BOARD OF COUNTY COMMISSIONERS SARPY COUNTY, NEBRASKA

RESOLUTION APPROVING AGREEMENT AND AUTHORIZING CHAIRMAN TO SIGN THE SEWER CONNECTION AND WASTEWATER SERVICE AGREEMENT WITH SANITARY AND IMPROVEMENT DISTRICT 330
(Lots 1 & 2, Outlots A & B, R & R Commerce Park Replat One)

WHEREAS, pursuant to Neb. Rev. Stat. § 23-104, 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, Sarpy County operates a sanitary sewer system pursuant to County Industrial Sewer Act, found at Neb. Rev. Stat. § 23-3601, et seq; and,

WHEREAS, Sarpy County has an agreement for wastewater service with City of Omaha at Resolution 2013-345, as amended, in which City of Omaha has agreed to treat wastewater which flows through the Sarpy Interceptor Sewer ("Sarpy Sewer") from the Sarpy County Service Area; and,

WHEREAS, Sanitary and Improvement District 330 (SID 330) is developing the real property generally located on the northwest corner of Highway 50 and Gold Coast Road, known as R & R Commerce Park. In 2017, SID 330 and Sarpy County entered into an agreement at Resolution 2017-422 which outlined the requirements, responsibilities, and payment of sewer connection fees and sewer use fees for the R & R Commerce Park connection to the Sarpy Industrial Sewer for the first phase of development, Lot 1 R & R Commerce Park. At this time, SID 330 has commenced the development of phase 2 including Lots 1 & 2 and Outlots A & B, R & R Commerce Park Replat One; and,

WHEREAS, SID 330 desires to provide for the flow, transportation and handling of sewage collected in or flowing into the SID 330 sewer to be constructed and has requested connection to the Sarpy Sewer and to permit flowage thereof into the Sarpy Sewer; and,

WHEREAS, an agreement has been proposed with SID 330 outlining the requirements, responsibilities, and payment of sewer connection fees and sewer use fees for the proposed SID 330 sewer connection to the Sarpy Sewer for phase 2. A copy of said Sewer Connection and Wastewater Service Agreement is attached hereto; and,

NOW, THEREFORE, BE IT RESOLVED by the Sarpy County Board of Commissioners that this Board hereby approves and adopts the attached Sewer Connection and Use Agreement with SID 330.
BE IT FURTHER RESOLVED that the Chair of this Board, together with the County Clerk, is hereby authorized to sign the attached agreement on behalf of this Board, as well as take all other actions necessary to accomplish the terms of said 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 11th day of December, 2018.

Attest

Sarpy County Board Chairman

County Clerk
MEMORANDUM
December 4, 2018

TO: Sarpy County Board of Commissioners
FROM: Nicole L. Spitzenberger, Deputy Sarpy County Attorney
RE: Sarpy County – Sanitary and Improvement District 330 (SID 330) Agreement for Wastewater Connection and Service – Phase 2 R & R Commerce Park

SID 330 is presently developing the real property generally located on the northwest corner of Highway 50 and Gold Coast Road, known as R & R Commerce Park. In 2017, SID 330 and Sarpy County entered into an agreement at Resolution 2017-422 which outlined the requirements, responsibilities, and payment of sewer connection fees and sewer use fees for the R & R Commerce Park connection to the Sarpy Industrial Sewer for the first phase of development, Lot 1 R & R Commerce Park. At this time, SID 330 has commenced the development of phase 2 including Lots 1 & 2 and Outlots A & B, R & R Commerce Park Replat One. SID 330 would like to connect phase 2 to the Sarpy Industrial Sewer and the Agreement for Wastewater Connection and Service outlines the requirements, responsibilities, and payment of sewer connection fees and sewer use fees for the R & R Commerce Park phase 2 development.

Please contact me with any questions.

Nicole L. Spitzenberger

CC: Dan Hoins
Scott Bovick
Brian Hanson
Art Beccard
AGREEMENT FOR SEWER CONNECTION AND WASTEWATER SERVICE BETWEEN COUNTY OF SARPY, NEBRASKA AND SANITARY AND IMPROVEMENT DISTRICT No. 330 of Sarpy County, Nebraska (Lots 1-2, Outlots A & B, R & R Commerce Park Replat One)

THIS AGREEMENT, made this 11th day of December, 2018 by and between Sanitary and Improvement District No. 330 of Sarpy County, Nebraska, a Political Subdivision of the State of Nebraska (hereinafter called “District”), the County of Sarpy, a Political Subdivision of the State of Nebraska (hereinafter called “County”). Collectively, District and County, are hereinafter sometimes referred to as the “Parties.”

