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# City of Grand Island



## Tuesday, September 20, 2016 Study Session Packet

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### **City Council:**

**Linna Dee Donaldson**  
**Michelle Fitzke**  
**Chuck Haase**  
**Julie Hehnke**  
**Jeremy Jones**  
**Vaughn Minton**  
**Mitchell Nickerson**  
**Mike Paulick**  
**Roger Steele**  
**Mark Stelk**

### **Mayor:**

**Jeremy L. Jensen**

### **City Administrator:**

**Marlan Ferguson**

### **City Clerk:**

**RaNae Edwards**

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**7:00 PM**  
**Council Chambers - City Hall**  
**100 East 1st Street**

## **Call to Order**

**This is an open meeting of the Grand Island City Council. The City of Grand Island abides by the Open Meetings Act in conducting business. A copy of the Open Meetings Act is displayed in the back of this room as required by state law.**

**The City Council may vote to go into Closed Session on any agenda item as allowed by state law.**

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## **Invocation**

## **Pledge of Allegiance**

## **Roll Call**

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### **A - SUBMITTAL OF REQUESTS FOR FUTURE ITEMS**

Individuals who have appropriate items for City Council consideration should complete the Request for Future Agenda Items form located at the Information Booth. If the issue can be handled administratively without Council action, notification will be provided. If the item is scheduled for a meeting or study session, notification of the date will be given.

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### **B - RESERVE TIME TO SPEAK ON AGENDA ITEMS**

This is an opportunity for individuals wishing to provide input on any of tonight's agenda items to reserve time to speak. Please come forward, state your name and address, and the Agenda topic on which you will be speaking.



# **City of Grand Island**

**Tuesday, September 20, 2016**

**Study Session**

## **Item -1**

### **General and Financial Information on Food & Beverage Occupation Tax**

**Staff Contact:**

CITY OF

Grand Island

NEBRASKA

# *Occupation Tax Oversight Committee*

## **Food and Beverage Tax Review**

William Clingman, Assistant Finance Director

***9-20-16***

## **Disclaimer**

*It is the responsibility of the business owner to consult with a tax professional and/or the Nebraska Department of Revenue. This presentation is for informational purposes only and should not be construed as tax advice from the City of Grand Island.*

## **Food and Beverage Highlights**

- 🌊 Food and Beverage tax rate is 1.5%
- 🌊 Tax is applicable to food and beverages subject to Nebraska sales tax, including alcoholic beverages
- 🌊 Returns are due by or must be postmarked on the 25<sup>th</sup> of the following month
- 🌊 Late returns are subject to a 10% penalty AND interest of 1% for each month they are late

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# History of Tax

	Actual FY 2008-2009	Actual FY 2011-2012	Actual FY 2012-2013	Actual FY 2013-2014	Actual FY 2014-2015	Actual FY 2015-2016
<b>October</b>	-	91,358.70	128,591.02	126,792.34	134,701.66	129,020.52
<b>November</b>	-	127,022.54	118,392.86	107,279.78	94,645.52	107,234.83
<b>December</b>	40.10	97,372.09	105,476.63	128,353.71	146,485.22	141,486.71
<b>January</b>	65,048.70	115,899.48	130,546.05	127,851.56	120,807.22	133,807.58
<b>February</b>	75,737.13	92,053.82	98,735.02	106,413.19	109,524.05	205,365.64
<b>March</b>	115,334.28	119,620.08	113,603.34	113,335.63	152,541.44	147,802.65
<b>April</b>	92,325.04	120,630.67	135,539.91	126,573.61	129,539.97	162,503.45
<b>May</b>	84,706.46	117,949.82	124,459.01	119,608.57	126,771.55	214,430.97
<b>June</b>	106,176.11	117,056.79	100,090.23	136,786.00	157,883.23	133,374.71
<b>July</b>	99,721.76	132,309.24	134,542.69	131,644.04	149,088.88	157,130.94
<b>August</b>	91,016.57	127,641.94	135,692.78	134,079.05	126,500.69	186,720.80
<b>September</b>	97,414.02	136,609.00	133,225.29	136,673.99	160,317.37	
<b>Total Receipts</b>	<b>827,520.17</b>	<b>1,395,524.17</b>	<b>1,458,894.83</b>	<b>1,495,391.47</b>	<b>1,608,806.80</b>	<b>1,718,878.80</b>

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## How to calculate the tax IF charged to the customer - **EXAMPLE**

Description	Amount
Taxable Food	\$ 32.00
Taxable drinks	\$ 18.00
Total before taxes	\$ 50.00
Food and Beverage Tax (1.5%)	\$ 0.75
Total with FB Tax	\$ 50.75
Sales Tax (7%)	\$ 3.55
<b>TOTAL AMOUNT OWED</b>	<b>\$ 54.30</b>

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# What is subject to tax?

