

MEMORANDUM

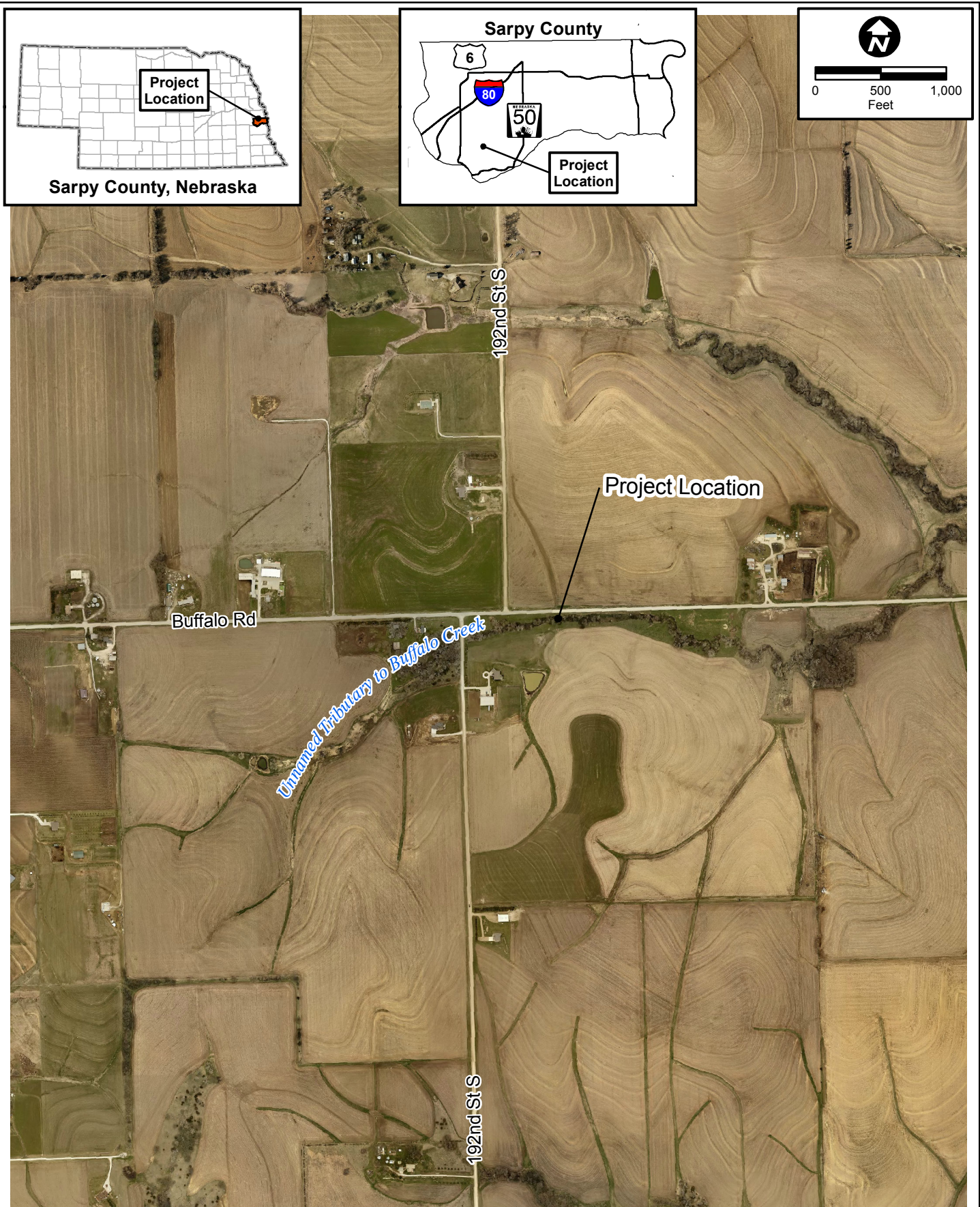
TO: Programs, Projects, and Operations Subcommittee
FROM: Eric Williams, Natural Resources Planner
SUBJECT: Interlocal Agreement with Sarpy County for Buffalo Road Project
DATE: February 1, 2023

The Urban Drainageway Program (UDP) provides technical and financial assistance to control erosion and/or flooding along major urban drainageways. The UDP was originally created in 1987 and guidelines were updated in 2011 to include distinction between varying levels of environmental sensitivity and to provide varying funding amounts.

