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# City of Grand Island



## Tuesday, July 13, 2021 Council Session Agenda

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### **City Council:**

**Jason Conley**  
**Michelle Fitzke**  
**Bethany Guzinski**  
**Chuck Haase**  
**Maggie Mendoza**  
**Vaughn Minton**  
**Mitchell Nickerson**  
**Mike Paulick**  
**Justin Scott**  
**Mark Stelk**

### **Mayor:**

**Roger G. Steele**

### **City Administrator:**

**Jerry Janulewicz**

### **City Clerk:**

**RaNae Edwards**

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**7:00 PM**

**Council Chambers - City Hall**  
**100 East 1st Street, Grand Island, NE 68801**

## **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 - Pastor Sheri Lodel, Calvary Lutheran Church, 1304 North Custer Avenue**

**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, July 13, 2021

Council Session

## Item E-1

### **Public Hearing on Request from Wine Beer & Spirits, LLC dba Wine Beer & Spirits, 1111 Allen Drive for a Class "C" Liquor License**

*Council action will take place under Consent Agenda item G-2.*

Staff Contact: RaNae Edwards

# **Council Agenda Memo**

**From:** RaNae Edwards, City Clerk

**Meeting:** July 13, 2021

**Subject:** Public Hearing on Request from Wine Beer & Spirits, LLC dba Wine Beer & Spirits, 1111 Allen Drive for a Class "C" Liquor License

**Presenter(s):** RaNae Edwards, City Clerk

## **Background**

Section 4-2 of the Grand Island City Code declares the intent of the City Council regarding liquor licenses and the sale of alcohol.

### **Declared Legislative Intent**

- It is hereby declared to be the intent and purpose of the city council in adopting and administering the provisions of this chapter:
- (A) To express the community sentiment that the control of availability of alcoholic liquor to the public in general and to minors in particular promotes the public health, safety, and welfare;
  - (B) To encourage temperance in the consumption of alcoholic liquor by sound and careful control and regulation of the sale and distribution thereof; and
  - (C) To ensure that the number of retail outlets and the manner in which they are operated is such that they can be adequately policed by local law enforcement agencies so that the abuse of alcohol and the occurrence of alcohol-related crimes and offenses is kept to a minimum.

## **Discussion**

Wine Beer & Spirits, LLC dba Wine Beer & Spirits, 1111 Allen Drive has submitted an application for a Class "C" Liquor License. A Class "C" Liquor License allows for the sale of alcohol on and off sale only inside the corporate limits of the city.

City Council action is required and forwarded to the Nebraska Liquor Control Commission for issuance of all licenses. This application has been reviewed by the Clerk, Building, Fire, Health, and Police Departments. See attached Police Department report.

Also submitted was a request for Liquor Manager Designation for Beau Starkel, 15361 Orchard Avenue, Omaha, Nebraska. Staff recommends approval of the liquor license contingent upon final inspections and liquor manager designation for Beau Starkel, 15361 Orchard Avenue, Omaha, Nebraska contingent upon completion of a state approved alcohol server/seller training program.

### **Alternatives**

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

1. Approve the application.
2. Forward to the Nebraska Liquor Control Commission with no recommendation.
3. Forward to the Nebraska Liquor Control Commission with recommendations.
4. Deny the application.

### **Recommendation**

Based on the Nebraska Liquor Control Commission's criteria for the approval of Liquor Licenses, City Administration recommends that the Council approve this application.

### **Sample Motion**

Move to approve the application for Wine Beer & Spirits, LLC dba Wine Beer & Spirits, 1111 Allen Drive for a Class "C" Liquor License contingent upon final inspections and Liquor Manager designation for Beau Starkel, 15361 Orchard Avenue, Omaha, Nebraska contingent upon completion of a state approved alcohol server/seller training program.



# Grand Island Police Department

Officer Report for Incident L21061405

**Nature:** Liquor Lic Inv  
**Location:** PAON

**Address:** 1111 ALLEN DR  
Grand Island NE 68803

## Offense Codes:

**Received By:** Dvorak T      **How Received:** T      **Agency:** GIPD  
**Responding Officers:** Dvorak T  
**Responsible Officer:** Dvorak T      **Disposition:** CLO 07/06/21  
**When Reported:** 09:01:15 06/16/21      **Occurred Between:** 09:01:15 06/16/21 and 09:01:15 06/16/21

**Assigned To:**

**Detail:**

**Date Assigned:** \*\*/\*\*/\*\*

**Status:**

**Status Date:** \*\*/\*\*/\*\*

**Due Date:** \*\*/\*\*/\*\*

## Complainant:

**Last:**      **First:**      **Mid:**  
**DOB:** \*\*/\*\*/\*\*      **Dr Lic:**      **Address:**  
**Race:**      **Sex:**      **Phone:**      **City:** ,

## Offense Codes

**Reported:**

**Observed:**

## Circumstances

LT24 LT24 Specialty Store

## Responding Officers:

**Unit :**

Dvorak T      309

**Responsible Officer:** Dvorak T

**Agency:** GIPD

**Received By:** Dvorak T

**Last Radio Log:** \*\*:\*\*:\*\* \*\*/\*\*/\*\*

**How Received:** T Telephone

**Clearance:** CL CL Case Closed

**When Reported:** 09:01:15 06/16/21

**Disposition:** CLO **Date:** 07/06/21

**Judicial Status:**

**Occurred between:** 09:01:15 06/16/21

**Misc Entry:**

**and:** 09:01:15 06/16/21

## Modus Operandi:

**Description :**

**Method :**

## Involvements

Date	Type	Description	Owner/Manager
06/16/21	Name	Starkel, Beau HG	

07/06/21

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06/16/21	Name	Heiliger, Jordan M	Spouse
06/16/21	Name	Wine Beer & Spirits,	Location

07/06/21

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**Narrative**

Liquor License Investigation

Grand Island Police Department

Wine, Beer and Spirits LLC has applied for a Class C, beer; wine; distilled spirits on and off sale, liquor license for a new store to be located at 1111 Allen Drive, the site of the old Gordmans.

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Responsible LEO:

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Approved by:

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Date

07/06/21

**Supplement**

309

Liquor License Investigation

Grand Island Police Department  
Supplemental Report

Date, Time: 6-20-21

Reporting Officer: Dvorak #309

Unit #: CID

I received an application for a new liquor license to be located at 1111 Allen Drive, the site where Gordmans used to be. Wine Beer & Spirits LLC is applying for a Class C license, to sell beer, wine, and distilled spirits, on and off sale.

I observed that Wine Beer and Spirits LLC already has stores in Omaha and Lincoln. The owner/manager is listed as Beau Starkel, of Omaha. In the application paperwork, it also advises that Beau is married, to Jordan Heiliger, and Jordan is listed on the LLC as a partner, but Heileiger completed a "spousal non-participation" form. There are 12 other, minor, partners listed for the LLC. I did not perform full background checks for every one of those individuals. I did check all associated names for current arrest warrants, and found no one is wanted.

