

BOARD OF COUNTY COMMISSIONERS SARPY COUNTY, NEBRASKA

**RESOLUTION AUTHORIZING CHAIRMAN TO SIGN INTERLOCAL
COOPERATION ACT AGREEMENT WITH SANITARY AND IMPROVEMENT
DISTRICT 291**

WHEREAS, pursuant to Neb. Rev. Stat. § 23-104 (Reissue 2012), 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 (Reissue 2012), the powers of the County as a body are exercised by the County Board; and,

WHEREAS, pursuant to Neb. Rev. Stat. §13-801 *et seq.* (Reissue 2012), an Interlocal Cooperation Act Agreement has been proposed with Sanitary and Improvement District 291 and Sarpy County for the allocation of the cost of certain road improvements to Giles Road (approximately 186th Street to 192nd Street) in conjunction with the Whitetail Creek residential development; and,

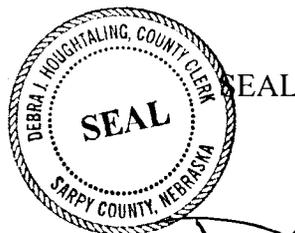
WHEREAS, it is in the best interests of the residents of Sarpy County to participate in said Interlocal Cooperation Agreement, a copy of which is attached hereto and incorporated by reference.

NOW, THEREFORE, BE IT RESOLVED by the Sarpy County Board of Commissioners that this Board hereby approves and adopts the attached Interlocal Cooperation Agreement which commences upon the occurrence of the signatures of all parties to the Agreement.

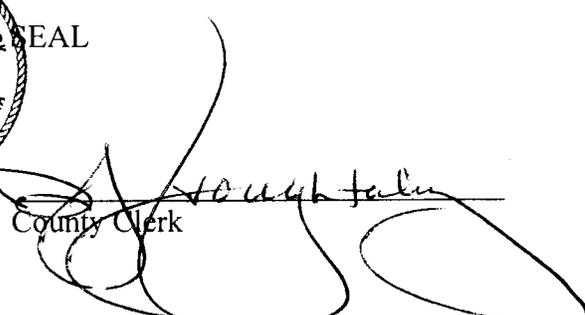
BE IT FURTHER RESOLVED that the Chair of this Board, together with the County Clerk, is hereby authorized to sign on behalf of this Board the Interlocal Cooperation Agreement.

The above Resolution was approved by a vote of the Sarpy County Board of Commissioners at a public meeting duly held in accordance with applicable law on the 20th day of August 2013.

Attest




Sarpy County Board Chairman


County Clerk

INTERLOCAL COOPERATION AGREEMENT
(Giles Street Improvements – 186th Street to 192nd Street)

This Agreement made as of the dates indicated at the signatures below by and between Sanitary and Improvement District Number 291 of Sarpy County, Nebraska (hereinafter “SID 291”), and the County of Sarpy, State of Nebraska (hereinafter “County”). Collectively, District, and County are hereinafter sometimes referred to as the “Parties.”

PRELIMINARY STATEMENT

The County of Sarpy is a duly existing body, corporate and politic in accordance with and by virtue of the laws of the State of Nebraska.

SID 291 is a duly existing body corporate and politic in accordance with and under the laws of the State of Nebraska as more particularly set forth in Article 7 of Chapter 31 of the Revised Statutes of Nebraska, 1943, and any applicable amendments thereto, and the Decree of the District Court of Sarpy County, Nebraska.

SID 291 is presently undertaking the development of the real property legally described as Whitetail Creek which abuts the north side of Giles Road and the east side of 192nd Street in Sarpy County, Nebraska.

In order to promote the health, safety and welfare of the residents of all of the Parties to this Agreement and pursuant to the authority granted to the Parties per the Interlocal Cooperation Act, Section 13-801, et seq., the County and SID 291 are authorized to enter into this Agreement with each other so as to make the most efficient use of their powers by enabling them to cooperate on a basis of mutual advantage and thereby provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population and other factors influencing the needs and development of such political subdivisions.