RECITALS

WITNESSETH THAT:

WHEREAS, District has constructed or is contemplating constructing interior sanitary sewers within its boundaries in the development/subdivision known as R & R Commerce Park Replat One, as shown on Exhibit A, attached hereto and incorporated by reference herein; and,

WHEREAS, County owns and operates Sarpy County Industrial Sewer (hereinafter “Sarpy Sewer”) in the Papillion Creek Watershed pursuant to the Nebraska County Industrial Sewer Construction Act (Neb. Rev. Stat. Sect. 23-3601, et seq.) (hereinafter “the Act”); and,

WHEREAS, sewage from the Sarpy Sewer flows into the City of Omaha Wastewater Treatment System pursuant to the Act; and,

WHEREAS, County has an agreement with the City of Omaha, titled “Agreement for Wastewater Service Between the City of Omaha, Nebraska, Sarpy County, Nebraska and the City of Gretna, Nebraska” approved by County Resolution 2013-345 (hereinafter “the Omaha Sewer Agreement”), which said Omaha Sewer Agreement provides the terms for wastewater treatment of sewage flowing from the Sarpy Sewer to the Omaha Wastewater Treatment System; and,

WHEREAS, District desires to provide for the flow, transportation and handling of sewage collected in or flowing into the District Sewer P-2 constructed or to be constructed by it, and has requested to connect to the Sarpy Sewer and permit flowage thereof into the Sarpy Sewer within the meaning of the Act; and,

WHEREAS, District desires to have County convey District’s sewage through the Sarpy Sewer; and,

WHEREAS, it is to the mutual advantage of the Parties hereto and in the general public interest for the sewage of District to flow into the Sarpy Sewer; and,
WHEREAS, the accomplishment of such an arrangement is authorized by law.

NOW, THEREFORE, in consideration of the mutual agreements and covenants of the Parties hereto, it is agreed by and between the Parties as follows:

1. **Definitions.** As used herein, the following terms shall have the following meanings:

   a. **Agreement.** The term “Agreement” shall mean this Sewer Connection and Wastewater Service Agreement and all Exhibits to this Agreement.

   b. **County Board.** The term “County Board” shall mean the County Board of Commissioners of Sarpy County, Nebraska.

   c. **Development Area.** The term “Development Area” shall mean approximately 35.61 acres of land as described on Exhibit A attached hereto.

   d. **District Sewer Phase 1.** The term “District Sewer P-1” shall include the District Sewers and appurtenances thereto previously constructed, as shown on Exhibit B attached hereto.

   e. **District Sewer Phase 2.** The term “District Sewer P-2” shall include, whether now in existence or hereafter constructed, all sanitary sewers, District Sewers and appurtenances thereto beginning at approximately the west side of Lot 1 R & R Commerce Park Replat One extending westerly approximately 1,325 linear feet, as shown on Exhibit B attached hereto.

   f. **Sarpy Sewer.** The term “Sarpy Sewer” shall be deemed to include, whether now in existence or hereafter constructed, any wastewater or sanitary sewer or system of sewers owned by County and any wastewater or sanitary sewer or system of sanitary sewers not a part of the sewer system of District and not owned by County, but through which County has an easement, license or other right or other license to transport wastewater and sanitary sewage.

   g. **Wastewater.** The term “Wastewater” shall include, but not be limited to, wastewater and sanitary sewage.

   h. **Connection point.** The point at which P-2 connect to previously constructed P-1, as shown on Ex B.

