



City of Grand Island

Tuesday, February 28, 2017

Council Session

Item G-19

**#2017-63 - Approving Assignment of License Agreement for
Summerfield Estates Subdivision Homeowners' Association**

Staff Contact: Jerry Janulewicz

Council Agenda Memo

From: Jerry Janulewicz, City Attorney
Meeting: February 28, 2017
Subject: Assignment of License Agreement
Presenter(s): Jerry Janulewicz, City Attorney

Background

Little B's Corporation, as the developer of Summerfield Estates First Subdivision, Summerfield Estates Eighth Subdivision, and Summerfield Estates Fourth Subdivision, entered into license agreements with the City of Grand Island, permitting the placement and maintenance of subdivision entrance signs in the public right-of-way. Little B's Corporation wishes to transfer the signs and assign the license agreements to the respective homeowners associations: Summerfield Estates Subdivision Homeowners' Association; Eighth Subdivision of Summerfield Estates Homeowners' Association; and North Road/Grouse Boulevard HOA of Summerfield Estates.

Discussion

The City permitted the erection and maintenance of signs in the public right of way at the entrances into Summerfield Estates First Subdivision, Summerfield Estates Eighth Subdivision, and Summerfield Estates Fourth Subdivision. Little B's Corp., the licensee, desires to transfer the signs and assign its rights and duties under the license agreements to each respective homeowners' association. If the City consents to the assignments/bills of sale, the homeowners associations will own and be responsible for maintenance and repair of the signs.

Alternatives

The Council has the following alternatives concerning the issue at hand. The Council may:

1. Approve the resolutions consenting to assignment of the license agreements.
2. Disapprove or /Deny the resolutions.
3. Modify the resolutions to meet the needs of the City Council.
4. Table the issue.

Recommendation

City Administration recommends that the Council approve the resolutions.

Sample Motions

1. Approve the resolution consenting to the assignment of the license agreement/bill of sale by Little B's Corp. to Summerfield Estates Subdivision Homeowners' Association (License Agreement pertaining to Outlot A, Summerfield Estates First Subdivision).
2. Approve the resolution consenting to the assignment of the license agreement/bill of sale by Little B's Corp. to Eighth Subdivision of Summerfield Estates Homeowners' Association (License Agreement pertaining to Lot 1, Block 3, Summerfield Estates Eighth Subdivision).
3. Approve the resolution consenting to the assignment of the license agreement/bill of sale by Little B's Corp. to North Road/Grouse Boulevard HOA of Summerfield Estates (License Agreement pertaining to Lot 6, Block 1, Summerfield Estates Fourth Subdivision).

Return to: Michael L. Johnson
P.O. Box 790
Grand Island, NE 68802-0790

ASSIGNMENT OF LICENSE/BILL OF SALE

In consideration of the assumption of rights, obligations, duties and risks, LITTLE B'S CORP., a Nebraska corporation, GRANTOR, hereby transfers and assigns unto SUMMERFIELD ESTATES SUBDIVISION HOMEOWNERS' ASSOCIATION, a Nebraska nonprofit corporation, GRANTEE, all of its rights, obligations, duties and risks under the License Agreement ("the License Agreement") with the CITY OF GRAND ISLAND, NEBRASKA, a municipal corporation, attached hereto as Exhibit "A" and made a part hereof by reference, a copy of which License Agreement was recorded as Instrument No. 200701718 with the Register of Deeds of Hall County, Nebraska with the description of the Licensee's real estate as follows:

Outlot A, Summerfield Estates First Subdivision, in the City of Grand Island, Hall County, Nebraska.

GRANTOR further transfers and assigns to GRANTEE all of the right, title, and interest of the GRANTOR in and to the entrance identification sign described in said License Agreement.

LITTLE B'S CORP., a
Nebraska Corporation

By 
Greg Baxter, President

STATE OF NEBRASKA)
)ss:
COUNTY OF HALL)

The foregoing instrument was acknowledged before me on the 12th day of January, 2017 by Greg Baxter, President of Little B's Corp., a Nebraska corporation, on behalf of the corporation.