## TAXABLE

- Fountain drinks
  - Hot Pizza
- Sandwich Prepared by Seller
- Toasted bagel with knife and cream cheese

## NON-TAXABLE

- Bottled drinks
- Frozen Pizza
- Sandwich Prepared at different location
- Bagel purchased from bakery\*

\*Subject to eating utensils test

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# Commercial Establishments Past Due

- Three currently on payment plans
- Three past due and unresolved
  - Uncle Ed's Steakhouse
  - Carnivore's
  - McKinney's

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# Contact Information

Questions or Inquires

Email: [occtax@grand-island.com](mailto:occtax@grand-island.com)

Phone: 308-385-5428

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# Questions?



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# **Council Agenda Memo**

**From:** Todd McCoy, Parks and Recreation Director

**Meeting:** September 20, 2016

**Subject:** Potential Food and Beverage Tax Projects and Timeline

**Presenter(s):** Todd McCoy, Parks and Recreation Director

## **Background**

In May Grand Island voters approved the extension of the Food and Beverage Occupation Tax.

The City Finance Department and Administration have estimated that the tax will generate nearly \$2.0 million per year. City Administration has recommended utilizing F & B revenue for Nebraska State Fair Support, Grow Grand Island, and City of Grand Island quality of life projects.

The City Finance Department reports that currently the F & B fund balance is more than \$1.0 million.

The Grand Island Parks and Recreation Department has a long list of worthwhile and overdue projects that can benefit from food and beverage tax funding. The purpose of the presentation is to discuss potential projects, timelines, and future financing.

## **Discussion**

There are four major projects that staff feels are overdue or have an immediate need:

### **Veterans Athletic Field Complex Expansion**

The Veterans Athletic Complex was built as a result of the Nebraska State Fair relocation at Fonner Park. Currently, the Veterans Complex consists of twelve acres of soccer and four large softball/baseball fields. The fields are used mainly by adult leagues during the summer and fall months. Area youth baseball and softball organizations rent the fields for tournaments and games on weekends and week nights as available. The soccer fields are utilized by the Heartland Soccer Club and local Grand Island high school programs.

Expanding the Veterans Athletic Field Complex will alleviate scheduling conflicts with local leagues and provide facilities to keep pace with the growing

demand of area competitive sports teams. With the improvements, the complex will be a desirable location for state and regional tournaments. It is estimated that the annual expense to operate the additional fields is approximately \$75,000 for staffing, fuel, fertilizer, electricity, weed control, equipment, etc.



#### Island Oasis Expansion and Update

Island Oasis Water Park opened to the public in the summer of 1993. Grand Island was one of the first few municipalities in Nebraska to build a water park style swimming pool. Peak attendance during the summer of 2002 climbed to over 120,000 swimmers. Expansion projects were completed in 1995 (two enclosed slides), 1997 (lazy river), and 2002 (speed slides). The attendance in recent years averages 40,000 – 60,000 swimmers annually.

It was recommended that a dedicated children's play pool be added to Island Oasis in the 2004 Aquatic Master Plan. The recommendation was made by The Brannon Corporation, an aquatic consulting firm the City hired from Texas to assess swimming facility needs. In the study, The Brannon Corporation stated, "In order to keep its position at the top of the market place, Island Oasis must add new features, remove outdated features, and expand." In 2007 the City hired Water Technology and Olsson and Associates to design a children's area project. Funding has not been available to complete the project.

A budget of \$1.7 million is estimated to complete a dedicated children's wet play area at Island Oasis. It is estimated that the annual expense to operate the additional expansion is approximately \$50,000 for staffing, additional pool chemicals, natural gas, electricity, and maintenance.





### Heartland Public Shooting Park 100-Meter Range

The immediate need for a new range is driven by the National 4-H Shooting Championships. The National 4-H Shooting Championships has continued to grow each year. Our existing 100-meter range no longer meets their needs.

Building a new range will also make HPSP more attractive to new regional and national events. Additionally, the range will enhance existing HPSP events like Zombies in the Heartland, American Marksman, Sportsman Team Challenge, Steel Challenge, and more.

Engineers have estimated the new range to cost near \$800,000.



### Second Large Baseball Field

The American Legion Baseball Field at Ryder Park is Grand Island's only true large competitive baseball field. Since the addition of high school baseball and the explosion of select teams, Grand Island is in need of an additional 90' base field. A new baseball field will accommodate more teams and take pressure off Ryder and Ashley fields.

The new baseball field project including facilities is estimated to cost \$750,000.