I utilized our local Spillman database, NCJIS and NCIC/NCIS for Beau and his wife Jordan. I found no entries of concern for either, and no Nebraska criminal history of note. Neither Jordan nor Beau disclosed any traffic convictions, and I did not note any. I also utilized a paid, law enforcement only, database that generally discloses civil issues, lawsuits and bankruptcies. I did not find any concerning entries for either of them.

I contacted Starkel by phone, to set up a meeting at the proposed location, 1111 Allen Drive. Starkel said he would be in Grand Island by 1100, and suggested we meet at the new store. The location is a storefront in the strip mall directly north of Home Depot.

Starkel advised that he is the majority owner, and managing partner of the LLC. Starkel also acts as his own Liquor Manager for his locations. He said he has a successful marketing plan, with stores currently open in the Omaha and Lincoln markets, this one soon to open in Grand Island, and one property already purchased for a 4th store in Iowa. Starkel also advised that he is a minority owner of the Thunderhead Brewing Company.

As we entered the location, I observed that there were still many racks and displays left over from Gordmans. Starkel indicated that some will be incorporated in the new business, but most would not. Beau explained that his sales model prioritizes volume, both in available product and in sales. He said he will have pallet displays throughout the cavernous store. Beau said his marketing plan is low key, and recognizes that the majority of customers would rather pay less for a good product, than pay more for fancy displays.

Starkel showed me his plans for a "tasting" area. Another portion of the store will be set up as a "laid back" lounge area. Beau said he envisions working folks stopping by for a couple of quick, quiet drinks or beers after work, but advised he definitely does not want to, nor intend to, become more of a bar than a liquor store. Starkel explained that he wants to have top shelf merchandise,

07/06/21

but focuses more on having a large selection and volume sales at reasonable prices.

Starkel explained his "forced flow" floor lay out. He also advised he will incorporate state of the art surveillance equipment, and will only have one public ingress/entry. Starkel said he plans to be open 7 days a week. He said he will not have the store open late. Beau envisions Mon-Thurs 9am to 8pm. Fri-Sat open from 9am to 9 or 10pm, and Sundays open from Noon to 8pm.

Beau said he is negotiating with two individuals to manage this location for him. He said both "Charlie from HyVee" and Stacy Williams have previous retail alcohol sales experience. Starkel said, if sales proceed as he forecasts, he will actually purchase the property in 2022, but as of now is leasing the space from the current owners. Starkel said, if approved, he plans to open the weekend of July 23rd/24th.

As we toured the area, Beau said he really wants his store to become the "go to" location in Grand Island. He said he plans to have tailgate supply service every Husker Saturday, and is looking at joining forces with local restaurants and food trucks to get his name out there.

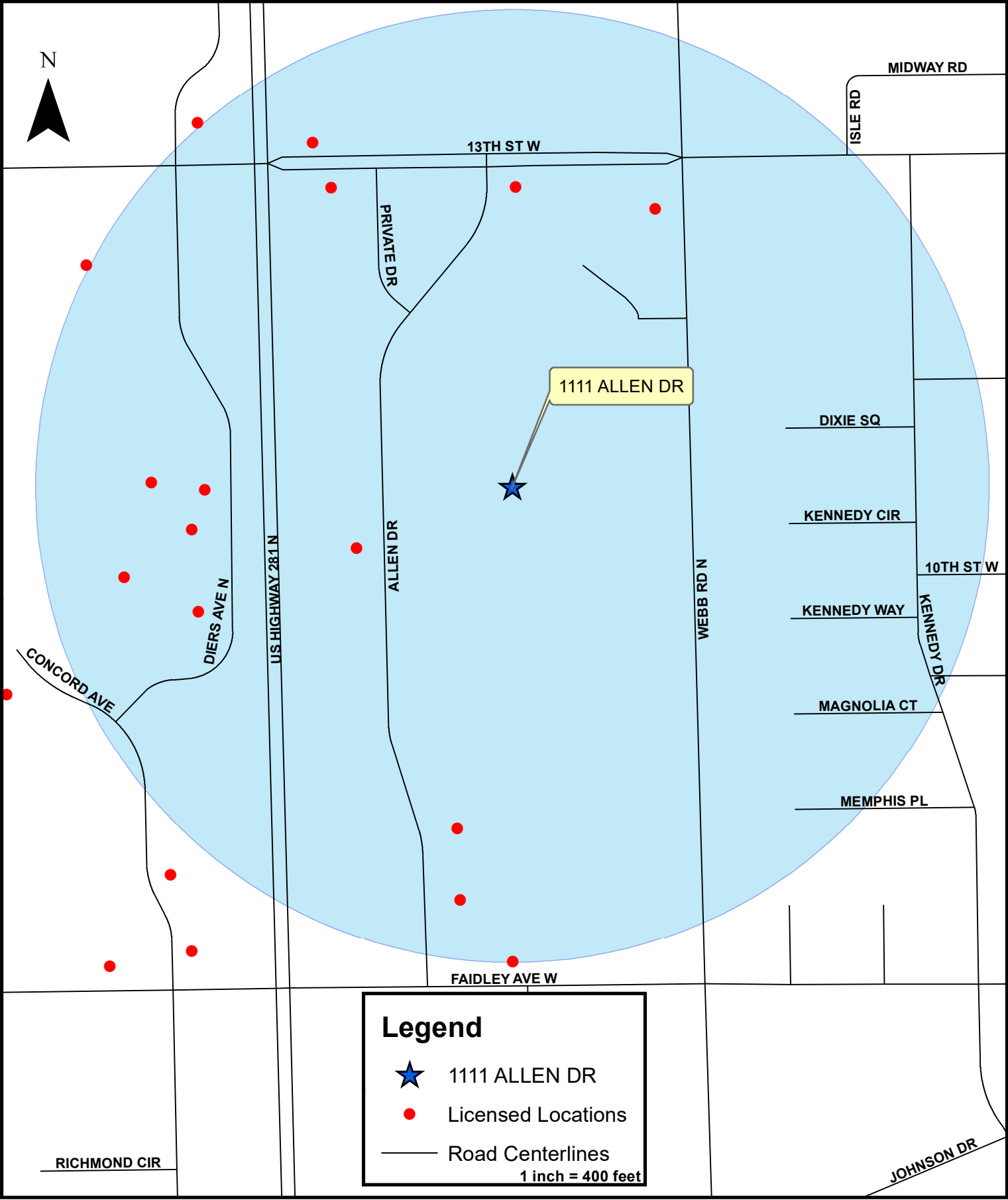
We discussed enforcement related concerns, mandatory training for employees and compliance testing procedures. Starkel said he plans to leverage his businesses into State level management or even politics, so he really wants to show Grand Island what can be done by business owners with the proper community outlook.

The Grand Island Police Department found no concerns with Starkel or his purposed facility, and recommend approval for the issuance of a Class C Liquor license for Wine Beer and Spirits LLC.