Kathleen J. Muhlbach
Print Name Kathleen J. Muhlbach
Notary Public

My commission expires: 12-1-2020



ACCEPTANCE OF ASSIGNMENT OF LICENSE/BILL OF SALE

SUMMERFIELD ESTATES SUBDIVISION HOMEOWNERS' ASSOCIATION, a Nebraska nonprofit corporation, ("the HOA") does hereby accept the foregoing Assignment of License/Bill of Sale and agrees to assume all rights, obligations, duties and risks of LITTLE B'S CORP., a Nebraska corporation, under said License Agreement attached hereto as Exhibit "A" and made a part hereof by reference, a copy of which License Agreement was recorded as Instrument No. 200701718 with the Register of Deeds of Hall County, Nebraska. The HOA agrees to be substituted for LITTLE B'S CORP., a Nebraska corporation, as Licensee under said License Agreement and to be subject as Licensee to all terms and conditions of the License Agreement. The HOA further agrees that it shall, upon request of the City or otherwise, fix and collect sufficient assessments consistent with the AMENDMENT TO DECLARATION OF RESTRICTIVE COVENANTS, RESTRICTIONS AND CONDITIONS FOR SUMMERFIELD ESTATES FIRST SUBDIVISION HOMEOWNERS' ASSOCIATION AND SUMMERFIELD ESTATES FIFTH AND SIXTH SUBDIVISIONS HOMEOWNERS' ASSOCIATION recorded as Instrument No. 200700282 with the Register of Deeds of Hall County, Nebraska (amending declarations recorded as Instrument Nos. 200003417 and 200607966 with the Register of Deeds of Hall County, Nebraska) ("the Covenants") to satisfy all rights, obligations, duties and risks of the Licensee under the License Agreement. The properties subject to the Covenants are described on Exhibit "B" attached hereto and made a part hereof by reference. The HOA agrees and acknowledges that the HOA may be subject to judicial dissolution under the provisions of NEB. REV. STAT. §§21-19,141 through 21-19,145 if the HOA fails to satisfy all rights, obligations, duties and risks of the Licensee under the License Agreement. The City shall further have all rights under NEB. REV. STAT. §§18-3101 through 18-3105.

SUMMERFIELD ESTATES SUBDIVISION
HOMEOWNERS' ASSOCIATION, a Nebraska
nonprofit corporation

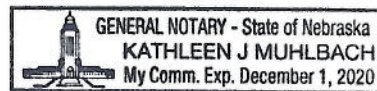
By Ken Thompson
Ken Thompson, President

STATE OF NEBRASKA)
)ss:
COUNTY OF HALL)

The foregoing instrument was acknowledged before me on the 12th day of January, 2017 by Ken Thompson, President of Summerfield Estates Subdivision Homeowners' Association, a Nebraska nonprofit corporation, on behalf of the nonprofit corporation.

Kathleen J. Muhlbach
Print Name Kathleen J. Muhlbach
Notary Public

My commission expires: 12-1-2020



CONSENT TO ASSIGNMENT OF LICENSE/BILL OFSALE

The CITY OF GRAND ISLAND, NEBRASKA, a municipal corporation, hereby consents to the foregoing Assignment of License/Bill of Sale by LITTLE B'S CORP., a Nebraska corporation, and Acceptance of Assignment of License/Bill of Sale by SUMMERFIELD ESTATES SUBDIVISION HOMEOWNERS' ASSOCIATION, a Nebraska nonprofit corporation, in regard to the License Agreement attached hereto as Exhibit "A" and made a part hereof by reference, a copy of which License Agreement was recorded as Instrument No. 200701718 with the Register of Deeds of Hall County, Nebraska. In consideration of the agreement of SUMMERFIELD ESTATES SUBDIVISION HOMEOWNERS' ASSOCIATION, a Nebraska nonprofit corporation, to accept the foregoing Assignment of License/Bill of Sale and assume all rights, obligations, duties and risks of LITTLE B'S CORP., a Nebraska corporation, under said License Agreement, the CITY OF GRAND ISLAND, NEBRASKA, a municipal corporation, hereby releases LITTLE B'S CORP., a Nebraska corporation, from all of rights, obligations, duties and risks under said License Agreement and agrees that SUMMERFIELD ESTATES SUBDIVISION HOMEOWNERS' ASSOCIATION, a Nebraska nonprofit corporation, shall be substituted for LITTLE B'S CORP., a Nebraska corporation, as Licensee under said License Agreement and shall be subject as Licensee to all terms and conditions of said Licensee Agreement.

