of the State of Nebraska (hereinafter referred to as the “NRD”), and SARPY COUNTY, NEBRASKA, a political subdivision of the State of Nebraska (hereinafter referred to as the “COUNTY”), (collectively referred to hereinafter collectively as the “PARTIES”) pursuant to authority provided by the Nebraska Interlocal Cooperation Act, Neb. Rev. Stat. §§ 13-801, *et seq.*

WHEREAS, the COUNTY desires to expand 168th Street/Bridge #147 between Highway 370 and I-80 in Sarpy County, Nebraska, and install certain improvements in the same vicinity. Some of said improvements will be located on land comprising the Chalco Hills Recreation Area (“CHALCO”);

WHEREAS, CHALCO is owned by the United States Army Corps of Engineers (“USACE”) and leased to the NRD, which operates CHALCO and maintains the trails, drainage, and landscaping within CHALCO;

WHEREAS, before authorizing any improvements in CHALCO, the USACE has required that the NRD approve said improvements proposed by the COUNTY; and;

NOW, THEREFORE, in consideration of the foregoing recitals and their mutual covenants hereinafter expressed, the PARTIES agree as follows:

1. PROJECT BENEFITS. The PARTIES hereby find and determine that the completed project and IMPROVEMENTS will be of predominantly general benefit to the PARTIES with only an incidental special benefit.

2. PROPOSED IMPROVEMENTS. The COUNTY intends to expand 168th Street and Bridge #147 between Highway 370 and I-80 from its current two lane rural roadway into a three lane paved roadway. In addition to the expansion of 168th Street and Bridge #147, the COUNTY proposes the following improvements in CHALCO:

a) grading for a future pedestrian trail ten feet in width generally located along the east side of 168th Street on and south of the Chalco Hills property (the “TRAIL”);

b) constructing a culvert and widened roadside ditch for drainage along the east side of 168th Street that leads to the Wehrspann Creek (the “DITCH”);

c) placing roadway fill for the construction of 168th Street for widening purposes (the “ROADWAY”); and,

d) a reconfiguration of the field entrance and gate areas into CHALCO south and north of Bridge #147 (the “DRIVE”).

These four improvements are collectively referred to hereinafter as the “IMPROVEMENTS.” A diagram of the relevant portion of 168th Street and the adjacent area of CHALCO with the IMPROVEMENTS identified is attached hereto as Exhibit “A” and incorporated into this AGREEMENT.

3. DESIGN OF THE IMPROVEMENTS. The COUNTY shall design or cause to be designed the IMPROVEMENTS without any monetary contribution from the NRD. Prior to construction of the IMPROVEMENTS, the COUNTY shall submit its design(s) for the IMPROVEMENTS to the NRD for the NRD’S approval of said design(s). The NRD’S approval shall not be withheld unreasonably. Thereafter, the COUNTY shall communicate to the NRD any substantial change in the design of the IMPROVEMENTS. A substantial change shall be a change that alters the location or operation of the IMPROVEMENT; all such changes require NRD approval.

4. PLANNING AND CONSTRUCTION OF THE IMPROVEMENTS.

a) CONSTRUCTION PLANS: The COUNTY shall draft or cause to be drafted construction plans and specifications for the IMPROVEMENTS without any monetary

contribution from the NRD. Prior to construction, the COUNTY shall submit to the NRD the construction plans and specifications for the NRD'S approval. The NRD'S approval shall not be unreasonably withheld. The COUNTY shall communicate to the NRD any substantial change in the plans and specifications for the IMPROVEMENTS. A substantial change shall be a change that alters the location or operation of the IMPROVEMENT; all such changes shall require NRD approval.

b) LAND RIGHTS AND PERMITS: The COUNTY shall be solely responsible for, at its sole cost and expense, the acquisition of all the necessary land rights, approvals, and permits for the IMPROVEMENTS, including but not limited to any necessary easements from the USACE. The COUNTY shall provide the NRD a copy of any and all proposed easements, legal descriptions, or similar documents related to the IMPROVEMENTS that the COUNTY submits to the USACE for its approval.