It is in the best interests and would be mutually advantageous to the County and SID 291 to improve at this time, pursuant to this Agreement a portion of Giles Road from 186th Street to 192nd Street as shown on the site plan (the "Site Plan") attached hereto as Exhibit "A" and incorporated herein by this reference. Such improvements shall include, without limitation, relocation of utilities, storm sewers and other drainage facilities, paving and related improvements, hereinafter referred to as the "Improvements". Said Improvements are generally described within the Preliminary Opinion of Engineer's Probable costs from The Sarpy County Engineer, a copy of which is attached hereto as Exhibit "B" and incorporated herein by this reference, hereinafter referred to as the "Estimated Costs." Said attachments are intended to show only a basic description of the work and the costs presently estimated and may be revised from time to time.

NOW, THEREFORE, in consideration of the covenants herein set forth, the County and SID 291 do hereby agree and contract with each other as follows:

1. No Administrative Entity. There shall be no separate legal or administrative entity created to administer this Agreement and, therefore, no separate budget established for such an entity.

2. Plans and Design. The County will contract with Lamp Rynearson and Associates, Inc. for the preparation of plans and specifications for the construction of the Improvements within this Interlocal Agreement with the County being the lead agency. As the Lead Agency, the County shall have control and responsibility for the construction of the Improvements. Lamp Rynearson and Associates, Inc. employs registered professional engineers and shall hereinafter be referred to as "Engineers" in this Agreement. The final plans and specifications shall be reviewed and approved by each of the Parties hereto, which approval shall not be unreasonably withheld.

3. Construction. Subject to the conditions and provisions hereinafter specified, The County agrees to cause the Improvements to be constructed in accordance with the plans and specifications approved by the Parties hereto in accordance with Paragraph 2. During the course of the construction of the Improvements, the County and SID 291 may at any time cause inspection of the work to insure compliance with the final plans and specifications. The Parties hereto agree that the County will own, operate and, at its cost, maintain the Improvements within the right-of-way, upon completion of the project.

All construction work occasioned by this Agreement shall be performed by the contractors furnishing the lowest and best bid as determined pursuant to formal bidding requirements as provided by law and as thereafter approved by the Parties.

All contractors performing work on the Improvements pursuant to this Agreement shall furnish a performance bond to the Lead Agency, which shall remain in full force and effect and until acceptance of the construction and which, in part, shall provide for the good and faithful performance of the construction contract, plans and specifications by contractor, for compliance by contractor with all applicable laws, for payment of material, labor and rentals, and for the payment of the unemployment payment to the Department of Labor of the State of Nebraska as provided by law.

All contracts with third parties pertaining to the construction of Improvements shall, in part, provide full and faithful adherence to the plans and specifications for the work, partial payments during construction based upon work completed and certified by the Lead Agency's engineers for final payment upon completion and certification by the Parties.

4. Payment of Costs of Improvements. The estimated costs for the Improvements are as shown on the attached Exhibit "B". Payment for the actual costs of the Improvements shall be made by each of the Parties hereto in accordance with the terms of this Agreement. SID 291 shall pay the County one third (33.33%) of the total cost of the project as their prorata share of the Improvements (SID 291 Contribution). These payments shall be made as per the schedule detailed in paragraph 5 below. If the Schedule of Payment requires SID 291 to pay the County prior to the determination of actual costs, then the amount of the current required payment shall be based upon the attached estimated costs (Exhibit "B"). After determination of the actual total

costs certified by Lamp Rynearson and Associates, SID 291 and the County will reconcile the amount paid by SID 291 so that the total amount paid by SID 291 is one third (33.33%) of the actual total costs of the Improvements. The actual total costs of the Improvements shall include engineering, attorneys' fees, publication costs, testing expenses, accounting, property acquisition, construction and related fees and expenses. The actual total costs of the Improvements shall not include any costs of financing or acquiring financing incurred by any Party.

5. Schedule of Payment. SID 291 shall make payment for its prorata share of the cost of the Improvements on a regular basis to the County within ninety (90) days of being invoiced. The County shall will not cause the improvements to be installed any earlier than January 1, 2018 and no payment shall be due from SID 291 prior to January 1, 2018. If County installs the road Improvements prior to January 1, 2018, payment from SID 291 shall be due no earlier than January 1, 2018.