Jeremy L. Jensen, Mayor

Attest:

RaNae Edwards, City Clerk

STATE OF NEBRASKA)
)ss:
COUNTY OF HALL)

The foregoing instrument was acknowledged before me this _____ day of _____, 2017 by Jeremy L. Jensen, Mayor of the City of Grand Island, Nebraska, a municipal corporation on behalf of the municipal corporation.

Print Name _____
Notary Public

My Commission Expires: _____
242-48/601797

Entered As Instrument No

0200701718

STATE OF NEBRASKA) SS.
COUNTY OF HALL

2007 MAR 6 PM 2 12

Kathy Baack
REG OF DEEDS

CASH 20.50
CHECK _____

REFUNDS:

CASH _____
CHECK _____

• This Space Reserved for Register of Deeds •

Return to:
Larry Cornelius, Sr. Eng. Tech.
Public Works Department
City of Grand Island
P.O. Box 1968
Grand Island, NE 68802



200701718

20.50

LICENSE AGREEMENT

This License Agreement is made by and between the CITY OF GRAND ISLAND, NEBRASKA, a Municipal Corporation, herein referred to as the "Licensor" and LITTLE B'S CORP., hereinafter referred to as the "Licensee."

1. STATEMENT OF PURPOSE. The purpose of this License Agreement is to set forth the terms and conditions under which the Licensee may construct, maintain, repair, and utilize the following described improvement which will infringe upon real estate owned by the Licensor:

Installation, maintenance and repair of one (1) entrance identification sign to Summerfield Estates Subdivision. Such sign must be made of a durable permanent material, such as brick or metal. The sign cannot be made of wood or similar materials. The area of the sign (excluding ornamental brickwork or supports) shall not exceed thirty two (32.0) square feet. The sign height cannot exceed four (4.0) feet.

2. DESCRIPTION OF LICENSEE'S REAL ESTATE. The Licensee owns the following described real estate adjacent to the Licensor's real estate to which this License Agreement shall apply:

Out Lot A, ~~Block~~ Summerfield Estates Subdivision to the City of Grand Island, Hall County, Nebraska. *First AC*

3. LICENSEE'S DUTIES AND RISKS. It is understood and agreed that the Licensee may construct, maintain, repair and utilize the above described improvement at the Licensee's sole risk. The Licensee hereby waives any claim for damages against the Licensor, its officers, employees, agents and independent contractors for any damage or injury that may result



to said improvement. If the Licensor, in its sole discretion, determines that any part or all of the improvement must be removed or is damaged by the Licensor, its employees, agents or independent contractors working for the Licensor during the course of their employment or duties with the Licensor, the Licensee agrees to assume and pay all costs relating to the replacement or repair of the improvement.

4. RESTORATION OF PROPERTY. If the construction or maintenance of the improvement identified in Paragraph 1 above requires the excavation of earth, removal of hard surfacing, grass, vegetation, landscaping, or any other disruption of the surface of the public right-of-way or neighboring property, the Licensee shall restore the surface of the area to the same condition as it existed immediately prior to the Licensee's work in the area.

5. OTHER CONDITIONS. The following conditions shall apply to this License Agreement:

- A. Design and location of each sign shall be subject to the approval of the Public Works Director before installation.
- B. The signs shall only be located on landscape medians. The signs must be placed in a location that does not interfere with traffic or cause safety concerns. Such locations must be accurately depicted on a site plan showing the exact location of each sign on the property as well as detail the design and structure of each sign. Such site plan must be submitted to the Building Department prior to receiving the building permit for such signs.
- C. The Licensee shall be responsible for all care and maintenance of the signs.
- D. If the maintenance or upkeep of any of the signs is not acceptable, the City of Grand Island has the authority to have the signs removed at the expense of the Licensee.