c) CONSTRUCTION: The COUNTY shall select and retain such consultants and contractors, at its sole cost and expense, necessary to construct the IMPROVEMENTS using the COUNTY'S procurement policies and procedures. Prior to awarding a contract(s) for the construction of the IMPROVEMENTS, COUNTY shall inform NRD of its intent to award the contract and the proposed contractor(s) to whom the COUNTY intends to award the contract(s). In the event the NRD disagrees with the COUNTY'S intended contractor(s), the NRD shall provide the COUNTY with a basis for its disagreement, and the COUNTY shall not award the contract to that contractor. The COUNTY and NRD shall proceed through the proposed award recipients until both PARTIES approve the necessary contractor(s). During the course of construction, the COUNTY shall inform the NRD concerning the schedule, any changes to the schedule, and any substantial changes to the construction plans. A substantial change shall be a change that alters the location or operation of the IMPROVEMENT; all of which are subject to NRD'S approval. The COUNTY shall be responsible, at its sole cost and expense, for replacing or returning to its current condition or better any and all portions of the currently existing trails or improvements that the COUNTY removes or disrupts during the construction of the IMPROVEMENTS.

d) UTILITY RELOCATIONS: The COUNTY shall be responsible, at its sole cost and expense, for relocation of any and all utilities that are determined to interfere with the construction or operation of the IMPROVEMENTS.

5. MAINTENANCE, REPAIR, AND REPLACEMENT: The COUNTY shall be responsible, at its sole cost and expense, for the maintenance, repair, and replacement of the ROADWAY and the DITCH.

a) ROADWAY MAINTENANCE: The COUNTY shall be responsible for the maintenance, repair, replacement, management, and regulation of that portion of the ROADWAY that is within the boundaries of CHALCO. This AGREEMENT shall not supersede, amend, alter or replace the prior agreement between the COUNTY and the NRD executed in or around May 1987 concerning the maintenance of the roads within CHALCO. The prior agreement between the COUNTY and NRD shall remain in full force and effect.

b) TRAIL MAINTENANCE: Upon completion of the grading of the TRAIL, the COUNTY shall assume the maintenance and repair of the TRAIL until it is paved by the NRD, at such times and in such manner as the NRD determines necessary and reasonable. Completion of grading occurs when the TRAIL has been graded and seeded. The NRD shall bear all costs and expenses associated with the paving and the operation, maintenance, repair, replacement, management, and regulation of the TRAIL once the paving is completed by the NRD. If necessary, the COUNTY shall assist the NRD in enforcing any warranties for the TRAIL against the contractors and consultants responsible for the design and construction of the TRAIL.

6. INDEMNIFICATION.

a) The COUNTY shall defend and indemnify the NRD and hold the NRD harmless from and against any and all claims, demands, and causes of action related to the IMPROVEMENTS that arise prior to completion of the IMPROVEMENTS, including attorney fees and costs unless solely caused by the negligence or intentional acts of the NRD. Upon completion of the IMPROVEMENTS, the COUNTY shall defend and indemnify the NRD and hold the NRD harmless from and against any and all claims, demands, and causes of action related to the DITCH, ROADWAY, and/or the DRIVE, including attorney fees and costs unless solely caused by the negligence or intentional acts of the NRD.

b) Upon completion of the IMPROVEMENTS, the NRD shall defend and indemnify the COUNTY and hold the COUNTY harmless from and against any and all

claims, demands, and causes of action related to the TRAIL, including attorney fees and costs, unless solely caused by the negligence or intentional acts of the COUNTY.

7. ABANDONMENT. In the event the COUNTY abandons the 168th Street/Bridge #147 expansion project or the IMPROVEMENTS prior to completion of the IMPROVEMENTS, the NRD shall have no obligations hereunder and shall not be responsible for any costs and expenses whatsoever associated with the project, the IMPROVEMENTS, or any component thereof.