Funding for a project application from Sarpy County was approved in April 2022 in the amount of \$1,291,566 with an Interlocal Agreement approved in August 2022 specifying that the funding be reimbursed over FY 2023, 2024, and 2025. District staff have continued to coordinate with Sarpy County on this project. A recent design update from the consultant has indicated that the total project cost is expected to increase from the originally anticipated \$2,152,610 to more than \$2,500,000 total for the design and construction of the project due to inflation and increase material costs.

Sarpy County is requesting an increase in the total cost share funding to \$1,500,000 which is the maximum allowable according to the UDP guidelines. A new Interlocal Agreement (attached) specifies that the same reimbursement in the current FY 2023, and in the upcoming FY 2024, with the increased amount of \$1,050,000 to be reimbursed no sooner than FY 2025 and after the completion of the project. District staff will continue to coordinate and provide technical assistance to Sarpy County throughout the design and construction of this project. Sarpy County staff have confirmed an understanding that any additional costs beyond the current estimate would be outside the guidelines of the UDP and additional costs would be solely the responsibility of the County.

- **It is recommended that the Subcommittee recommend to the Board of Directors that the General Manager be authorized to execute the Interlocal Agreement with Sarpy County for the Buffalo Road Channel Project for a total amount up to \$1,500,000 with initial reimbursement funding no earlier than FY 2023, subject to changes deemed necessary by the General Manager and approval as to form by District Legal Counsel.**