6. EFFECTIVE DATE. This License Agreement shall take effect on the date it is executed by the Director of Public Works of the City of Grand Island as dated below. It shall continue for an indefinite term or until such time as it is terminated as provided hereafter.

7. TERMINATION. This License Agreement shall terminate upon one or more of the following occurrences:

- (a) The service of sixty (60) days written notice of intention to terminate by any party upon the other party.
- (b) The Licensee's application for a permit to alter said improvement or any part thereof, unless said permit is for work due to an occurrence as described in Paragraph 3 above and said work has the prior written approval of the Licensor.

(c) The Licensee's construction or installation of any structure or improvement of any nature upon the real estate owned by the Licensor except that described in Paragraph 1 above.

Upon the termination of this License Agreement, the Licensee shall be required, and hereby agrees, to remove said improvement from the Licensor's real estate at its own expense and without cost to the Licensor. Said removal to occur no later than sixty (60) days after receipt of the notice of intention to terminate or any of the occurrences set forth in Paragraph 6 above. Should the Licensee fail to do so, the Licensor may remove or cause the removal of said improvement from the Licensor's real estate and the Licensee agrees to reimburse the Licensor for all its costs.

8. SUCCESSORS AND ASSIGNS. This agreement shall be binding upon the parties hereto, their successors and assigns.

9. ENTIRE AGREEMENT. This License Agreement constitutes the entire agreement between the parties notwithstanding any other oral or written agreements to the contrary. This License Agreement shall be amended only in writing executed by all parties hereto.

10. CHOICE OF LAWS. This License Agreement shall be construed in accordance with the laws of the State of Nebraska and the City of Grand Island, Nebraska.

11. CONTENT OF LANGUAGE. Wherever the context of the language in this License Agreement is appropriate, the singular shall apply to the plural and the plural shall apply to the singular.

DATED: FEB. 27  2007.

CITY OF GRAND ISLAND, NEBRASKA,
A Municipal Corporation, Licensor,

By:



STEVEN P. RIEHLE
Director of Public Works

200701718

LITTLE B'S CORP., Licensee,

By:


GREG BAXTER, President

STATE OF NEBRASKA)
) ss
COUNTY OF HALL)

Before me, a notary public, qualified in said County personally came Greg Baxter, President of Little B's Corp., known to me to be such officer and the identical person who signed the foregoing License Agreement and acknowledged that the foregoing signature was his voluntary act and deed.

WITNESS my hand and notarial seal on Feb 27th, 2007.




Notary Public

Lots One (1) through Six (6), Block Three (3) and Lots One (1) through Eight (8), Block Four (4), all in Summerfield Estates First Subdivision in the City of Grand Island, Hall County, Nebraska; and

Lots One (1) through Six (6), Block One (1) and Lots Five (5) through Eight (8), Block Two (2), all in Summerfield Estates Fifth Subdivision in the City of Grand Island, Hall County, Nebraska, and Lots One (1) through Four (4), all in Summerfield Estates Sixth Subdivision in the City of Grand Island, Hall County, Nebraska, (a replat of Lots One (1) through Four (4), Block Two (2) in Summerfield Estates Fifth Subdivision in the City of Grand Island, Hall County, Nebraska)

242-48/607609



RESOLUTION 2017-63

WHEREAS, through a license agreement, the City of Grand Island permitted Little B's Corp. to construct and maintain a subdivision entrance sign upon the public right of way; and

WHEREAS, Little B's Corp. desires to transfer the sign and assign to the following homeowners association its rights and duties under the license agreement with the City of Grand Island, and is requesting City's consent to the assignment and bill of sale.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the City of Grand Island hereby consents to the assignment of the license agreement/bill of sale by Little B's Corp. to Summerfield Estates Subdivision Homeowners' Association (License Agreement pertaining to Outlot A, Summerfield Estates First Subdivision).

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Adopted by the City Council of the City of Grand Island, Nebraska, February 28, 2017.

Jeremy L. Jensen, Mayor

Attest:

RaNae Edwards, City Clerk

Approved as to Form	☐ _____
March 10, 2017	☐ City Attorney