07/06/21



**Liquor License Application:  
Class "C": Wine Beer & Spirits**





# City of Grand Island

Tuesday, July 13, 2021

Council Session

## Item E-2

### **Public Hearing on Acquisition of Utility Easement - 3321 West Schimmer Drive (Bosselman Energy, Inc.)**

*Council action will take place under Consent Agenda item G-3.*

Staff Contact: Tim Luchsinger, Stacy Nonhof

# **Council Agenda Memo**

**From:** Tim Luchsinger, Utilities Director  
Stacy Nonhof, Interim City Attorney

**Meeting:** July 13, 2021

**Subject:** Acquisition of Utility Easement – 3321 West Schimmer Drive – Bosselman Cardlock Fuel Station

**Presenter(s):** Timothy Luchsinger, Utilities Director

## **Background**

Nebraska State Law requires that acquisition of property must be approved by City Council. The Utilities Department needs to acquire utility easement relative to the property of Bosselman Energy, Inc., located through a part of Lot Twenty-Two (22), Platte Valley Industrial Park Third Subdivision, in the City of Grand Island, Hall County, Nebraska (3321 West Schimmer Drive), in order to have access to install, upgrade, maintain, and repair power appurtenances, including lines and transformers.

## **Discussion**

Bosselman Energy, Inc., has requested a new electrical service for their new Cardlock Fueling Station located at 3321 West Schimmer Drive. A new 75 kVA three-phase transformer will be installed along with approximately 270 linear feet of 4" conduit and 1/0 copper power cable to accommodate the new electrical service. This easement will allow the Utilities Department to assess, operate, and maintain the electrical infrastructure at this location.

## **Alternatives**

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

1. Make a motion to approve
2. Refer the issue to a Committee
3. Postpone the issue to future date
4. Take no action on the issue

### **Recommendation**

City Administration recommends that the Council approve the resolution for the acquisition of the easement for one dollar (\$1.00).

### **Sample Motion**

Move to approve acquisition of the Utility Easement.

NORTHWEST CORNER  
SECTION 5-10-9

NW CORNER- LOT 22,  
PLATTE VALLEY INDUSTRIAL  
PARK THIRD SUB.

SCHIMMER DRIVE

WEST LINE- LOT 22, PLATTE  
VALLEY INDUSTRIAL PARK  
THIRD SUB.

PLATTE VALLEY INDUSTRIAL

POINT OF  
BEGINNING

128.63'  
S0°56'53"W  
(ASSUMED)

63.33'

S89°03'07"E

20.0'

S0°56'53"W

14.01'

S89°03'07"W

41.85'

S45°25'20"W

185.57'

N0°56'53"E

314.20'

136.01'

S0°56'53"W

75.04'

20.0'

N88°11'05"W

SW COR.- LOT 22,  
PLATTE VALLEY  
INDUSTRIAL PARK  
THIRD SUB.

LOT 22

PARK 3RD SUB.

SOUTH LINE- LOT 22,  
PLATTE VALLEY  
INDUSTRIAL PARK  
THIRD SUB.

JUERGEN ROAD

EXISTING  
EASEMENT

U.S. HIGHWAY #34 & 281

LEGEND



INDICATES  
UTILITY EASEMENT



CITY OF  
**GRAND ISLAND**  
UTILITIES DEPARTMENT

**EXHIBIT "A"**



# City of Grand Island

Tuesday, July 13, 2021

Council Session

## Item E-3

### **Public Hearing on Acquisition of Drainage Easement in Prairie Commons Fourth Subdivision- 3490 Ewoldt Street (Tabitha Grand Island, Inc.)**

*Council action will take place under Consent Agenda item G-11.*

Staff Contact: John Collins, P.E. - Public Works Director

# **Council Agenda Memo**

**From:** Keith Kurz PE, Assistant Public Works Director

**Meeting:** July 13, 2021

**Subject:** Public Hearing on Acquisition of Drainage Easement in Prairie Commons Fourth Subdivision- 3490 Ewoldt Street (Tabitha Grand Island, Inc.)

**Presenter(s):** John Collins PE, Public Works Director

## **Background**

Nebraska State Statutes stipulate that the acquisition of property requires a public hearing to be conducted with the acquisition approved by the City Council.

Public easements were dedicated with the original plat of Prairie Commons Fourth Subdivision, before site design was complete. The initial location of the drainage easement was estimated and needs to be relocated, therefore City Council is being asked at tonight's meeting to vacate the initial easement and acquire a new one in the appropriate location. A sketch is attached to show the easement areas.

## **Discussion**

To allow for proper location of the drainage easement in Prairie Commons Fourth Subdivision it is requested that the initially dedicated drainage easement be vacated with acquisition of the appropriate location by the City of Grand Island, according to the attached sketches.

There will be no cost of such action to the City.

## **Alternatives**

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

1. Move to approve
2. Refer the issue to a Committee
3. Postpone the issue to future date
4. Take no action on the issue

## **Recommendation**

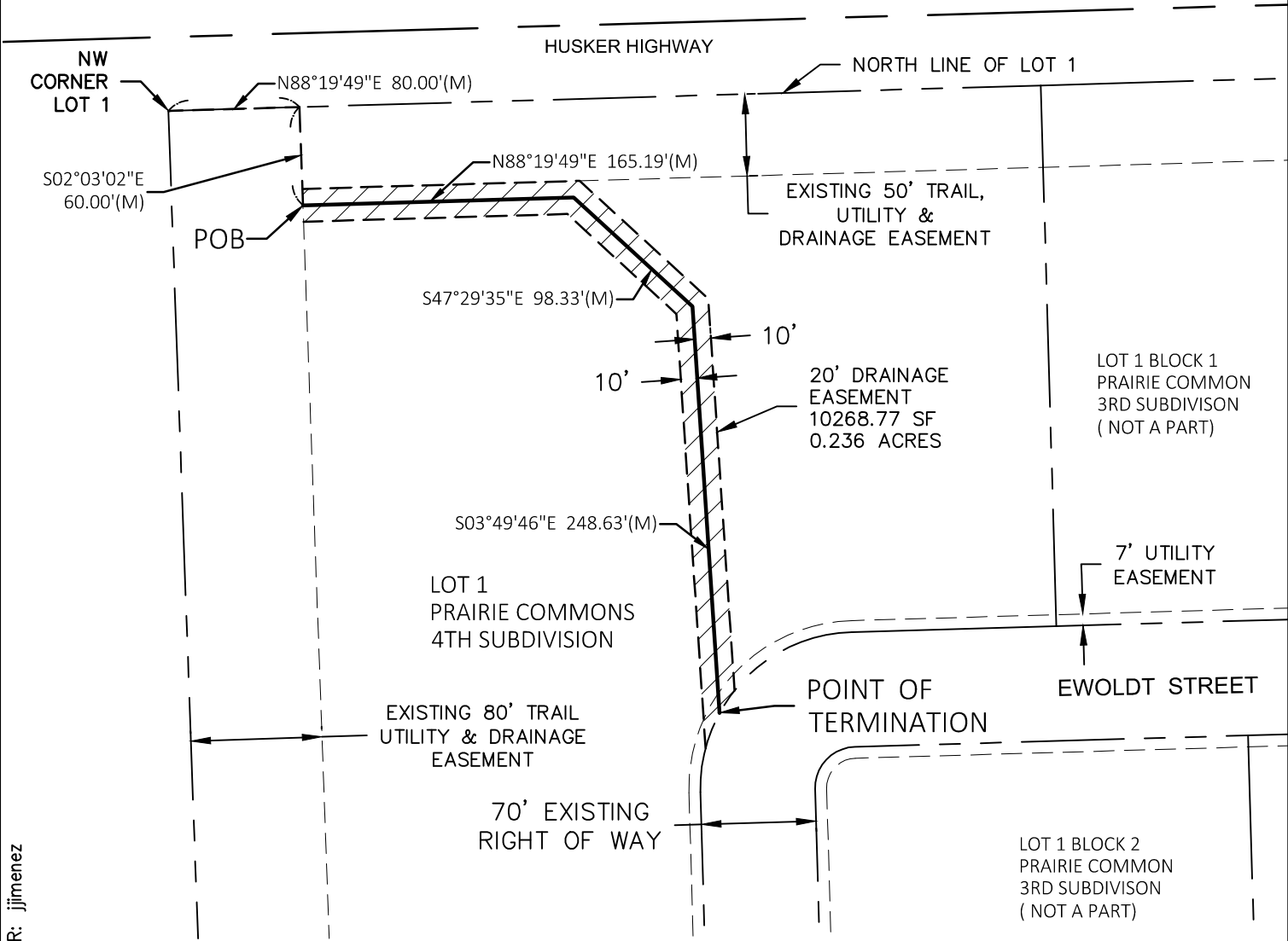
City Administration recommends that the Council approve the acquisition of the drainage easement.