Additionally, the Parks and Recreation Department has a number of ongoing needs for park updates, hike/bike trail expansion, and more. Below is a tentative list of potential projects to be completed in the next five years.

2016	Fieldhouse Turf	\$	170,145
2017	Vet's Soccer Concession/Bathroom Bldg	\$	250,000
2017	Lions Park Irrigation	\$	50,000
2017	Sterling Parks Phase 3	\$	150,000
2017	Misc: Replace Playground, Parking Lots, etc.	\$	150,000
2018	Phase II Veterans Complex	\$	1,500,000
2018	Replace Original Two Water Park Slides	\$	300,000
2018	Island Oasis Expansion	\$	1,700,000
2018	Sterling Park Phase 4	\$	150,000
2018	Misc: Replace Playground, Parking Lots, etc.	\$	150,000
2018	Hike/Bike Trail Development	\$	250,000
2019	HPSP 100 Meter Range	\$	800,000
2019	Seawall Sucks Lake South Bank	\$	200,000



2019	Baseball Field Ryder Park	\$	750,000
2019	Grace Abbott Band Stand	\$	100,000
2019	Hike/Bike Trail Development	\$	75,000
2019	Misc: Replace Playground, Parking Lots, etc.	\$	150,000
2020	George Park Field Upgrade	\$	200,000
2020	Splash Pad	\$	400,000
2020	Skate Park Upgrades	\$	300,000
2020	Hike/Bike Trail Development	\$	75,000
2020	Misc: Replace Playground, Parking Lots, etc.	\$	150,000
2021	Misc: Replace Playground, Parking Lots, etc.	\$	175,000
2021	Hike/Bike Trail Development	\$	75,000
		<b>\$</b>	<b>8,270,145</b>

Because of the immediate need of the four major projects, tentative estimates show \$8.27 million of potential project expenses over a five year period. Conservative estimates show the food and beverage revenue to generate \$6.25 million during the same time period. City Administration is recommending the consideration of a ten year \$5 million bond. Annual bond payments are estimated at \$541,623. Utilizing the bond would fund the completion of the four major projects and allow nearly half a million dollars designated for other park projects until the bond is paid off in ten years.

### **Conclusion**

This item is presented to the City Council in a Study Session to allow for any questions to be answered and to create a greater understanding of the issue at hand.

It is the intent of City Administration to bring this issue to a future council action.

# GROW

## GRAND ISLAND

*A Grand Vision for the Heartland*

# MISSION ....

**Grow Grand Island  
cultivates bold ideas  
that create business  
and quality of life  
opportunities in our  
region through  
planning, partnering  
and doing.**



# 5 PILLARS ....



# GOALS ...



- ✓ **Help Existing Businesses Grow**
- ✓ **Assist & Nurture Entrepreneurial Culture**
- ✓ **Enhance Community Image & Marketing Activities**
- ✓ **Improve Educational Attainment that Align w/Employer Needs**
- ✓ **Continue to Develop our Community Assets**

# Implementation Committee

- ✓ **Leadership team; 40+ strong**
- ✓ **Stakeholders representing health care, media, non-profits, attorneys, bankers, education, gov't, education, ag, and community at large**
- ✓ **5 new members**



# 501 c 3 status ...

BY-LAWS  
OF  
GROW GRAND ISLAND, INC.

ARTICLE I.  
NAME

The name of the Corporation shall be Grow Grand Island, Inc. (hereinafter referred to as the "Corporation").

ARTICLE II.  
PURPOSE

# Grow Grand Island Executive Committee



**Mayor Jensen & Marlan Ferguson**  
*(non-voting)*



**Pam Lancaster & Jane Richardson**  
*(non-voting)*

**Tonja Brown, Implementation Chair & Don Smith, Past IC Chair**



**Brad Mellema & Tony Schultz**



**Cindy Johnson & Kurt Haecker**



**Grand Island Area**  
Economic  
Development  
Corporation

**Dave Taylor & Galen Stehlik**



# Other Committee's

Grant	Finance	Fundraising
<u>6 members</u> 3 – IC 2 – Community 1 – GICF (non-vote)	<u>4 members</u> Exec. Treasurer CPA/Finance Prof. IC CEO, GICF (non-vote)	<u>Up to 8 members</u> Community & IC