2. **District Easements and Licenses.** District hereby grants and conveys:

   a. A perpetual easement and license unto County, its successors and assigns, to transmit through District Sewer P-2, wastewater from any area now or thereafter serviced, directly or indirectly, by the Sarpy Sewer system or any part thereof; and
b. A perpetual easement and license unto County, its successors and assigns, and County employees, representatives, and agents, to enter upon and into the property, streets, roads, public ways, and easements located within the Development Area for the purpose of inspecting, maintaining, repairing, or reconstructing that portion of District Sewer P-2 for which County has been given an easement and license by District, as aforesaid. However, the Parties agree that such easement and license do not create a requirement that County perform any inspections, maintenance, repairs, or reconstruction beyond what is required by law or as otherwise agreed to by the Parties; and

c. A perpetual easement and license unto County, its successors and assigns, to connect the Sarpy Sewer, or any part thereof, as applicable, to the District Sewer P-2 in such manner and at such place as determined by County. County shall not be required to pay any connection fee or connection charge for such connection.

d. Easement Requirements.

   i. District shall be responsible for recording with the Sarpy County Register of Deeds a separate instrument for each easement contemplated within this Agreement, or otherwise required by County, as applicable.

   ii. District shall provide copies of all easements to County, as applicable, immediately after they are recorded.

   iii. All easements shall include a prescription outlining the rights and terms of each easement and all corresponding maintenance responsibilities.

   iv. All easements contemplated within this Agreement, or otherwise required by County, shall be prepared and filed in a form satisfactory to County.

3. Permission to Discharge into Sarpy Sewer. Subject to the conditions and provisions hereinafter specified, the County hereby grants permission to the District to discharge Wastewater from the District Sewer P-2 to the Sarpy Sewer in such manner and at such place or places as designated on plans submitted by the District and approved by County, all as shown on Exhibit B, contingent upon the following: (1) the proposed plans and specifications for District Sewer P-2 have been formally approved by County in writing, and (2) the as-built plans and specifications for District Sewer P-2 have been formally approved by County in writing. County will use good faith efforts to timely review plans and specifications. County further agrees to accept and process the resulting Wastewater from the Development Area in accordance with the rules and regulations of County. County’s approval is limited to the Development Area.
a. Development and connection to the Sarpy Sewer for District’s benefit with respect to any additional area outside of the Development Area must be provided for by amending this Agreement or by execution of a new sewer connection and wastewater service agreement. A manhole shall be constructed at each connection point; such that the first six (6) feet of riser above the floor of the manhole is a minimum of fifty-four inches in diameter. The location of each manhole shall be approved in writing by the County engineer.

b. The lots to be connected: Lot 1 and Lot 2 R & R Commerce Park Replat One

4. **Discharge Restrictions.** District shall not allow any connection from the Development Area to the District Sewer P-2 until: (1) the proposed plans and specifications for District Sewer P-2 have been formally approved by County in writing, (2) as-built plans and specifications for District Sewer P-2 have been formally approved by County in writing. County will use good faith efforts to timely review plans and specifications.

5. **District Warranty:** District expressly promises, warrants, covenants and agrees:

   a. The District Sewer P-2 shall be constructed in strict accordance with plans and specifications and in the location approved in writing by the County.

   b. County has the right to review the designs, specifications and criteria for additions or modifications to any portion of the District Sewer P-2 prior to construction and connection to the Sarpy Sewer. The design criteria used by District shall meet or exceed the standards of the current City of Omaha Standard Specification for Public Works Construction, and the applicable current City of Omaha sewer construction standard plates.

   c. The District Sewer P-2 shall be designed and constructed, and as required reconstructed, at the expense of District and the property therein, and at no expense to County.

   d. In the event that County discovers anything in the construction or operation of the District Sewer P-2 which is not in conformance with plans approved by the County, and in the reasonable opinion of the County, is determined to be detrimental to the proper operation of the Sarpy Sewer, or any part thereof, District shall, upon written notice thereof, promptly correct said defects.

   e. The District Sewer P-2 shall comply with all applicable Federal, State, and local laws, ordinances, and regulations concerning: (1) use, operation, and maintenance, and (2) wastewater discharges, including limitations and prohibitions, monitoring, and reporting within the District Sewer P-2.
f. Wastewater flowing into, passing through, or emptied into the Sarpy Sewer from the District Sewer P-2 shall be in conformity with current Nebraska Department of Environmental Quality regulations pertaining to sewers or sewage within County and/or in accordance with all State and Federal laws, rules and regulations, whichever is the most restrictive. Wastewater not in conformity with such rules and regulations shall not be permitted to flow through the sewers of the wastewater system of District into the Sarpy Sewer.

g. The County shall not be responsible for the maintenance and repair of the District Sewer P-2. District shall properly maintain District Sewer P-2 in good operating order at no cost to County.

h. In the event that County discovers anything in the construction, maintenance, or operation of the District Sewer P-2 which is not in conformance with plans approved by the County and will, in the reasonable opinion of the County, be detrimental to the proper operation of the Sarpy Sewer, or any part thereof, District shall, upon written notice thereof, promptly correct said defects.