Project Location

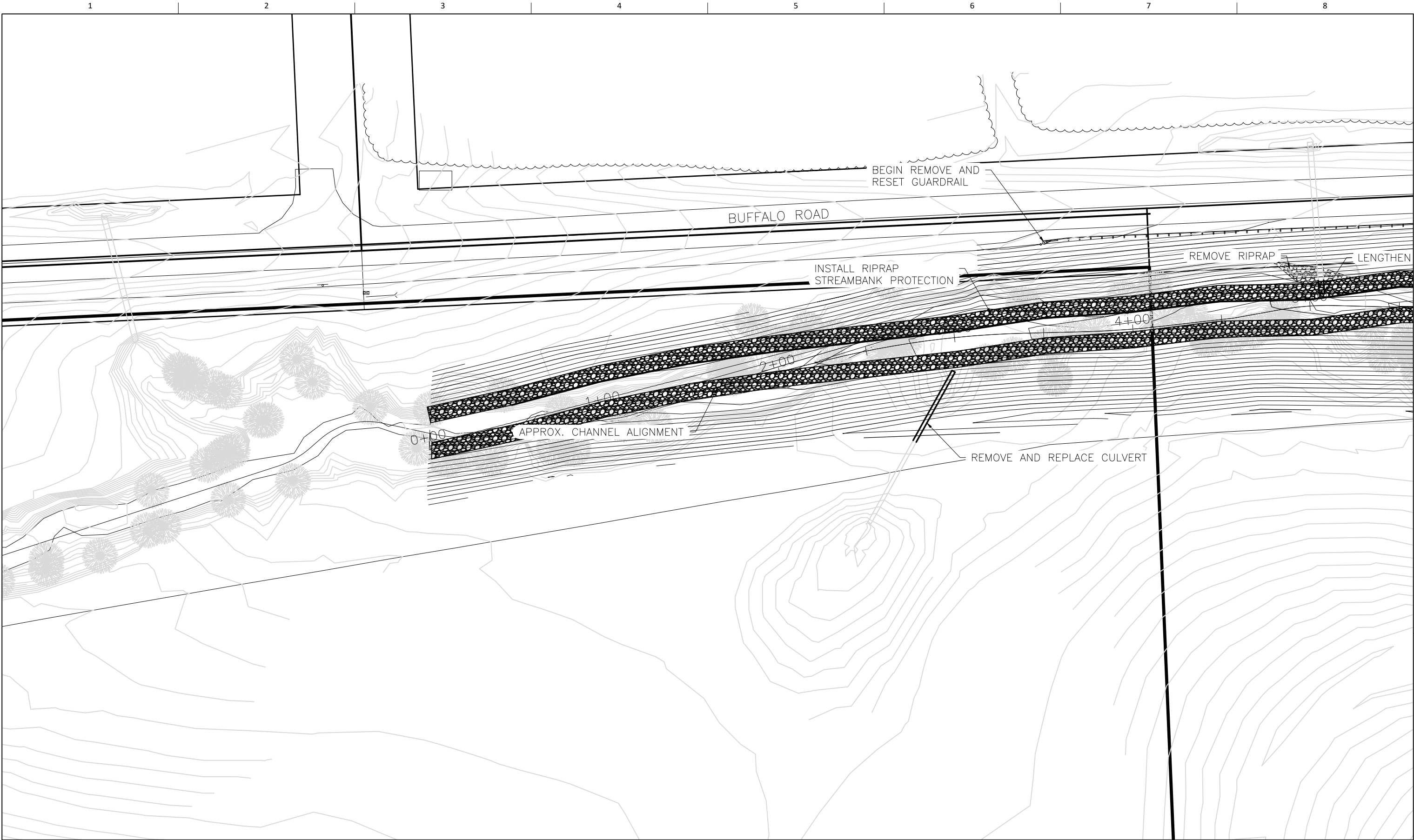
Sarpy County
192nd and Buffalo Road

DATE

May 2014

FIGURE

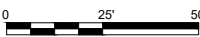
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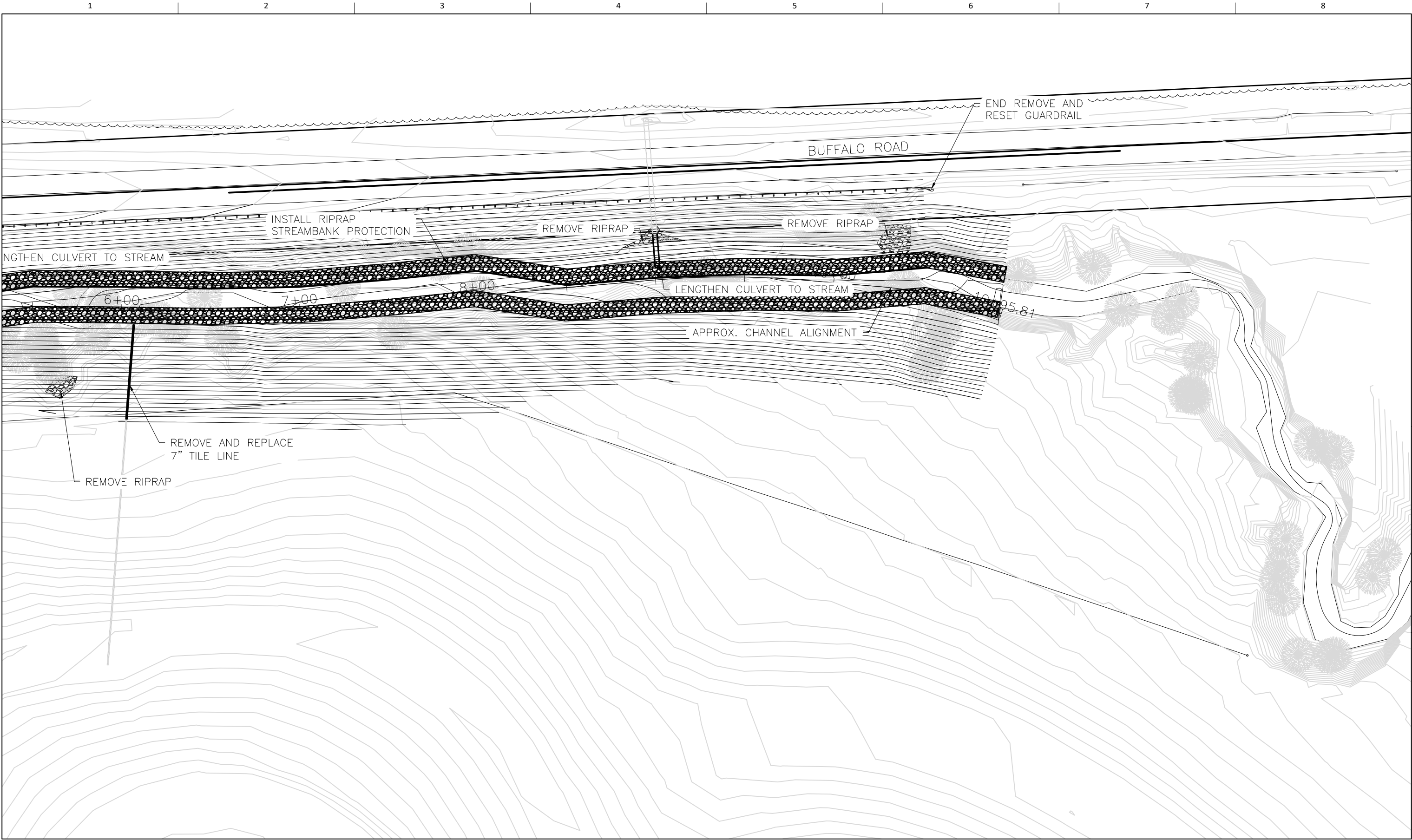
ISSUE	DATE	DESCRIPTION