## **Sample Motion**

Move to approve the resolution.



DRAINAGE EASEMENT



LEGEND

- PROPERTY LINE
- EXISTING EASEMENT LINE
- PROPOSED EASEMENT



0' 50' 100'  
SCALE IN FEET

20' DRAINAGE EASEMENT DESCRIPTION

A 20' FT. WIDE DRAINAGE EASEMENT LOCATED IN PART OF LOT 1, PRAIRIE COMMONS FOURTH SUBDIVISION, IN THE CITY OF GRAND ISLAND AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE CENTERLINE OF A 20 FT. WIDE EASEMENT BEING 10 FT. ON BOTH SIDES OF SAID DESCRIBED CENTERLINE; COMMENCING AT THE NORTHWEST CORNER OF LOT 1, PRAIRIE COMMONS FOURTH SUBDIVISION; THENCE ON AN ASSUMED BEARING OF N88°19'49"E, ALONG THE NORTH LINE OF SAID LOT 1, A DISTANCE OF 80.00 FEET; THENCE S02°03'02"E A DISTANCE OF 60.00 FEET TO POINT ON A LINE OF EXISTING 50' TRAIL, UTILITY AND DRAINAGE EASEMENT AND ALSO BEING THE POINT OF BEGINNING; THENCE N88°19'49"E, ALONG THE CENTERLINE OF A 20 FT. WIDE DRAINAGE EASEMENT BEING 10 FT. ON BOTH SIDES OF SAID CENTERLINE, A DISTANCE OF 165.19 FEET; THENCE S47°29'35"E, ALONG SAID CENTERLINE, A DISTANCE OF 98.33 FEET; THENCE S03°50'04"E, ALONG SAID CENTERLINE, A DISTANCE OF 248.63 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY OF EWOLDT STREET AND ALSO BEING THE POINT OF TERMINATION. SAID 20 FT. DRAINAGE EASEMENT CONTAINS A CALCULATED AREA OF 10267.52 SQUARE FEET OR 0.236 ACRES MORE OR LESS.

DWC: F:\2019\2501-3000\019-2696\40-Design\Survey\SRVY\Sheets\V\_ESMT\_0192696.dwg  
DATE: Mar 24, 2021 10:40am  
XREFS: V\_RWAY-PC 3RD\_61176  
USER: jjimenez

PROJECT NO: 2019-2696	DRAINAGE EASEMENT		201 East 2nd Street Grand Island, NE 68801 TEL 308.384.8750	EXHIBIT
DRAWN BY: JMJ				1
DATE: 2021-03-24				



# City of Grand Island

Tuesday, July 13, 2021

Council Session

## Item F-1

**#9836 - Consideration of Vacation of Two Utility Easement Tracts  
at 803, 829 and 831 Bronze Road - Husker Storage**

Staff Contact: Tim Luchsinger, Stacy Nonhof

# **Council Agenda Memo**

**From:** Timothy Luchsinger, Utilities Director  
Stacy Nonhof, Interim City Attorney

**Meeting:** July 13, 2021

**Subject:** Ordinance #9836 - Consideration of Vacation of Utility Easement Tracts – 803, 829 and 831 Bronze Road

**Presenter(s):** Timothy Luchsinger, Utilities Director

## **Background**

Husker Storage has requested the vacation of two (2) existing Ten (10.0) foot utility easement tracts platted on Lot Nine (9) and Lot Ten (10) of Westgate Industrial Park Second Subdivision.

## **Discussion**

The property owner owns Lot 9, 10 and 11 (803, 829 and 831 Bronze Road) of Westgate Industrial Park Second Subdivision. Lots 10 and 11 have recently had storage units constructed on them. The property owner would like to continue building storage units on Lot 9 (803 Bronze Road) without having easement conflicts. The easements currently have no utilities residing in them.

## **Alternatives**

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

1. Move to approve
2. Refer the issue to a Committee
3. Postpone the issue to future date
4. Take no action on the issue

## **Recommendation**

City Administration recommends that the Council approve the Ordinance, and that the described easement tracts be vacated.

## **Sample Motion**

Move to approve the Ordinance and vacate the utility easements as described.

THIS SPACE RESERVED FOR REGISTER OF DEEDS

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### ORDINANCE NO. 9836

This ordinance is to vacate two (2) easement tracts that were platted on the original Plat of Westgate Industrial Park Second Subdivision, and to provide for filing this ordinance in the office of the Register of Deeds of Hall County, Nebraska; and to provide for the publication and the effective date of this ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA:

SECTION 1. That the two (2) easement tracts that were platted on the original Plat of Westgate Industrial Park Second Subdivision, and to provide for filing this ordinance in the office of the Register of Deeds of Hall County, Nebraska being more particularly described as follows:

#### TRACT NO. 1

The southerly ten (10.0) feet of Lot Nine (9), Westgate Industrial Park Second Subdivision; except the westerly seven (7.0) feet and the easterly Eight (8.0) feet of said Lot Nine (9) containing 0.096 acres, more or less.

Approved as to Form	☐ _____
July 9, 2021	☐ City Attorney

ORDINANCE NO. 9836 (Cont.)

TRACT NO. 2

The northerly ten (10.0) feet of Lot Ten (10), Westgate Industrial Park Second Subdivision; except the westerly seven (7.0) feet and the easterly Eight (8.0) feet of said Lot Ten (10) containing 0.096 acres, more or less.

Such Utility Easements to be vacated as shown on Exhibit "A" attached hereto dated 6/21/2021 and incorporated herein by reference.

SECTION 2. This Ordinance is hereby directed to be recorded in the office of the Register of Deeds of Hall County, Nebraska.

SECTION 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 4. This Ordinance shall be in force and take effect from and after its passage and publication within fifteen (15) days in one issue of the Grand Island Daily Independent as provided by law.