***Plus several 100s of volunteers ....***

# Grant process ....

**GGI finalizes project in committee**



**Submits application (*growgrandisland.com*)**



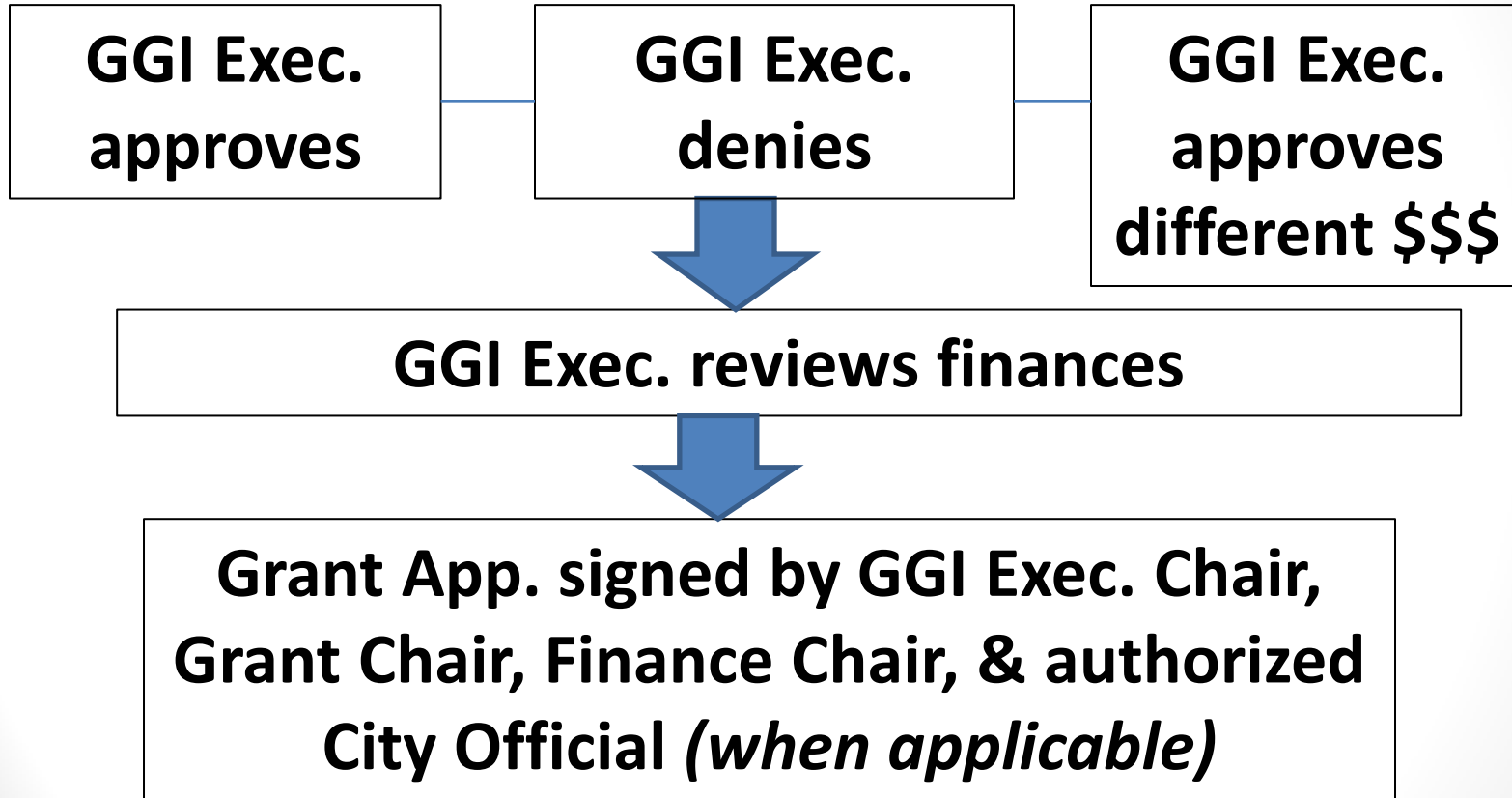
**App. reviewed by GGI Grant Committee**