i. In the event District for any reason fails in any respect as to its covenants contained in this Paragraph 5, then County may, at its option, with notice to District, perform such maintenance and repair or correct such defects. The District, upon written demand by County, shall promptly reimburse County for all work, services, materials and other expenses incurred or expended by County in connection therewith.

j. Except as set forth herein, District shall not, directly or indirectly, permit connection to the sewer owned by the City of Omaha, the Sarpy Sewer, or any future extension thereof, of any property, lot, or structure used or to be used for any purposes whatsoever without the express permission of County or the City of Omaha by execution of an Interceptor Connection Agreement and a wastewater service agreement. Any unauthorized connections prior to completion of the referenced agreements shall be subject to inspection fees ten times the current fees for interceptor connection inspections.

k. District shall defend, indemnify, and hold harmless the County, its officers, employees and agents, from and against any and all construction costs, loss, damage, claims, suits demands, penalties, court costs, attorneys’ fees, judgments, or liability of whatsoever kind or character due to or arising out of any acts, conduct, omissions, or negligence of the District, its officers, agents, employees, contractors, subcontractors, and anyone acting under the direction of the District, in doing any work or construction of the District Sewer P-2, or by or in consequence of any performance of this Agreement.

l. District shall defend, indemnify, and hold County, its respective employees, agents, and assigns harmless from and against any and all claims, suits, demands, penalties, court costs, attorneys’ fees, other litigation costs, demands, penalties, judgments,
actions, losses, damages, or injuries of any nature whatsoever, whether compensatory or punitive, or expenses arising therefrom, either at law or in equity, resulting or arising from, out of, or otherwise occurring in relation to any unlawful connection and/or disbursement of sewage by the District into the County Sewer. Any and all resulting fees and/or penalties imposed by DEQ shall be the full responsibility of District.

m. District is and shall be bound to and by any provisions of any ordinance, rule, or regulation relating to sewer use fees provided for under Paragraph 7, infra, hereinafter made and adopted by County.

n. District shall promptly file all reports, pay all connection fees, and perform all other obligations of the District provided for in this Agreement or otherwise required by state statutes or the County’s ordinances, regulations, or rules as amended and supplemented from time to time.

6. **Connection Fees.** The Development Area shall be subject to the Sarpy County Sewer Connection Fee Regulations and Sewer Connection Fee Schedule (hereinafter “Sewer Regulations”). The Sewer Regulations require payment of a sewer connection fee at the time of the filing of the Final Plat (hereinafter the “Sewer Connection-Plat Fee”) and payment of a sewer connection fee at the time of the building permit application (hereinafter the “Sewer Connection-Building Permit Fee”). Prior to filing the Final Plat with the Sarpy County Register of Deeds, District shall pay all Sewer Connection-Plat Fees pursuant to the applicable Sewer Regulations in place at the time of the filing of the final plat. Any additional platting and/or development of the Development Area (including, any conversion of unbuildable outlots or portions thereof to buildable lots) shall be subject to such Sewer Regulations as are in effect and generally applicable at the time of such further platting and/or development. It is expressly understood that County reserves the right to collect all connection charges and fees as required by County regulations, ordinances, or rules. The Parties acknowledge that additional Sewer Connection-Building Permit Fees shall be due to the County at the time of the issuance of building permits for structures within the Development Area, pursuant to the sanitary sewer fee schedule applicable at that time.

7. **Service Fees.** Charges for retail flow and customer charges (treatment and maintenance) for all customers within District shall be based upon MUD water consumption/based upon monitored sewer flow at the same flow charges as other similarly situated entities now and hereafter established by County. Payments for wastewater service shall be made within thirty (30) days following receipt of invoice and shall thereafter be delinquent.

8. **Permit Required.** District further expressly promises covenants and agrees that no connection shall be made to the Sarpy Sewer until a sewer permit shall have been obtained from County. Upon reasonable notice by County, District shall cause to be disconnected any connection to the Sarpy Sewer which has been made without the required permit from
County or which is in contravention of the ordinances, regulations, rules, or specifications of the County pertaining to sewer connections.

9. **Other Connections at County Request.** Upon the written request of County, and (a) another Sanitary and Improvement District, (b) a sewer district, or (c) any other person or entity, for permission to connect to District’s Sewer, District shall allow such connection to be made without charge.