Enacted: July 13, 2021

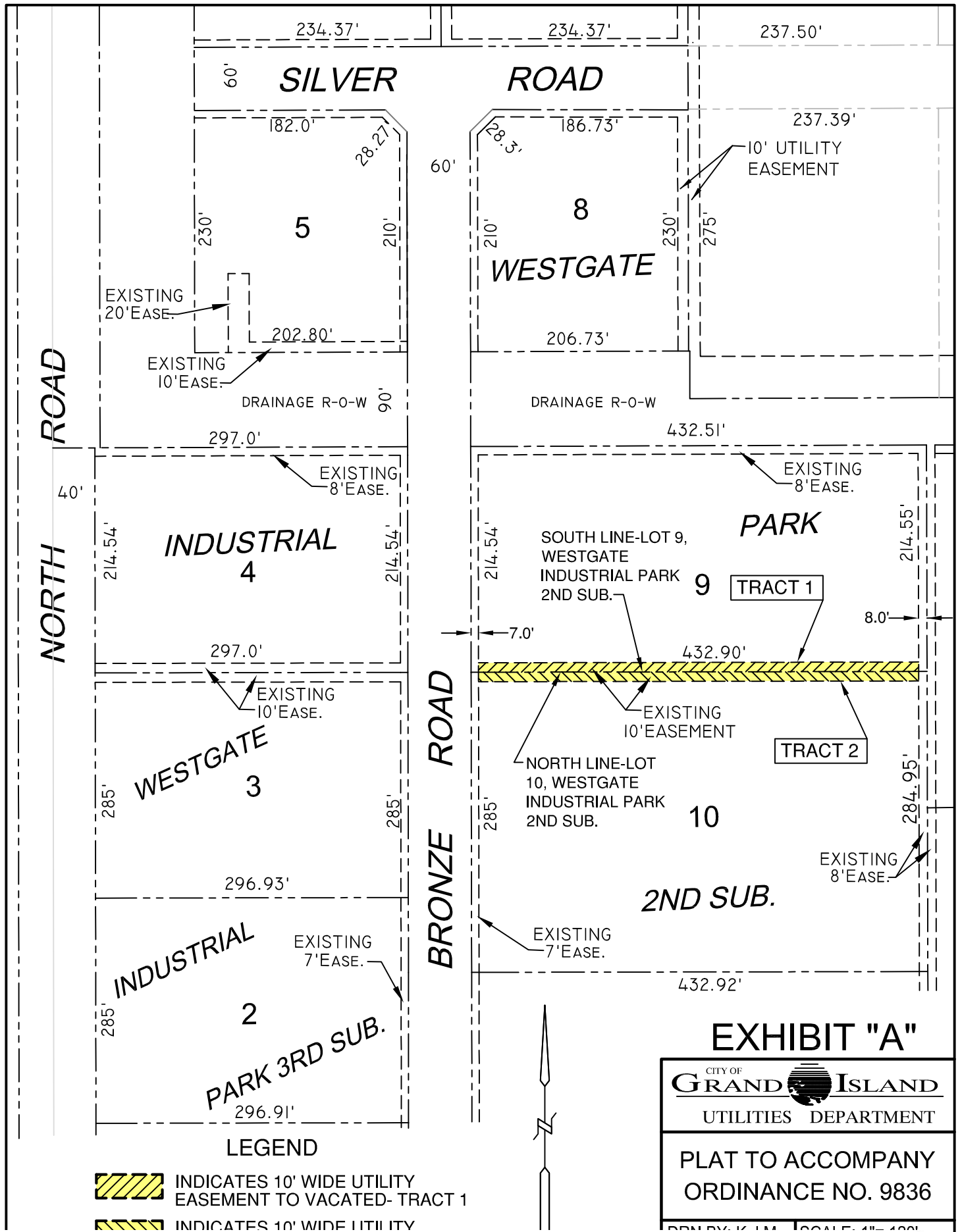
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Roger G. Steele, Mayor

Attest:

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RaNae Edwards, City Clerk





# City of Grand Island

Tuesday, July 13, 2021

Council Session

## Item F-2

**#9837 - Consideration of Vacation of Public Drainage Easement in  
Prairie Commons Fourth Subdivision; 3490 Ewoldt Street  
(Tabitha Grand Island, Inc.)**

Staff Contact: John Collins, P.E. - Public Works Director

# **Council Agenda Memo**

**From:** Keith Kurz PE, Assistant Public Works Director

**Meeting:** July 13, 2021

**Subject:** Consideration of Vacation of Public Drainage Easement in Prairie Commons Fourth Subdivision; 3490 Ewoldt Street (Tabitha Grand Island, Inc.)

**Presenter(s):** John Collins PE, Public Works Director

## **Background**

A public utility easement within Prairie Commons Fourth Subdivision was filed with Hall County Register of Deeds on March 18, 2020 as Document No. 202001702.

## **Discussion**

Public easements were dedicated with the original plat of Prairie Commons Fourth Subdivision, before site design was complete. The initial location of the drainage easement was estimated and needs to be relocated, therefore City Council is being asked at tonight's meeting to vacate the initial easement and acquire a new one in the appropriate location. A sketch is attached to show the easement areas.

## **Alternatives**

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

1. Move to approve
2. Refer the issue to a Committee
3. Postpone the issue to future date
4. Take no action on the issue

## **Recommendation**

City Administration recommends that the Council pass an ordinance vacating the public drainage easement in Prairie Commons Fourth; 3490 Ewoldt Street (Tabitha Grand Island, Inc.).

## **Sample Motion**

Move to pass an ordinance vacating the easement.



ORDINANCE NO. 9837

An ordinance to vacate an existing public drainage easement and to provide for filing this ordinance in the office of the Register of Deeds of Hall County, Nebraska; to repeal any ordinance or parts of ordinances in conflict herewith, and to provide for publication and the effective date of this ordinance.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF  
GRAND ISLAND, NEBRASKA:

SECTION 1. That existing public drainage easement located in Prairie Commons Fourth Subdivision, in the City of Grand Island, Hall County, Nebraska and more particularly described as follows:

*THE VACATION OF A 20 FT. WIDE DRAINAGE EASEMENT LOCATED IN PART OF LOT 1, PRAIRIE COMMONS FOURTH SUBDIVISION, IN THE CITY OF GRAND ISLAND AND MORE PARTICULARLY DESCRIBED AS FOLLOWS: THE CENTERLINE OF A 20 FT. WIDE EASEMENT BEING 10 FT. ON BOTH SIDES OF SAID DESCRIBED CENTERLINE; COMMENCING AT THE NORTHWEST CORNER OF LOT 1, PRAIRIE COMMONS FOURTH SUBDIVISION; THENCE ON AN ASSUMED BEARING OF N88°19'49"E, ALONG THE NORTH LINE OF SAID LOT 1, A DISTANCE OF 80.00 FEET; THENCE S02°03'02"E A DISTANCE OF 91.52 FEET TO A POINT ON THE EAST LINE OF AN EXISTING 50' TRAIL, DRAINAGE, UTILITY EASEMENT AND ALSO BEING THE POINT OF BEGINNING; THENCE N54°29'47"E, ALONG THE CENTERLINE OF A 20 FT. WIDE EASEMENT BEING 10 FT. ON BOTH SIDES OF SAID EASEMENT, A DISTANCE OF 56.60 FEET; THENCE N88°19'37"E, ALONG SAID CENTERLINE, A DISTANCE OF 126.62 FEET; THENCE S34°33'19"E, ALONG SAID CENTERLINE, A DISTANCE OF 130.52*

Approved as to Form	by _____
July 9, 2021	City Attorney

ORDINANCE NO. 9837 (Cont.)