**Grant Committee recommendation to GGI Exec.**



# Grant process, cont.



# "Imagination Takes Flight"

## Arts & Entertainment



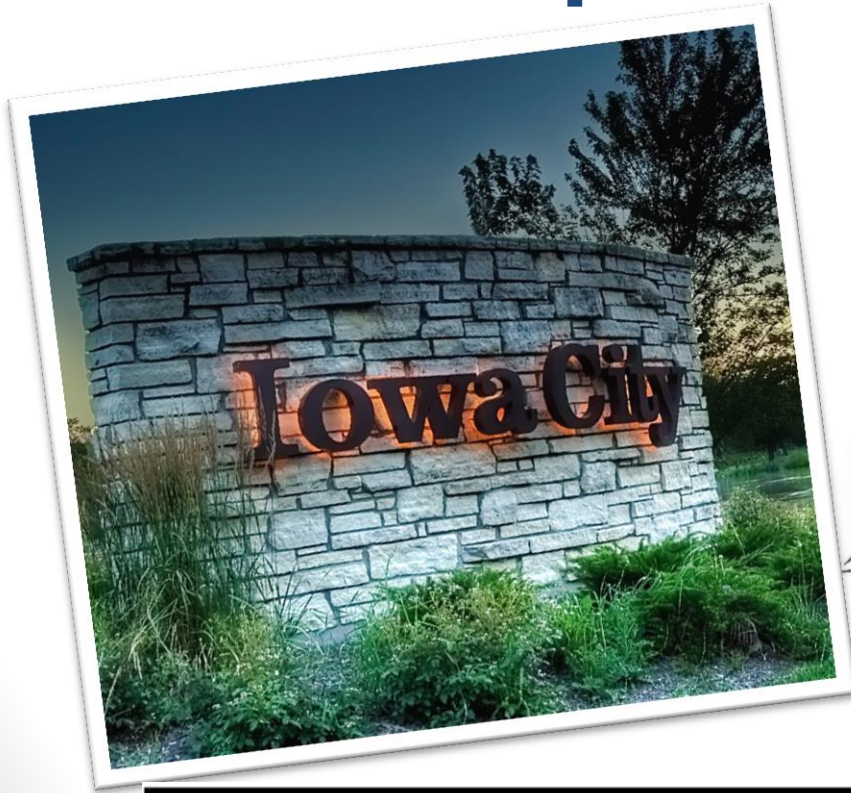
**\$15,000 /  
\$120,140**

**\*\*\***

**Comm.  
Assets  
Pillar**

# Next Generation Signs

## Corridor Improve./Gateway Beauty



***6-7 locations***

***\$25,000/each***

***\*\*\****

***Image Pillar***



# Bicycle Racks

## Downtown & Regional Transportation

**6 locations; cluster of 3  
at each location**

**\*\*\***

**\$5,000 / \$10,000**

**\*\*\***

**Comm. Assets Pillar**





# The Story Telling Project

## Culture Engagement & Understanding

**\$40,000 / \$65,000**  
\*\*\*

**Comm. Assets Pillar**



A dynamic effort in which our fellow community members become storytellers through one-on-one conversations to challenge assumptions, provide opportunities for relationships and understanding, and develop a common and shared vision for the future of our community.

# Horse Stalls Incentives



**400 stalls / \$450,000**  
\*\*\*

**Comm. Assets Pillar**



**13 projects**

**100s of passionate volunteers**

**\$1,700,000**



**Growing Grand Island**

# Oversight Committee:



## FUNCTION

- **Advise** the public and city officials with regard to the food and beverage tax;
- **Confirm** the food and beverage tax revenues are accounted for in the designated special revenue funds;
- **Confirm** the collected funds are being expended on eligible projects as provided by city ordinances.

# Questions??????

## [www.growgrandisland.com](http://www.growgrandisland.com)



**/GrowGrandIsland**



**@GrowGrandIsland**

# **Council Agenda Memo**

**From:** Marlan Ferguson, City Administrator

**Meeting:** September 20, 2016

**Subject:** Agreement between City of Grand Island and Grow Grand Island, Inc.

**Presenter(s):** Jerry Janulewicz, City Attorney

## **Background**

At the primary election held May, 2016, the electorate of the City of Grand Island approved by majority vote of the votes cast the imposition of an occupation tax on retailers of food and beverages at a rate of one and one-half percent on the sale of all food and beverages presently subject to sales tax at commercial establishments in the City. The voter-approved ballot measure directed the occupation tax shall be used for the following community enhancements:

1. The annual financial commitment to the Nebraska State Fair as required by state law;
2. Promote entertainment, agricultural and livestock shows, trade shows and similar events that will attract visitors to Grand Island;
3. Ongoing enhancement and development of recreational and athletic facilities such as hike, bike and recreational trails, ball fields and other community activity needs; and
4. Invest in community development projects and activities that stimulate progress and growth for Grand Island;

The Grow Grand Island initiative was expected to be the recipient of funds to accomplish number 2 and 4 listed above.

Grow Grand Island, Inc., a Nebraska nonprofit corporation (“GGI”), was organized and established through the effort of community minded individuals and organizations for the purpose of promoting, encouraging, and developing projects and programs to promote entertainment, agricultural and livestock shows, trade shows and similar events that will attract visitors to Grand Island and to invest in community development projects and activities that stimulate progress and growth for Grand Island.

City Administration believes it is in the best interests of the City, its citizenry, and the Grand Island community and area that the City enters into an agreement with GGI, for the establishment, development, operation, and maintenance of community enhancement programs within the City.

### **Discussion**

The attached agreement outlines and authorizes Grow Grand Island, Inc. to receive funds and process grants on behalf of the City of Grand Island.