PROJECT NUMBER	

BUFFALO ROAD STABILIZATION
ALTERNATIVE A - STREAM REHABILITATION



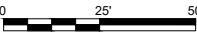
FILENAME
SCALE



ISSUE	DATE	DESCRIPTION

PROJECT NUMBER	

BUFFALO ROAD STABILIZATION
ALTERNATIVE A - STREAM REHABILITATION



FILENAME
SCALE

BUFFALO ROAD - ALTERNATIVE A - STREAM REHABILITATION

SARPY COUNTY

ESTIMATED CONCEPT QUANTITIES



Item No.	Item	Unit	Unit Price	Quantity	Cost	Total
	QUALIFIED COSTS					
1	MOBILIZATION / DE-MOBILIZATION	LS	\$ 110,000	1	\$ 110,000	\$ 110,000
2	GENERAL CLEARING AND GRUBBING	LS	\$ 22,500	1	\$ 22,500	\$ 22,500
3	TREE REMOVAL	EACH	\$ 1,000	125	\$ 125,000	\$ 125,000
4	REMOVE AND EXTEND STORM SEWER	LS	\$ 10,000	1	\$ 10,000	\$ 10,000
	REMOVE ROCK RIPRAP	TON		91		
	REMOVE AND REPLACE 36" CMP CULVERT PIPE	LF		45		
	LENGTHEN CMP CULVERT PIPE (30" AND 36")	LF		27		
	REMOVE AND REPLACE 7" TILE LINE	LF		53		
5	REMOVE AND REPLACE FENCE	LF	\$ 15.00	2,800	\$ 42,000	\$ 42,000
6	EXCAVATION (ESTABLISHED QUANTITY)	CY	\$ 15.00	15,900	\$ 238,500	\$ 238,500
7	HAUL OFF	CY	\$ 35.00	12,600	\$ 441,000	\$ 441,000
8	SALVAGING AND PLACING TOPSOIL	SY	\$ 1.10	10,800	\$ 11,880	\$ 11,880
9	ROCK RIPRAP	TON	\$ 80.00	2,300	\$ 184,000	\$ 184,000
10	GEOTEXTILE	SY	\$ 5.00	4,100	\$ 20,500	\$ 20,500
11	SEEDING	SY	\$ 1.50	22,100	\$ 33,150	\$ 33,150
12	LIVE STAKING	EACH	\$ 7.50	22,000	\$ 165,000	\$ 165,000
13	EROSION CONTROL BLANKET	SY	\$ 4.40	3,700	\$ 16,280	\$ 16,280
14	GRADE CONTROL STRUCTURE	EACH	\$ 19,400	4	\$ 77,600	\$ 77,600
					\$ -	\$ -
					SUBTOTAL	\$ 1,497,410
					CONTINGENCY (25%)	\$ 374,400
					CONSTRUCTION COSTS	\$ 1,871,810
					ENGINEERING	\$ 280,800
					TOTAL QUALIFIED COSTS	\$ 2,152,610

BUFFALO ROAD - ALTERNATIVE A - STREAM REHABILITATION

SARPY COUNTY

ESTIMATED CONCEPT QUANTITIES



Item No.	Item	Unit	Unit Price	Quantity	Cost	Total
	NONQUALIFIED COSTS					
15	EARTH SHOULDER CONSTRUCTION	STA	\$ 400.00	9.5	\$ 3,800	\$ 3,800
16	SALVAGING AND PLACING SHOULDERING MATERIAL	STA	\$ 450.00	9.5	\$ 4,275	\$ 4,275
17	REMOVE AND RESET GUARDRAIL	LF	\$ 30.00	706	\$ 21,180	\$ 21,180
					\$ -	\$ -