*FEET; THENCE S14°53'41"E, ALONG SAID CENTERLINE, A DISTANCE OF 175.01 FEET TO A POINT ON THE NORTHWESTERLY RIGHT OF WAY LINE OF EWOLDT STREET AND ALSO BEING THE POINT OF TERMINATION. SAID 20 FT. DRAINAGE EASEMENT VACATION CONTAINS A CALCULATED AREA OF 9778.85 SQUARE FEET OR 0.224 ACRES MORE OR LESS*

is hereby vacated. Such easement to be vacated is shown and more particularly described on Easement Vacate Exhibit 1 attached hereto.

SECTION 2. The title to the property vacated by Section 1 of this ordinance shall revert to the owner or owners of the real estate upon which the easement is located.

SECTION 3. This ordinance is directed to be filed, with the drawing, in the office of the Register of Deeds of Hall County, Nebraska.

SECTION 4. This ordinance shall be in force and take effect from and after its passage and publication, within fifteen days in one issue of the Grand Island Independent as provided by law.

Enacted: July 13, 2021

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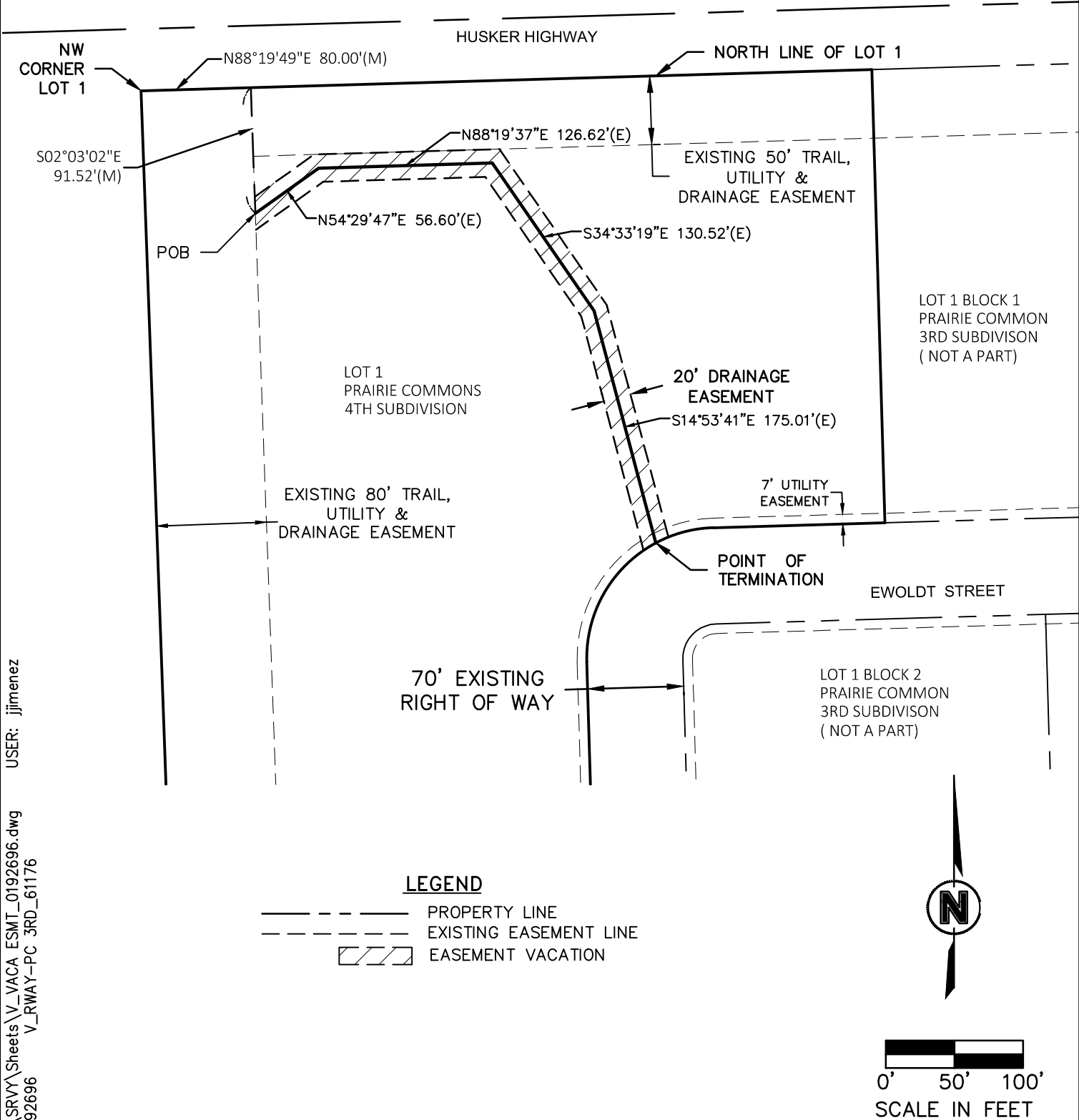
Roger G. Steele, Mayor

Attest:

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RaNae Edwards, City Clerk

# DRAINAGE EASEMENT VACATION



THE VACATION OF A 20 FT. WIDE DRAINAGE EASEMENT LOCATED IN PART OF LOT 1, PRAIRIE COMMONS FOURTH SUBDIVISION, IN THE CITY OF GRAND ISLAND AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE CENTERLINE OF A 20 FT. WIDE EASEMENT BEING 10 FT. ON BOTH SIDES OF SAID DESCRIBED CENTERLINE; COMMENCING AT THE NORTHWEST CORNER OF LOT 1, PRAIRIE COMMONS FOURTH SUBDIVISION; THENCE ON AN ASSUMED BEARING OF N88°19'49"E, ALONG THE NORTH LINE OF SAID LOT 1, A DISTANCE OF 80.00 FEET; THENCE S02°03'02"E A DISTANCE OF 91.52 FEET TO A POINT ON THE EAST LINE OF AN EXISTING 50' TRAIL, DRAINAGE, UTILITY EASEMENT AND ALSO BEING THE POINT OF BEGINNING; THENCE N54°29'47"E, ALONG THE CENTERLINE OF A 20 FT. WIDE EASEMENT BEING 10 FT. ON BOTH SIDES OF SAID EASEMENT, A DISTANCE OF 56.60 FEET; THENCE N88°19'37"E, ALONG SAID CENTERLINE, A DISTANCE OF 126.62 FEET; THENCE S34°33'19"E, ALONG SAID CENTERLINE, A DISTANCE OF 130.52 FEET; THENCE S14°53'41"E, ALONG SAID CENTERLINE, A DISTANCE OF 175.01 FEET TO A POINT ON THE NORTHWESTERLY RIGHT OF WAY LINE OF EWOLDT STREET AND ALSO BEING THE POINT OF TERMINATION. SAID 20 FT. DRAINAGE EASEMENT VACATION CONTAINS A CALCULATED AREA OF 9778.85 SQUARE FEET OR 0.224 ACRES MORE OR LESS.