10. **Amendments, Federal and State Regulations.** Except as precluded by any Federal law or regulation, County and District shall promptly meet to discuss and implement in good faith changes to this Agreement that are necessary to timely comply with revisions or additions to State or Federal regulations.

11. **Term and Termination.** This Agreement shall be effective as of the date first written above and shall be for a term of ten (10) years from the date the District Sewer P-2 is first connected to and put in service on the Sarpy Sewer, and shall automatically renew on the same terms and conditions as herein set forth for additional successive terms of ten (10) years each. If there is a change in circumstances that a party believes in good faith will require an amendment to this Agreement to deal with, that party shall give written notice to the other party of its desire to amend, which notice shall specify the terms of the amendment desired and the reasons for same. The parties then shall promptly engage in good faith discussions as to what changes are needed and neither party shall unreasonably withhold approval of an amendment which addresses and resolves the changed circumstances identified in the notice, provided no such amendment shall be effective unless it is in writing and duly executed by both parties.

12. **Disconnections and Termination.** County shall have the right to make any disconnections and make a claim for the expenses thereof from District should District neglect or refuse to disconnect or fail to negotiate a new mutually agreeable contract following termination as herein provided. Should District cease to use any wastewater system connected to the Sarpy Sewer, District shall disconnect the same at its expense or failing that, County may disconnect the same and make a claim for the expense of District. County acknowledges that the Sarpy Sewer is a public utility available without discrimination to members of specified classes. Termination of sewage treatment will not be made without the approval of the appropriate State or Federal agencies having jurisdiction over wastewater pollution and treatment. Termination of sewage treatment service will not be made before ninety (90) days following written notice of such termination. It is acknowledged that during said period, if negotiations produce no new agreement, the parties, or any one of them, may file an action in any court having jurisdiction over the matter to provide equitable relief concerning the issue of continued sewage treatment and the conditions and charges appropriate thereto. Nothing in this paragraph will be construed as a limitation on the authority of the governing body of County to set reasonable rules and regulations concerning sewage service and the appropriate rates pertaining thereto.
13. **Sampling and Testing Costs.** Any sampling or testing by any Party shall be done at the testing Party’s expense.

14. **Interruption of Service.** In the event of an interruption of service by County, it is understood and agreed that County, its officers, employees and agents, in the absence of gross negligence, shall be indemnified and held harmless and absolutely free of any liability to District, or to any owners or lessees of the District’s property or premises.

15. **Force Majeure Event.** A Force Majeure Event means any circumstance not within the reasonable control of the Party affected, but only if and to the extent that (i) such circumstance, despite the exercise of reasonable diligence and the observance of Good Utility Practice, cannot be, or be caused to be, prevented, avoided or removed by such Party, and (ii) such circumstance materially and adversely affects the ability of the Party to perform its obligations under this Agreement, and such Party has taken all reasonable precautions, due care and reasonable alternative measures in order to avoid the effect of such event on the Party’s ability to perform its obligations under this Agreement and to mitigate the consequences thereof. Either Party shall be excused from performance and shall not be in default in respect of any obligation hereunder to the extent that the failure to perform such obligation is due to a Force Majeure Event, provided the party claiming excuse because of Force Majeure has given the other party written notice of the Force Majeure event on which it is relying and a reasonable estimate of its likely impact on performance under this Agreement within five (5) business days following the Force Majeure event.

16. **Perpetual Maintenance.** The herein granted easements and licenses to County and the herein contained covenants of perpetual maintenance and repair by District shall be perpetual, notwithstanding the fact that this Agreement is for a term of years.

17. **Agreement Binding.** The provisions of this Agreement, and all exhibits and documents attached or referenced herein, shall run with the land and shall be binding upon, and shall inure to the benefit of, the Parties, their respective representatives, successors, assigns, heirs, and estates, including all successor owners of the real estate described in the attached Exhibit “A”. Every time the phrase “successors and assigns”, or similar language, is used throughout this Agreement, it is to be attributed the same meaning as this “Agreement Binding” provision. No special meaning shall be attributed to any instance herein in which the name of a Party is used without the phrase “successors and assigns” following immediately thereafter, unless expressly stated otherwise.