SUBTOTAL	\$ 29,255
CONTINGENCY (25%)	\$ 7,300
CONSTRUCTION COSTS	\$ 36,555
ENGINEERING	\$ 5,500
TOTAL NONQUALIFIED COSTS	\$ 42,055

Item No.	Item	Unit	Unit Price	Quantity	Cost	Total
18	PERMANENT EASEMENT, 18905 S. 192ND STREET / PICKETT, LARRY J	AC	\$ 30,000.00	1.22	\$ 36,600	\$ 36,600
19	PERMANENT EASEMENT, TAX LOTS 1A1 & 1B 5-12-11 / SORENSEN, JOYCE C	AC	\$ 30,000.00	3.10	\$ 93,000	\$ 93,000
20	TEMPORARY EASEMENT, 18905 S. 192ND STREET / PICKETT, LARRY J	AC	\$ 15,000.00	0.35	\$ 5,250	\$ 5,250
21	TEMPORARY EASEMENT, TAX LOTS 1A1 & 1B 5-12-11 / SORENSEN, JOYCE C	AC	\$ 15,000.00	0.72	\$ 10,800	\$ 10,800
					\$ -	\$ -

SUBTOTAL	\$ 145,650
CONTINGENCY (25%)	\$ 36,400
ACQUISITION COSTS	\$ 182,050
ENGINEERING	\$ 27,300
TOTAL ACQUISITION COSTS	\$ 209,350
TOTAL COSTS	\$ 2,404,015

INTERLOCAL COOPERATION AGREEMENT
Between
COUNTY OF SARPY, NEBRASKA
And
PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT
For
BUFFALO ROAD - URBAN DRAINAGEWAY PROJECT

THIS AGREEMENT (hereinafter “**THIS AGREEMENT**”) is made by and between the **PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT** (“the **NRD**”) and the **COUNTY OF SARPY, NEBRASKA** (“the **COUNTY**”), pursuant to the authority provided in the Nebraska Interlocal Cooperation Act (§§13-801, R.R.S., 1997, et seq.).

WHEREAS, the NRD administers its Urban Drainageway Program (the “PROGRAM”), which provides cost sharing with local governmental entities for the installation and maintenance of improvements to urban stream channels;

WHEREAS, the COUNTY desires to rehabilitate and restore the channel near Buffalo Road within the COUNTY’s jurisdiction (“the **PROJECT**”);

WHEREAS, the COUNTY desires to receive cost-sharing assistance from the NRD for a portion of the costs of the PROJECT through the PROGRAM; and,

WHEREAS, the Board of Directors of the NRD has approved the PROJECT for participation in the PROGRAM.

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

1. PROJECT BENEFITS. The parties do hereby find and determine that the PROJECT will be of predominantly general benefit to the COUNTY and the NRD, with only an incidental special benefit.

2. PROJECT PARTICIPANTS. The PROJECT shall be undertaken without any separate entity being created, and the duties and responsibilities of the parties with respect to the PROJECT shall be as defined by THIS AGREEMENT.

3. PROGRAM REQUIREMENTS. The COUNTY shall comply with the requirements for the Program as promulgated by the NRD and set forth in the NRD's Directors Policy Manual. THIS AGREEMENT and the PROGRAM'S requirements shall be construed in a manner giving full effect to both. In the event there is an unavoidable conflict between a specific provision of THIS AGREEMENT and a specific provision of the PROGRAM'S requirements, THIS AGREEMENT shall control.

4. APPLICATION AND SUBMISSION OF PLANS. The COUNTY'S application and documents accompanying that application to the PROGRAM are attached hereto as EXHIBIT A, and are incorporated into THIS AGREEMENT.

Prior to commencing performance of the relevant phase of the PROJECT, the COUNTY shall submit to the NRD the PROJECT plans, bid documents, construction contract, and implementation schedules (collectively the "**DOCUMENTS**"). If during any phase of the PROJECT, there are material changes to the application or the DOCUMENTS, the COUNTY shall timely inform the NRD, in writing, of the material change and submit an updated version of the relevant document or documents that were impacted by the material change.

5. NRD TECHNICAL ASSISTANCE. The NRD shall provide technical assistance to the COUNTY regarding the PROJECT within the limits of its expertise, as may be requested by the COUNTY.