PROJECT NO: 2019-2696	DRAINAGE EASEMENT VACATION		201 East 2nd Street Grand Island, NE 68801 TEL 308.384.8750	EXHIBIT
DRAWN BY: JMJ				1
DATE: 2021-03-24				



# City of Grand Island

Tuesday, July 13, 2021

Council Session

## Item F-3

**#9838 - Consideration of Vacation of Public Utility Easement in King's Crossing Subdivision; 3416 S Locust Street (Bosselman Pump & Pantry, Inc.)**

Staff Contact: John Collins, P.E. - Public Works Director

# **Council Agenda Memo**

**From:** Keith Kurz PE, Assistant Public Works Director

**Meeting:** July 13, 2021

**Subject:** Consideration of Vacation of Public Utility Easement in King's Crossing Subdivision; 3416 S Locust Street (Bosselman Pump & Pantry, Inc.)

**Presenter(s):** John Collins PE, Public Works Director

## **Background**

A public utility easement within King's Crossing Subdivision was filed with Hall County Register of Deeds on October 25, 2018 as Document No. 201807069.

## **Discussion**

The current property owner of 3416 S Locust Street is requesting to vacate such dedicated easement to allow for development of the area. There is no utility currently or proposed within this easement that will be affected by the vacation. The attached sketch details the referenced easement to be vacated.

## **Alternatives**

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

1. Move to approve
2. Refer the issue to a Committee
3. Postpone the issue to future date
4. Take no action on the issue

## **Recommendation**

City Administration recommends that the Council pass an ordinance vacating the public utility easement in King's Crossing Subdivision; 3416 S Locust Street (Bosselman Pump & Pantry, Inc.).

## **Sample Motion**

Move to pass an ordinance vacating the easements.

ORDINANCE NO. 9838

An ordinance to vacate an existing public utility easement and to provide for filing this ordinance in the office of the Register of Deeds of Hall County, Nebraska; to repeal any ordinance or parts of ordinances in conflict herewith, and to provide for publication and the effective date of this ordinance.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA:

SECTION 1. That existing public utility easement located in Part of Lot 2, King's Crossing Subdivision, in the City of Grand Island, Hall County, Nebraska and more particularly described as follows:

*COMMENCING AT A SOUTHWEST CORNER OF SAID LOT 2, SAID POINT ALSO BEING THE POINT OF BEGINNING; THENCE ON AN ASSUMED BEARING OF N00°12'32"W, ALONG A WEST LINE OF SAID LOT 2 A DISTANCE OF 166.69 FEET TO A POINT OF CURVATURE; THENCE AROUND A CURVE IN A COUNTER CLOCKWISE DIRECTION, HAVING A DELTA ANGLE OF 60°22'55", A RADIUS OF 193.00 FEET, A CHORD BEARING N30°25'05"W A CHORD DISTANCE OF 194.11 FEET; THENCE N29°23'28"E A DISTANCE OF 20.00 FEET TO A POINT OF CURVATURE; THENCE AROUND A CURVE IN A CLOCKWISE DIRECTION HAVING A DELTA ANGLE OF 60°22'55", A RADIUS OF 213.00 FEET AND A CHORD BEARING S30°25'02"E A CHORD DISTANCE OF 214.23 FEET; THENCE S00°12'32"E, PARALLEL WITH SAID WEST LINE, A DISTANCE OF 166.75 FEET TO A POINT ON THE SOUTH LINE OF SAID LOT 2, ALSO BEING THE NORTH RIGHT-OF-WAY LINE OF LAKE STREET; THENCE S89°57'59"W A DISTANCE OF 20.00 FEET*

Approved as to Form	<input type="checkbox"/>	_____
July 9, 2021	<input type="checkbox"/>	City Attorney

ORDINANCE NO. 9838 (Cont.)

*TO THE POINT OF BEGINNING. SAID UTILITY EASEMENT VACATE  
CONTAINS 7613.03 SQUARE FEET OR 0.175 ACRES MORE OR LESS*

is hereby vacated. Such easement to be vacated is shown and more particularly described on Easement Vacate Exhibit 1 attached hereto.

SECTION 2. The title to the property vacated by Section 1 of this ordinance shall revert to the owner or owners of the real estate upon which the easement is located.

SECTION 3. This ordinance is directed to be filed, with the drawing, in the office of the Register of Deeds of Hall County, Nebraska.

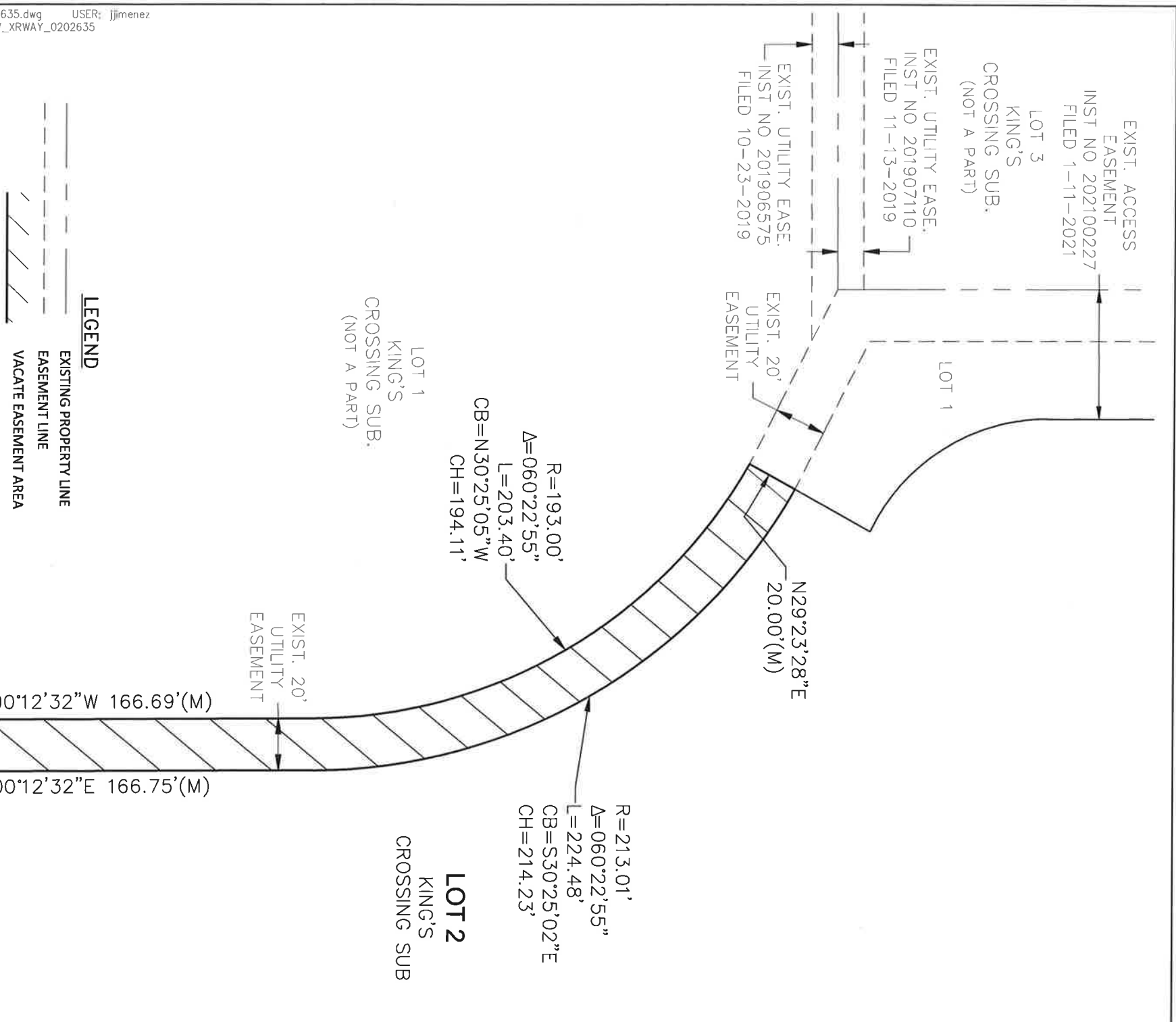
SECTION 4. This ordinance shall be in force and take effect from and after its passage and publication, within fifteen days in one issue of the Grand Island Independent as provided by law.