6. Purpose of Agreement: Timing of Work. It is the mutual desire and intention of the Parties that the Improvements shall be completed as expeditiously as possible. Accordingly, the Parties hereby agree to cooperate with each other and make reasonable, good faith efforts to perform their obligations hereunder in a timely manner so as to achieve completion of all of the Improvements contemplated by this Agreement. No separate legal or administrative entity will be created hereunder. Existing Agents of the respective Parties will complete the terms of this contract.

7. Records. The County shall maintain records of all construction costs incurred in connection with the Improvements and SID 291 shall have the right to audit and review such records at any time to assure that such records are accurate.

8. Duration. This Agreement shall continue until such time as the Improvements to be performed by the County pursuant to this Agreement have been completed and paid for, unless this Agreement is terminated sooner by the written agreement of all Parties hereto.

9. Appointment of Administrators. The Sarpy County Public Works Department shall administer this contract on behalf of the County. Lamp, Rynearson & Associates, Inc., shall administer this contract on behalf of SID 291. The Parties hereto agree that the County shall serve as the lead agency for the said Improvements.

10. Maintenance. The maintenance and preservation of all Improvements in the right-of-way shall be that of the County upon completion of the Improvements.

11. Entire Agreement. This instrument contains the entire agreement of the Parties and shall be binding upon the successors and assigns of the respective Parties. No amendments, deletions, or additions shall be made to this Agreement except in writing signed by all Parties. Nebraska law shall govern the terms and performances under this Agreement.

12. Future Reimbursement. Upon development of the land south of Giles Road and adjacent to these Improvements, the County, to the best of County's ability, shall cause the developer of such property to enter into a modified agreement with the County to provide for the reimbursement by such developer or its assigns of: a) any right-of-way or easement acquisition costs to any of the Parties herein required to complete the Improvements; and, b) thirty-three percent (33%) of the actual total costs certified by Lamp Rynearson and Associates to pay for their prorata share of the Improvements. This cost would be reimbursed to the County, who will bear this cost until this land is developed.

13. In the event any portion of this Agreement may be held invalid or unenforceable for any reason, it is agreed that any invalidity or unenforceability shall not affect the remainder of this Agreement and 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 and enforceable.

14. This Agreement shall not release the Parties to this Agreement from their responsibilities established by the Statutes of the State of Nebraska.

15. The Parties agree to comply with the residency verification requirements of Neb. Rev. Stat. §4-108 through §4-114. The Parties 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.

16. The Parties warrant to each other that they have not employed nor retained any company or person, other than a bona fide employee working solely for the Parties to this Agreement to solicit or secure this contract, and that they have not paid or agreed to pay any company or person other than a bona fide employee working solely for the Parties, any fee, commissions, percentage, brokerage fees, gifts or other consideration, contingent upon or resulting from the award or making of this contract.

IN WITNESS WHEREOF, we, the contracting Parties, by our respective duly authorized agents, hereby enter into this Agreement, effective on the day and year affixed hereon. Executed in duplicate on the dates indicated with the signatures below.

Executed by Sarpy County this 20th date of August, 2013.

SARPY COUNTY, NEBRASKA,
A Political Subdivision

James Wane 8-20-13
Chairperson, Board of Commissioners



Attest:

Debra J. Houghtaling
Sarpy County Clerk

Approved as to form:

Bill Moore
Sarpy County Attorney

Executed by SID 291 this 5th date of August, 2013.

SANITARY & IMPROVEMENT DISTRICT
No. 291 of Sarpy County, Nebraska

Leslie
Chairperson, Board of Trustees

Attest:

M. E. ...
Clerk, Board of Trustees

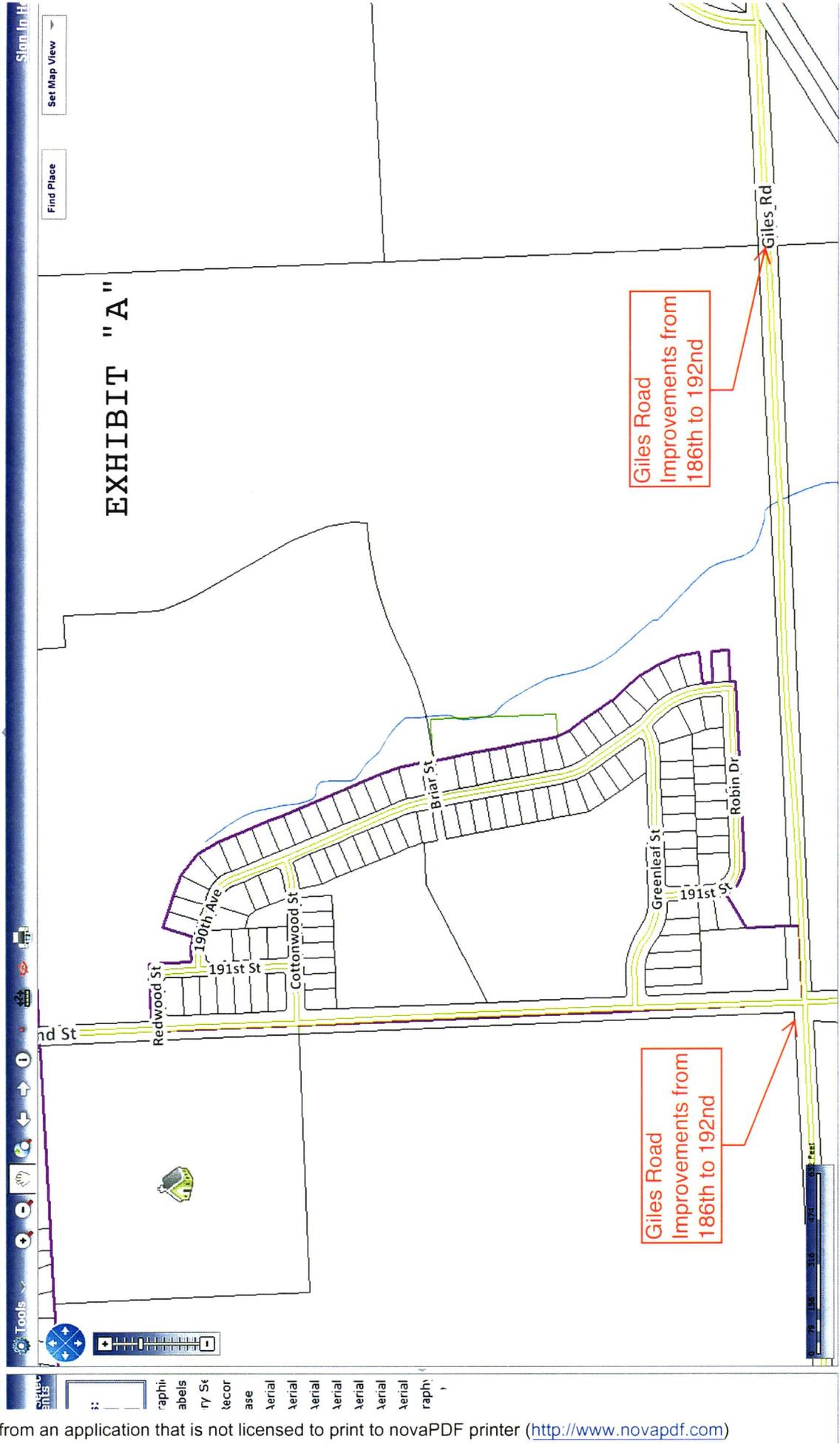


EXHIBIT "B"

Giles Road
192nd Street to 186th Street
Preliminary Opinion of Engineer's Probable Costs

3 - 12 Foot Lanes

<u>Description</u>	<u>Quantity</u>	<u>Unit</u>	<u>Unit Price</u>	<u>Total</u>
Construct 9" Concrete Pavement, Class 47B-3500	2,740	LF	\$375.00	\$1,027,500.00
Remove and Replace Existing Structure (CONSPAN)	1	EA	\$400,000.00	\$400,000.00
			Subtotal	\$1,427,500.00
			Contingencies and Soft Costs (20%)	\$285,500.00
			Grand Total	\$1,713,000.00