8. NON-DISCRIMINATION. The parties hereto shall not, in the performance of this AGREEMENT, discriminate or permit discrimination by any of its contractors in violation of federal or state laws or local ordinances because of race, disability, color, sex, age, political or religious opinions, affiliations or national origin.

9. RESIDENCY VERIFICATION. Pursuant to Neb. Rev. Stat. § 4-114 *et seq.*, each party shall use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. § 1324a, known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee.

10. DRUG FREE POLICY. Each party provides assurance that it has established and maintains a drug free workplace policy.

11. ENTIRE AGREEMENT. Notwithstanding Paragraph 5(a), above, this AGREEMENT contains the entire agreement between the parties related to this project, and each party hereto agrees that neither the other party, nor any of the officers, agents, employees or contractors of the other party have made any representations or promises with respect to the project not expressly contained herein.

12. TERMINATION. In the event the COUNTY does not acquire the necessary approval and land rights from the USACE, this AGREEMENT shall terminate. The COUNTY shall provide NRD prompt notice of such occurrences. In the event of

termination, the NRD shall not be responsible for any costs and expenses whatsoever associated with the project, the IMPROVEMENTS, or any component thereof.

13. BINDING EFFECT. The provisions of This AGREEMENT shall inure to the benefit of, and shall be binding upon, the successors in interest and assigns of the respective parties hereto.

14. APPLICABLE LAW. Each party to this AGREEMENT shall follow all applicable federal and state statutes and regulations in carrying out the faithful performance and terms of this AGREEMENT. The interpretation and performance of this AGREEMENT shall be governed by the laws of Nebraska.

15. SEVERABILITY. In the event any portion of this AGREEMENT is held invalid or unenforceable for any reason, it is agreed that any such invalidity or unenforceability shall not affect the remainder of this AGREEMENT, the remaining provisions shall remain in full force and effect, and any court of competent jurisdiction may so modify any objectionable provision of this AGREEMENT so as to render it valid, reasonable and enforceable.

16. CAPTIONS. Captions used in this AGREEMENT are for convenience and not for use in the construction of this AGREEMENT.

17. AMENDMENTS. This Agreement may be amended upon the actions of the parties if done so in writing and mutually agreed upon by both parties.

18. INTERLOCAL COOPERATION ACT PROVISIONS. This AGREEMENT shall not create any separate legal or administrative entities. It shall be administered jointly by the parties, through one representative to be designated by and on behalf of each party. Each party shall separately finance and budget its own duties and functions under this AGREEMENT. There shall be no jointly held property as a result of this AGREEMENT. This AGREEMENT shall terminate upon completion of the work contemplated by this AGREEMENT, or as set forth under paragraph 11 of this AGREEMENT, unless the parties consent in writing to an earlier termination. Upon terminations, each party shall retain ownership of the property it owns at the time of

termination. This AGREEMENT does not authorize the levying, collecting or accounting of any tax.

19. COUNTERPARTS. This Agreement may be executed simultaneously in several counterparts, each of which shall be deemed to be an original and all of which shall constitute but one and the same instrument. Email/scan copies or facsimile copies of this Agreement will be deemed original copies.

IN WITNESS WHEREOF, the parties have executed this agreement on the dates hereinafter indicated pursuant to authorizing resolutions duly adopted at regularly-called meetings of their governing bodies.

Executed by THE SARPY COUNTY, NEBRASKA, this _____ day of _____, 2018.

SARPY COUNTY, NEBRASKA

By _____
Chairperson

Attest:

COUNTY Clerk

Executed by the PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT

this _____ day of _____, 2018.