18. **Hazardous Wastes.** It is agreed and understood that the Parties to this Agreement are, or may be subject to Section 311 of the Water Pollution Control Act, as it applies to oil and hazardous wastes, and to any applicable State Law or Legislation, under the authority preserved by Section 510 of the Water Pollution Control Act.

19. **Change in Ownership.** In the event of any change in the control or ownership of the District Sewer P-2 from which authorized discharges are emitted, the permittee user shall notify the
succeeding owner or controller of the existence of this Agreement and the permit by means
of a letter, a copy of which shall be forwarded to County.

20. Breach: In the event of District’s breach of any of the terms and conditions hereof or any
warranty or covenant herein made by District, then:

a. In the case of a breach of any term or condition, warranty, or covenant pertaining to
the actual construction, reconstruction, repair, maintenance or operation of the
District Sewer P-2, District shall, within five (5) days from receipt of County’s notice of
such breach, commence to take corrective measures or such measures as may be
reasonably requested by County, and District shall pursue with due diligence such
corrective measures to completion as soon thereafter as possible to the reasonable
satisfaction of County.

b. In case of any other type of breach by District, District shall cure said breach to the
reasonable satisfaction of County within thirty (30) days from receipt of County’s
notice of such breach.

c. In the event District shall fail to cure any breach within the applicable time and
manner set out above, County may:

i. Upon giving District sixty (60) days notice of County’s intent to do so, County
may require District to disconnect the District Sewer P-2 from the Sarpy Sewer
or County may itself cause such disconnection to be made, if at the expiration
of the sixty (60) day period the breach is not cured to the reasonable satisfaction
of County. Any such disconnection shall be made at the expense of District.

ii. In the event the breach pertains to the actual construction, reconstruction,
repair, maintenance or operation of the District Sewer P-2, County shall have
the absolute right, at its option to itself perform the work necessary for the
requested corrective measures, or to complete the corrective measures
commenced by District, as the case may be, in either of which case the District
agrees:

1. District shall immediately reimburse County for any and all expense
incurred by County in connection therewith.

2. District shall indemnify and hold harmless County, its officers,
employees and agents, from any expenses, costs, claim, action,
cause of action, or demand arising out of County’s taking or
completing corrective measures.

iii. In addition to whatever other remedies are granted to County herein, County
may avail itself of all other rights and remedies that County may have pursuant
21. **No Waiver or Breach**: The failure of either Party to exercise its rights upon any default or breach by the other Party shall not constitute a waiver of such rights as to any subsequent default or breach.

22. **Emergency Measures**. If there is a breach by District of any term or condition, warranty, or covenant pertaining to the actual construction, reconstruction, repair, maintenance or operation of the District Sewer P-2, resulting in discharge of raw sewage or other environmental hazard which is harmful to the public health and safety that District is not already implementing effective measures to remedy, County may take immediate remedial measure to fix the harm and District shall reimburse County for cost of same on demand.

23. **Acknowledgment**. Parties acknowledge that the District Sewer P-2 and the Sarpy Sewer are subject to the prohibitions and limitations of the Omaha Municipal Code, Chapter 31, Article III, as on file with the City Clerk of the City of Omaha, Nebraska.

24. **Nondiscrimination**. County and District shall not discriminate against any parties on account of race, national origin, sex, age, political or religious affiliations or disabilities in violation of federal or state or local ordinances.

25. **Incorporation of Recitals**. The recitals set forth above are, by this reference, incorporated into and deemed part of this Agreement.

26. **Governing Law**. This Agreement shall be governed in all respects by the laws of the State of Nebraska and the venue for any litigation with respect hereto shall be in the courts of Sarpy County, Nebraska.

27. **Entire Agreement**. This Agreement, including all exhibits attached hereto, constitutes the entire agreement between the Parties hereto with respect to the subject matter hereof and supersedes all prior agreements and understandings, oral and written, between the Parties with respect to the subject matter of this Agreement. This Agreement may not be amended, modified or altered unless by written agreement signed by all Parties to this Agreement.

28. **Severability**. It is understood and agreed by the Parties hereto that if any part, term or provision of this Agreement is held to be illegal or in conflict with any law of Nebraska or of the United States, the validity of the remaining terms and conditions, provision or provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if the Agreement did not contain the particular part, term or provisions held to be invalid.
29. **New Employee Work Eligibility Status.** The Parties agree to comply with the residency verification requirements of Neb. Rev. Stat. §4-108 through §4-114, as applicable. 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 for a public employer, as defined in the above-cited statutes. 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.