6. RIGHTS-OF-WAY ACQUISITION. Lands, easements and rights-of-way, which the COUNTY determines is necessary for construction of the PROJECT or for the permanent operation, maintenance, repair, replacement, management and regulation of the PROJECT ("the **PROJECT RIGHTS-OF-WAY**"), shall be obtained by the COUNTY, which shall hold title thereto. The costs of the PROJECT RIGHTS-OF-WAY shall be deemed to be a cost of the PROJECT.

7. PERMITS. All necessary local, state and federal permits, which the COUNTY determines are necessary for construction of the PROJECT or for the permanent operation, maintenance, repair, replacement, management and regulation of the PROJECT, shall be obtained by the COUNTY, which shall hold the same. The cost of such permits shall be deemed a cost of the PROJECT.

8. UTILITY RELOCATIONS. The COUNTY shall be solely responsible for relocation of any utilities that are determined to interfere with construction of the PROJECT, or with the operation, maintenance, repair, replacement, management or regulation of the PROJECT. The cost of such utility relocations shall be deemed to be a cost of the PROJECT.

9. CONSTRUCTION CONTRACT FOR PROJECT. The COUNTY shall solicit competitive sealed bids for construction of the PROJECT. The provisions of the construction contract shall include, but not be limited to, covenants and conditions providing that the NRD shall be named as an additional insured in all insurance provided to the COUNTY by the selected contractor.

10. COMPETITIVE BIDS. Within a reasonable time after COUNTY'S receipt and opening of sealed bids for construction of the PROJECT, the COUNTY shall deliver a summary thereof to the NRD, together with the identification by the COUNTY of the bidder whom the COUNTY determines is the lowest responsible bidder. The COUNTY shall accept such bid and shall award to such bidder the contract to construct all or one or more portions of the PROJECT (the "**CONTRACTOR**"). In the event that the COUNTY selects a bidder who did not submit the lowest bid, the COUNTY shall provide a written explanation of its decision to select a higher bid to the NRD. The COUNTY, through the CONTRACTOR, shall construct the PROJECT in accordance with the plans and specifications the COUNTY submitted to the NRD.

11. NRD CONTRIBUTION. As its contribution(s) towards the aforesaid costs of the original engineering and construction and of the PROJECT ("the **NRD CONTRIBUTION**"), the NRD shall reimburse the COUNTY for up to a total of One Million and Five Hundred Thousand Dollars (\$1,500,000.00) for the costs of the PROJECT. Such contribution(s) shall be paid in yearly installments. The first such

installment shall be paid no earlier than the NRD'S 2023 fiscal year and shall not exceed \$175,000. The second installment shall be paid no earlier than NRD'S 2024 fiscal year and shall not exceed \$275,000. The third installment shall be paid no earlier than NRD'S 2025 fiscal year and shall not exceed \$1,050,000.

The COUNTY shall provide an invoice(s) to the NRD detailing all of the billings and costs for which it seeks reimbursement prior to the NRD paying any of the installments. Each installment shall be paid to the COUNTY within 45 days of the COUNTY'S submission to the NRD of the invoice(s) referenced above. Under no circumstances shall the NRD CONTRIBUTION exceed the total sum of \$1,500,000, nor shall the NRD be responsible for paying any monies related to the PROJECT in excess of \$1,500,000.

The COUNTY shall be solely responsible to pay all other costs and expenses associated with the PROJECT, including but not limited to the operation and maintenance of the PROJECT, without any further NRD reimbursement or contribution. Any State, Federal, foundation or other grants received by either of the parties at any time for purposes of offsetting costs and expenses of the PROJECT shall be credited to both parties in equal shares against their respective obligations hereunder for costs and expenses of the PROJECT.

The COUNTY shall publicly acknowledge the NRD'S contribution to the PROJECT on a permanent sign, plaque, or other fixture (containing at a minimum the NRD'S name and logo), to be maintained by the COUNTY for the life of the PROJECT.

12. ABANDONMENT OF THE PROJECT. In the event the COUNTY abandons the PROJECT prior to its completion, the NRD shall not be responsible for any costs, payments, or billings related to the PROJECT. If at the time of abandonment, the NRD has paid the COUNTY an installment of the NRD CONTRIBUTION or any other monies related to the PROJECT, the COUNTY shall return and refund any and all installment(s) or monies related to the PROJECT paid by the NRD to the NRD.