PAPIO-MISSOURI RIVER
NATURAL RESOURCES DISTRICT

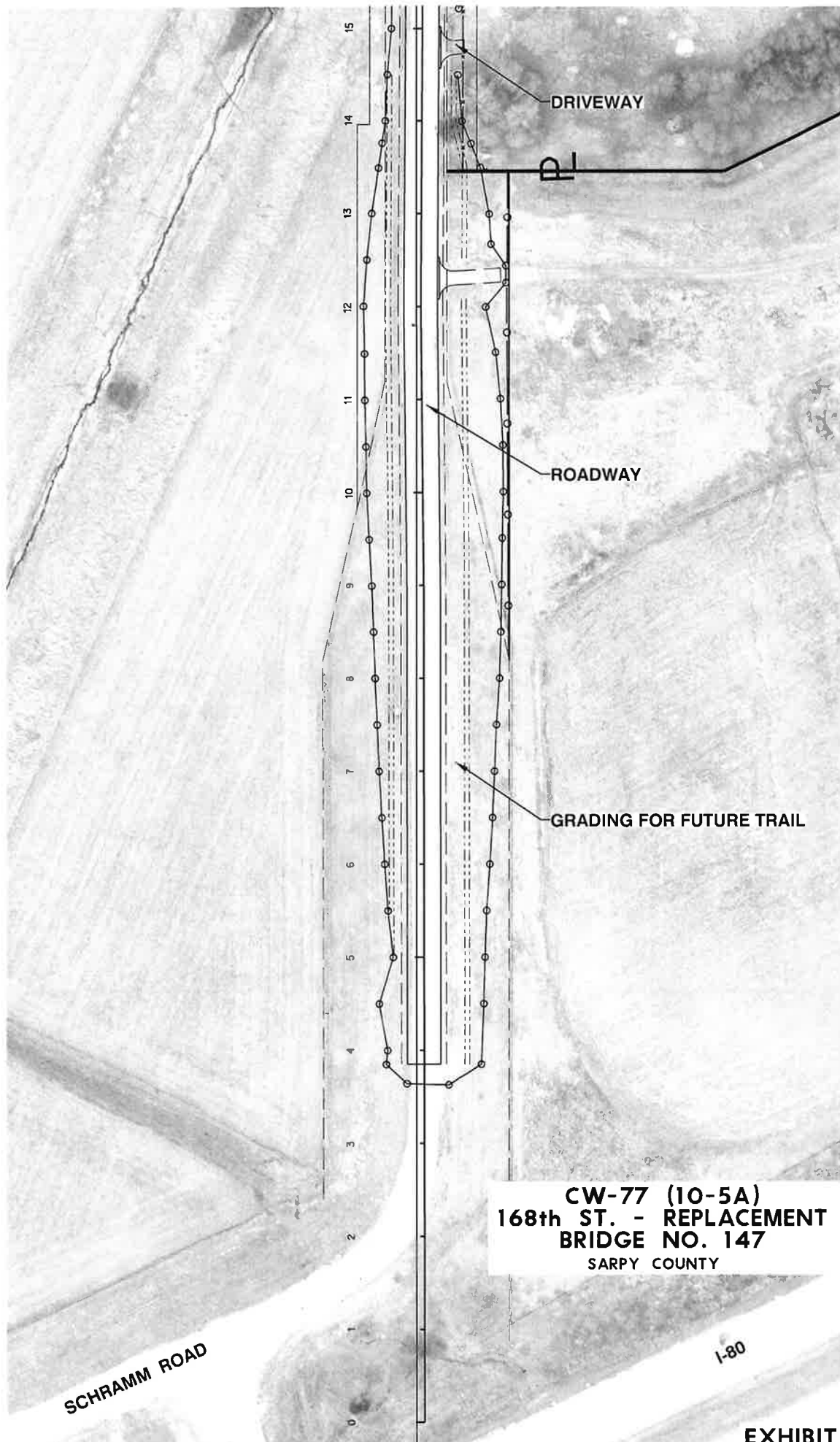
By _____

John Winkler
General Manager

Attest:

By _____

Title



SCHRAMM ROAD

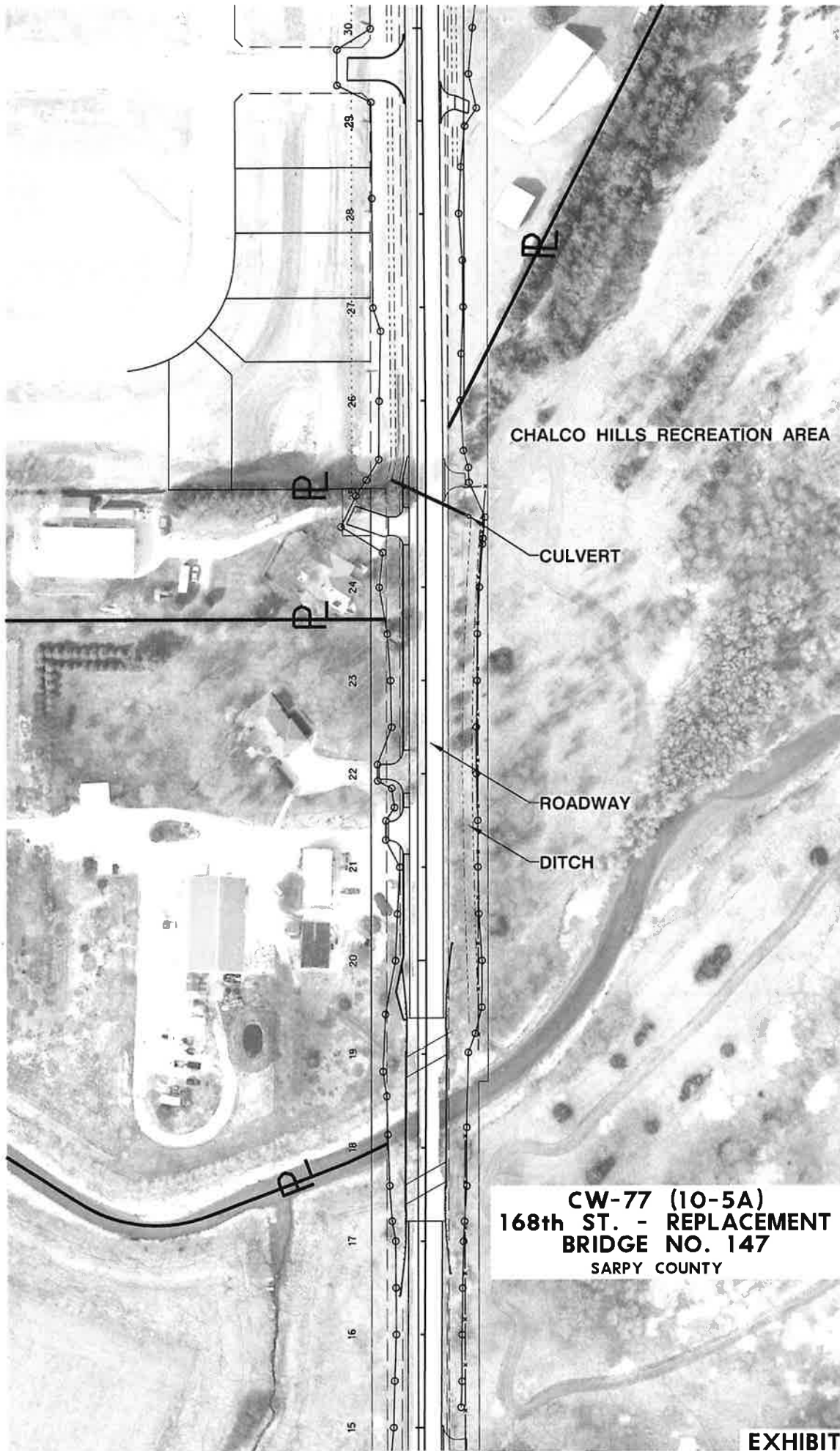
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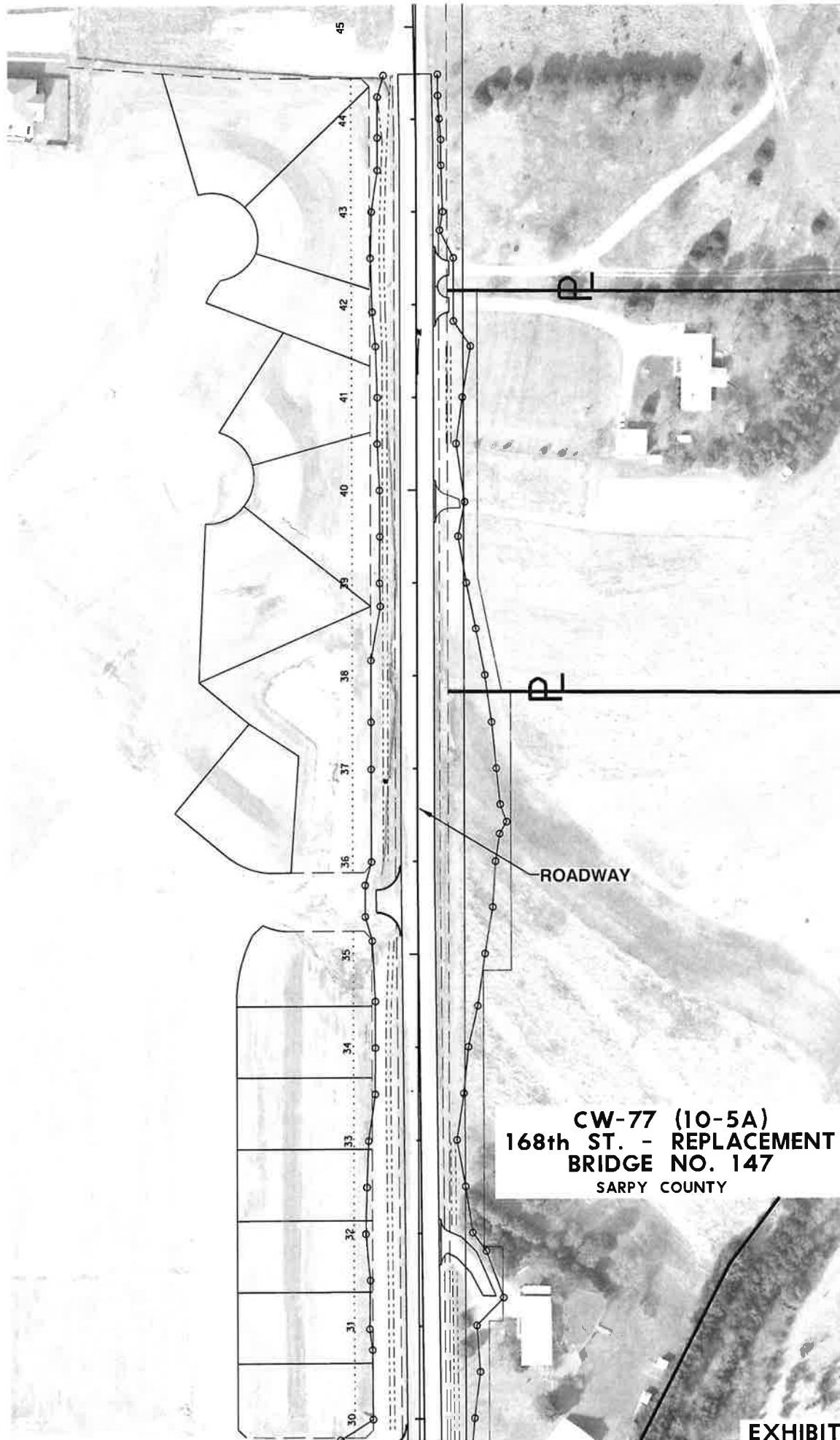
DRIVEWAY

ROADWAY

GRADING FOR FUTURE TRAIL

CW-77 (10-5A)
168th ST. - REPLACEMENT
BRIDGE NO. 147
SARPY COUNTY







168th Street/Bridge # 147 Location Map
View a description for this map

Legend