### **Conclusion**

This item is presented to the City Council in a Study Session to allow for any questions to be answered and to create a greater understanding of the issue at hand.

It is the intent of City Administration to bring this issue to a future council action.

**AGREEMENT BY AND BETWEEN THE CITY OF GRAND ISLAND AND GROW GRAND ISLAND, INC.  
FOR COMMUNITY ENHANCEMENT PROGRAMS.**

This Agreement dated this \_\_\_\_ day of \_\_\_\_\_, 2016, by and between the City of Grand Island, a Nebraska municipal corporation ("City") and Grow Grand Island, Inc., a Nebraska nonprofit corporation ("GGI"),

WITNESSETH:

Whereas, at the primary election held May , 2016, the electorate of City approved by majority vote of the votes cast the imposition of an occupation tax on retailers of food and beverages as a rate of one and one-half percent on the sale of all food and beverages presently subject to sales tax at commercial establishments in the City; and

WHEREAS, the above-mentioned ballot measure directed the occupation tax shall be used for the following community enhancements:

1. The annual financial commitment to the Nebraska State Fair as required by state law;
2. Promote entertainment, agricultural and livestock shows, trade shows and similar events that will attract visitors to Grand Island;
3. Ongoing enhancement and development of recreational and athletic facilities such as hike, bike and recreational trails, ball fields and other community activity needs; and
4. Invest in community development projects and activities that stimulate progress and growth for Grand Island; and

WHEREAS, Nebraska Revised Statute Section 13-315 authorizes cities to expend up to four-tenths of one percent of the taxable valuation of the city for the purpose of encouraging immigration, new industries, and investment and to conduct and carry on a publicity campaign, including a publicity campaign conducted for the purpose of exploiting and advertising the various agricultural, horticultural, manufacturing, commercial, and other resources, including utility services, of the city. Such sum may be expended directly by the city or may be paid to the chamber of commerce or other commercial organization or a similar county organization or multicounty organization or local development corporation to be expended for the purposes enumerated in this section under the direction of the board of directors of the organization; and

WHEREAS, City desires to contract with a community based, private nonprofit corporation to assist and partner with the City for the development of programs, projects, and events specifically designed to promote entertainment, agricultural and livestock shows, trade shows and similar events that will attract visitors to Grand Island and community development projects and activities that stimulate progress and growth for Grand Island; and

WHEREAS, Grow Grand Island, Inc., a Nebraska nonprofit corporation ("GGI"), was organized and established through the effort of community minded individuals and organizations for the purpose of

promoting, encouraging, and developing projects and programs to promote entertainment, agricultural and livestock shows, trade shows and similar events that will attract visitors to Grand Island and to invest in community development projects and activities that stimulate progress and growth for Grand Island; and

WHEREAS, GGI has and will obtain funds for its community enhancement programs through private and corporate contributions, grants, gifts, and other sources; and

WEREAS, it is desirable for City and GGI to participate in a joint public-private effort for the purpose of promoting, encouraging, and developing community enhancement programs for Grand Island; and

WHEREAS, such joint public-private effort enhances efficiency, promotes cost savings and increases the effectiveness of community enhancement programs that would otherwise be realized through a separate private and a separate public program; and

WHEREAS, it is in the best interests of the City, its citizenry, and the Grand Island community and area that City contract with GGI, as set forth herein, for the establishment, development, operation, and maintenance of community enhancement programs within the City.

Now, therefore, in consideration of the mutual promises and covenants contained herein, City and GGI do hereby agree as follows:

Section 1.       Recitals. The recitals contained above are incorporated herein by this reference.

Section 2.       Purpose. Through a joint and collaborative effort between City and GGI, the purposes of this Agreement are: (a.) the promotion, encouragement, and development of projects and programs to promote entertainment, agricultural and livestock shows, trade shows and similar events that will attract visitors to Grand Island and (b.) investment in community development projects and activities that stimulate progress and growth for Grand Island, such project and programs, herein referred to as "community enhancement programs."

Section 3.       Term. The initial term of this project shall be for a period of twenty-four months commencing \_\_\_\_\_, the "initial term". Subject to Sections 14 and 15, the term shall automatically renew for an additional term of 24 month (the "renewal term").

Section 4.       Projects. GGI shall promote, encourage, conduct, develop and fund community enhancement programs utilizing a combination of funds obtained through private and corporate contributions, grants, gifts, and other sources and through the funds hereby provided by City. Funds provided by City "City Funds" shall be maintained in a segregated account and shall be expended solely as provided for herein.

Section 5.       City Funds.