13. OPERATION AND MAINTENANCE OF THE PROJECT. After completion of PROJECT and COUNTY acceptance of the PROJECT from the CONTRACTOR, the COUNTY, at its own and sole cost and expense, shall permanently

operate, maintain, repair, replace, manage and regulate the PROJECT during its useful life, as the COUNTY determines necessary, and in accordance with applicable and generally-accepted engineering practices, state and federal statutes and regulations, including but not limited to FEMA regulations and requirements for continuation of flood insurance, and any applicable USACE requirements necessary to preserve the eligibility of PROJECT for benefits under the Public Law 84-99 maintenance program.

14. RISK OF LOSS. The COUNTY shall have the insurable interest in, and shall bear the sole risk of loss of or damage to, the PROJECT and all PROJECT components, whether such loss or damage results from flood or other casualty whatsoever.

15. INDEMNIFICATION. The COUNTY shall indemnify and hold the NRD harmless from and against all liability and damages resulting from the PROJECT, including but not limited to the design, construction, operation, or maintenance of the PROJECT, and against all demands, causes of action, and claims arising therefrom including court costs and attorney fees, except as may be caused by the negligence of the NRD.

16. 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.

17. NEW EMPLOYEE WORK ELIGIBILITY STATUS. The parties hereto are required and hereby agree to 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.

18. ENTIRE AGREEMENT. THIS AGREEMENT contains the entire agreement between the parties, 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.

19. NOTICES. All notices herein required shall be in writing and shall be served on the parties at their principal offices, or at such other address as either party may hereafter designate to the other party in writing for service of notice to itself. The mailing of a notice by certified or registered mail, return receipt requested, or delivery thereof by messenger, shall be sufficient service hereunder.

20. 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.

21. APPLICABLE LAW. Each party to THIS AGREEMENT shall follow all applicable federal and state statutes and regulations in carrying out the faithful performance of THIS AGREEMENT. Nebraska law will govern the terms and the performance under THIS AGREEMENT.

22. 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.

23. CAPTIONS. Captions used in THIS AGREEMENT are for convenience and not for use in the construction of THIS AGREEMENT.

24. Counterparts. THIS AGREEMENT may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

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


THIS AGREEMENT is executed by the **COUNTY OF SARPY, NEBRASKA** on this ____ day of _____, 2023, pursuant to resolution duly adopted by its Board of Commissioners.

COUNTY OF SARPY, NEBRASKA

By _____
Chairperson, Board of County Commissioners

Attest:

COUNTY Clerk
Approved as to Form:

_____
Handwritten signature of Nicole Spitzberg in blue ink.

COUNTY Attorney

The NRD has executed THIS AGREEMENT on _____, 2023.

**PAPIO-MISSOURI RIVER NATURAL
RESOURCES DISTRICT**

By _____
JOHN WINKLER, General Manager

EXHIBIT A

APPLICATION



Resolution 2022-070

BOARD OF COMMISSIONERS
SARPY COUNTY, NEBRASKA

Approving Papio-Missouri River Natural Resources District Urban Drainageway Program Grant Application for the Sarpy County Buffalo Road Channel Rehabilitation Project

Whereas, pursuant to Neb. Rev. Stat. §23-104(6), the County has the power to do all acts in relation to the concerns of the County necessary to the exercise of its corporate powers; and,

Whereas, pursuant to Neb. Rev. Stat. §23-103, the powers of the County as a body are exercised by the County Board; and,

Whereas, Buffalo Creek has eroded the roadway/channel slope to an over steepened section, risking potential roadway safety along Buffalo Road in Sarpy County; and,

Whereas, the Urban Drainageway Project is an authorized program of the Papio-Missouri River Natural Resources District to provide technical and financial assistance to municipalities to control erosion and/or flooding along major urban drainageways; and,

Whereas, grant funds are available for application which, if awarded, would reimburse the County 60% of the costs for the repair project, currently estimated to be \$2,152,610 in total; and,

Whereas, the grant application requires signature by the County Board Chairman; and,

Whereas, Sarpy County is committed to the project and supports the grant application.

NOW THEREFORE BE IT RESOLVED by the Sarpy County Board of Commissioners that the Board Chairman is hereby authorized to sign the Urban Drainageway Program - Application Form and any other associated documents necessary to effect the intent of this resolution.

The above Resolution was approved by a vote of the Sarpy County Board of Commissioners at a public meeting duly held in accordance with the applicable law on the 15 day of March 2022

Attest:
SEAL




Sarpy County Chairman


Sarpy County Clerk/Register of Deeds Chief Deputy