30. **Conflicts.** Pursuant to Neb. Rev. Stat. §23-3113, County declares and affirms that no officer, member or employee of County, and no member of its governing body and no other public official of County who exercises any functions or responsibilities in the review or approval of the undertaking described in this Agreement, or the performing of either Parties’ obligations pursuant to this Agreement, shall participate in any decision relating to this Agreement which affects his or her personal interest, or any partnership or association in which he or she is directly or indirectly interested; nor shall any employee of County, nor any member of its governing body have any interest, direct or indirect, in this Agreement or the proceeds thereof.

31. **Notice.** Each Party agrees to provide the other Party with as much advance notice as is reasonably possible when this Agreement calls for the approval of a Party before an action can be taken. The Parties agree to cooperate in the undertakings contemplated by this Agreement and shall share and exchange necessary reports and other documents as required and when reasonably requested by the other Party to this Agreement. Any notice required under this Agreement shall be in writing and shall be sent by certified mail, return receipt requested, to the addresses as noted below. Any Party to this Agreement may change its address for notice specified hereunder by sending written confirmation of such change by certified mail, return receipt requested, to the other Party to this Agreement. The addresses for the purpose of notice and other communications are as follows:

**County:**
- County Clerk, County of Sarpy
- 1210 Golden Gate Drive, #1250
- Papillion, NE 68046

**District:**
- Sanitary and Improvement District No. 330 of Sarpy County, Nebraska
  c/o Fullenkamp, Doyle & Jobeun
  11440 West Center Road, Suite C
  Omaha, Nebraska 68144
  Attn: Larry Jobeun
32. **Assignment.** This Agreement shall be binding upon the Parties and their respective successors and assigns. The covenants, warranties and other obligations and benefits of this Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, personal representatives, successors and assigns. The Parties agree that a Party’s obligation to perform pursuant to this Agreement may only be released to the extent said obligation is assumed, by written agreement or by operation of law, by such respective heirs, personal representatives, successors and assigns.

33. **Good Faith.** Every representation, covenant, warranty or other obligation within this Agreement shall carry with it an obligation of good faith in its performance or enforcement.

34. **Authority.** Each Party represents, covenants and warrants to the other Party that the making and execution of this Agreement, and all other documents and instruments required hereunder, have been duly authorized by the necessary corporate action of such Party, and are valid, binding and enforceable obligations of such Party in accordance with their respective terms.

35. **Counterparts.** This Agreement may be executed in counterparts, each of which will be deemed an original and all of which together will constitute one Agreement. The signature page of any counterpart may be detached therefrom without impairing the legal effect of the signature(s) thereon provided such signature page is attached to any other counterpart identical thereto.

36. **No Agency or Partnership.** This Agreement is not intended and shall not be construed to create the relationship of agent, servant, employee, partnership, joint venture or association as between County and District, nor between County and any officer, employee, contractor or representative of District. No joint employment is intended or created by this Agreement for any purpose. If enquiry is made, District agrees to so inform its employees, agents, contractors and subcontractors who are involved in the implementation of or construction under this Agreement.

37. **Titles.** The titles or headings used in this Agreement are for convenience only and shall not be used in interpreting this Agreement.

38. **Indemnification.** Each Party agrees to release, indemnify and hold harmless (“Indemnifying Party”) each other Party (“Indemnified Party”) and said Indemnified Party’s officers, officials, employees and agents, and each of them, from and against all third party liabilities, claims, costs and expenses whatsoever arising out of or resulting from the negligent acts or omissions of the Indemnifying Party, or the officers, officials, employees, agents or contractors of the Indemnifying Party related to or arising out of the terms and requirements of this Agreement.

[Signature pages to follow.]
IN WITNESS WHEREOF, the Parties hereto have caused these presents to be executed by the property officials thereunto duly authorized as of the dates below indicated.

Executed by County this 11th day of December, 2018.

SARPY COUNTY, NEBRASKA,
A Political Subdivision

Chairperson, Board of Commissioners

Attest: Approved as to form:

Sarpy County Clerk Sarpy County Attorney
Executed by District this 4th day of December, 2018.

SANITARY AND IMPROVEMENT DISTRICT
NUMBER 330 OF SARPY COUNTY, NEBRASKA

ATTEST:

[Signature]
Clerk

[Signature]
Chairperson