- a. City shall provide the following funds, derived from city's occupation tax of food and beverage retailers in such amounts and such schedule as set forth herein:

November 1 of each year	\$500,000.00 minimum. Amount could increase with approval by the City Council
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Section 6. Limitation on Use. City Funds shall be utilized and expended by GGI solely for such project, programs and purposes that serve and carry out a public purpose as expressly authorized, necessarily or fairly implied in or incidental to those expressly authorized and those essential to the declared objects and purposes of a city of the first class as expressed by Nebraska statutes as from time to time amended. Such projects, programs and purposes shall encompass and be directed toward encouraging immigration, new industries, and investment and to conduct and carry on a publicity campaign, including a publicity campaign conducted for the purpose of exploiting and advertising the various agricultural, horticultural, manufacturing, commercial, and other resources, including utility services, of the city; to promote entertainment, agricultural and livestock shows, trade shows and similar events that will attract visitors to Grand Island; and investment in community development projects and activities that stimulate progress and growth for Grand Island. No more than 10% of the City Funds will be allowed to be used for employee and office expenses.

Section 7. Approval by City Administrator. Prior to expending City Funds for a community enhancement project, a summary of the project including such detail and supporting documentation as required by City shall be submitted to City's city administrator or his or her designee for approval.

Section 8. Accounting. On an annual basis, GGI shall submit its financial audit to City. The audit shall be prepared by a Public Accountant or Public Accountancy firm licensed and authorized to engage in public accountancy within the State of Nebraska.

Section 9. Reports. On a quarterly basis GGI shall provide to City full and complete reports of its activities, programs and projects and an accounting of its receipt and expenditure of public and private funds. Said reports shall be in such form and include such detail as specified by City's Finance Director or his or her designee.

Section 10. Access to Records. During normal business hours, City shall be provided with access to review, inspect, and photocopy records of GGI pertaining to the funding and expenditure of public and private funds for community enhancement projects. Such records shall be maintained by GGI for not less than 60 months following termination of this agreement.

Section 11. Termination. Within 30 days of the expiration of the initial term or subsequent renewal term, or earlier termination as provided herein, all remaining and unobligated City Funds held by GGI shall be returned to and paid to City for deposit in City's food and beverage retailer occupation tax fund.

Section 12. Segregation of Funds. City Funds shall at all times be maintained by GGI on deposit in a national chartered bank in accounts fully insured accounts by the FDIC or, if not fully insured, shall at all times be collaterally secured by a deposit of bonds that are either direct and general obligations of or are unconditionally guaranteed as to both principal and interest by the United States of America and having a market value at least equal to the amount by which the moneys on deposit. All interest received and all profits realized on account of any such investments or reinvestments shall be added to and become a part of city-provided funds and subject to the provisions of this agreement.

Section 13. Bond/Security. GGI shall, at its own expense, supply to city a fidelity bond issued by an insurance company licensed to do business in the State of Nebraska, insuring city against dishonesty or fraudulent acts of the employees of GGI in the amount of \$500,000.00 per employee.

Section 14. Termination for Default. In the event that City reasonably determines that GGI has failed to comply with the material terms of this Agreement in a timely manner ("Default"), City shall notify GGI in writing of the nature of the Default and of the corrective action to be taken. If corrective action is not



commenced within 5 days after receipt of written notice and completed within a reasonable time thereafter, then City may terminate this Agreement by written Notice of Termination to GGI, which termination shall take effect 30 days after delivery of the Notice of Termination. City further reserves the right to prohibit GGI from expending additional City-provided funds during the investigation of any alleged Default and pending corrective action by GGI or a decision by City to terminate the Agreement.

Section 15. Election to Terminate. Either party may elect to terminate this Agreement on the last day of the Initial Term by providing written notice of termination not less than 90 days prior to the end of the then current term. In the event that both parties fail to deliver written notice of an election to terminate, this Agreement will automatically renew for one additional Renewal Term as provided in Section 3. The automatic renewal of this Agreement shall terminate in the event of the termination of this Agreement prior to the expiration of the Initial Term pursuant to the terms of this Agreement.

Section 16. Discrimination. With respect to the activities conducted by it pursuant to this Agreement, GGI will not subject any person to discrimination on the bases of race, color, religion, sex, national origin or ancestry.

Section 17. Procurement. GGI shall adopt, subject to City's approval, a procurement policy that shall provide for open, competitive bidding for purchases of or contracts for materials, supplies, services or labor in the amount of \$20,000 or more and shall prohibit contracts between GGI and members of its board of directors and members of their families.

Section 18. Miscellaneous.

- a. Interpretation. Whenever the singular number is used in this Agreement and when required by the context, the same shall include the plural, and the masculine gender shall include the feminine and neuter genders. Days, unless otherwise specified, shall be calendar days.
- b. Severability. In the event any covenant, condition or provision herein contained is held to be invalid by a court of competent jurisdiction, the invalidity of any such covenant, condition or provision shall in no way affect any other covenant, condition or provision herein contained, provided the invalidity of any such covenant, condition or provision does not materially prejudice either City or FP in its respective rights and obligations contained in the valid covenants, conditions and provisions of this Agreement.
- c. Binding on Successors. Subject to the provisions of SECTION 32, this Agreement binds and inures to the benefit of the parties and their respective successors and assigns.
- d. Headings. The headings of the sections and exhibits of this Agreement are inserted for convenience only; they do not constitute part of this Agreement and are not to be used in its construction.
- e. Authority of City Administrator. Where this Agreement requires or permits City to act and no officer of the City is specified, the City Administrator of the City or the designated representative of the City Administrator has the authority to act on City's behalf.

Section 19. Hold Harmless. Hold Harmless. GGI shall, and does hereby agree to, have the right and obligation to defend, save, indemnify and hold the City, its corporate authorities, elected and appointed officials, officers, boards, commissions, legal counsel, employees and agents harmless from any injury, claim, demand, suit, judgment, execution, liability, debt, damages or penalty (the "Claims") arising out of resulting from, or alleged to arise out of or result from, GGI's performance of this Agreement.

Section 20. Insurance.

- a. General Liability. GGI shall maintain, throughout the term of the Agreement, general comprehensive liability insurance insuring both GGI and the City, and its officers, boards, commissions, elected and appointed officials, agents and employees, in the minimum amounts of:
  - \$1,000,000 for bodily injury or death to each Person;
  - \$1,000,000 for property damage resulting from any one accident; and
  - \$1,000,000 for all other types of liability.
- b. Automobile. GGI shall maintain in its own name automobile liability insurance with a limit of \$1,000,000 for each person and \$3,000,000 for each accident for property damage with respect to owned and non-owned automobiles for the operations of which GGI is responsible.
- c. Worker's Compensation. Worker's Compensation. GGI shall also maintain Worker's compensation Insurance within the statutory limits.
- d. Evidence of Insurance Policies. Evidence of Insurance Policies. On or prior to the effective date, GGI shall furnish proof to the City Administrator that the foregoing insurance policies have been obtained, along with written evidence of payment of required premiums, in the form of a certificate of insurance.
- e. Maintenance of Insurance Policies. Maintenance of Insurance Policies. The liability insurance policies required by this section shall be maintained by GGI throughout the term of the Agreement. Each such insurance policy shall contain the following endorsement:

It is hereby understood and agreed that this policy may not be canceled nor the intention not to renew be stated until 90 days after receipt by the City, by registered mail, of a written notice addressed to the City Administrator of such intent to cancel or not to renew.
- f. Within 60 days after receipt by the City of said notice, and in no event later than 30 days prior to said cancellation, GGI shall obtain and furnish to the City replacement insurance policies in a form acceptable to the City Attorney.

Section 21. Assignments, Transfers and Similar Actions. Neither the Agreement nor any rights or obligations of GGI pursuant to this Agreement shall be assigned, transferred, pledged, leased, sublet, hypothecated or mortgaged in any manner, in whole or in part, to any person, either by act of GGI, by operation of law or otherwise, without the prior consent of the City. Any such action completed without such prior consent of the City shall be a violation of this Agreement and shall, at the option of the City, which option may be exercised in the City's sole judgment and discretion, allow the City to initiate termination of this Agreement. The grant or waiver of any one or more of said consents shall not render unnecessary any subsequent consent or consents, nor shall the grant of any said consent constitute a waiver of any other rights of the City.

Section 22. Entire Agreement. This Agreement contain all of the agreements, representations, and understandings of the parties hereto, and, subject to the last sentence of this paragraph, supersede and replace any previous understandings, commitments, or agreements, whether oral or written.

Section 23. Third Party Beneficiaries. The provisions of this Agreement are intended solely for the benefit of City and GGI, and create no rights or obligations enforceable by any third party, including any creditor of City or FP, except as otherwise provided by applicable law.

Section 24. Effectiveness Subject To Appropriation. The parties agree and acknowledge that it is a prerequisite to the effectiveness of this Agreement that moneys be appropriated in an amount sufficient to fund the obligations of City under this Agreement. City and GGI further agree that, in the event that the City Council does not appropriate the funding for this Agreement, it shall become null and void.

CITY OF GRAND ISLAND

GROW GRAND ISLAND, INC.

BY \_\_\_\_\_  
Jeremy L. Jensen, Mayor

BY \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
RaNae Edwards, City Clerk

DRAFT