Enacted: July 13, 2021

\_\_\_\_\_  
Roger G. Steele, Mayor

Attest:

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



**UTILITY EASEMENT VACATE DESCRIPTION**

VACATE A 20 FT UTILITY EASEMENT LOCATED IN PART OF LOT 2, KING'S CROSSING SUBDIVISION IN THE CITY OF GRAND ISLAND, HALL COUNTY, NEBRASKA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A SOUTHWEST CORNER OF SAID LOT 2, SAID POINT ALSO BEING THE POINT OF BEGINNING; THENCE ON AN ASSUMED BEARING OF N00°12'32"W, ALONG A WEST LINE OF SAID LOT 2 A DISTANCE OF 166.69 FEET TO A POINT OF CURVATURE; THENCE AROUND A CUREVE IN A COUNTER CLOCKWISE DIRECTION, HAVING A DELTA ANGLE OF 60°22'55", A RADIUS OF 193.00 FEET, A CHORD BEARING N30°25'05"W A CHORD DISTANCE OF 194.11 FEET; THENCE N29°23'28"E A DISTANCE OF 20.00 FEET TO A POINT OF CURVATURE; THENCE AROUND A CURVE IN A CLOCKWISE DIRECTION HAVING A DELTA ANGLE OF 60°22'55", A RADIUS OF 213.00 FEET AND A CHORD BEARING S30°25'02"E A CHORD DISTANCE OF 214.23 FEET; THENCE S00°12'32"E, PARALLEL WITH SAID WEST LINE, A DISTANCE OF 166.75 FEET TO A POINT ON THE SOUTH LINE OF SAID LOT 2, ALSO BEING THE NORTH RIGHT-OF-WAY LINE OF LAKE STREET; THENCE S89°57'59"W A DISTANCE OF 20.00 FEET TO THE POINT OF BEGINNING, SAID UTILITY EASEMENT VACATE CONTAINS 7613.03 SQUARE FEET OR 0.175 ACRES MORE OR LESS.

PROJECT NO: 020-2635	UTILITY EASEMENT VACATE	 201 East 2nd Street Grand Island, NE 68801 TEL 308.384.8750	EXHIBIT
DRAWN BY: JMJ			
DATE: 04.14.2021			1





# **City of Grand Island**

**Tuesday, July 13, 2021**

**Council Session**

## **Item G-1**

### **Approving Minutes of June 22, 2021 City Council Regular Meeting**

**Staff Contact: RaNae Edwards**

## CITY OF GRAND ISLAND, NEBRASKA

### MINUTES OF CITY COUNCIL REGULAR MEETING

June 22, 2021

Pursuant to due call and notice thereof, a Regular Meeting of the City Council of the City of Grand Island, Nebraska was conducted in the Council Chambers of City Hall, 100 East First Street, on June 22, 2021. Notice of the meeting was given in *The Grand Island Independent* on June 16, 2021.

Mayor Roger G. Steele called the meeting to order at 7:00 p.m. The following City Council members were present: Mike Paulick, Michelle Fitzke, Mark Stelk, Jason Conley, Bethany Guzinski, Maggie Mendoza, Mitch Nickerson, and Chuck Haase. Councilmembers Vaughn Minton and Justin Scott were absent. The following City Officials were present: City Administrator Jerry Janulewicz, City Clerk RaNae Edwards, Finance Director Patrick Brown, Interim City Attorney Stacy Nonhof and Public Works Director John Collins.

INVOCATION was given by Pastor Ray Stone, First Faith United Methodist Church, 4190 West Capital Avenue followed by the PLEDGE OF ALLEGIANCE.

#### PUBLIC HEARINGS:

Public Hearing on Blighted and Substandard Study for CRA Area #32, (Josh Rhoads with Horizon Builders) located west of North Road on either side of Old Potash Highway, Grand Island, Nebraska. Regional Planning Director Chad Nabity reported that Josh Rhoads had commissioned a Blight and Substandard Study for Proposed Redevelopment Area No. 32. This study is approximately 43 acres of property located west of North Road and including property both north and south of Old Potash Highway in western Grand Island. Staff recommended approval. Keith Marvin with Marvin Planning Consultants, David City, Nebraska; Zach Butz, Attorney for the applicant, 308 North Locust Street; and Josh Rhoads, 830 Bronze Road spoke in support. No further public testimony was heard.

Public Hearing on Changes to Chapter 36 of the Grand Island City Code Relative to (B-3) Heavy Business Zone and the Zoning Matrix. Regional Planning Director Chad Nabity reported that the Railside Business Improvement district had requested changes to the B-3 Heavy Business Zone to allow outdoor sales on property in the district. The B-3 Zone is only located in and around the Railside District. Staff had also reviewed the district regulations and was making additional changes to the district to further refine the allowed uses in the district. The changes proposed by staff would also be reflected in the Zoning Matrix. Staff recommended approval. Amos Anson, 4234 Arizona Avenue spoke in support. No further public testimony was heard.

Public Hearing on Acquisition of Utility Easement - 3234 West Schimmer Drive (GIG Ventures, LLC). Utilities Director Tim Luchsinger reported that a utility easement was needed at 3234 West Schimmer Drive in order to have access to install, upgrade, maintain, and repair power appurtenances, including lines and transformers. GIG Ventures, LLC had requested a new electrical service to accommodate the upgrade to their building. The proposed easement would allow the Utilities Department to install, access, operate and maintain the electrical infrastructure at this location. Staff recommended approval. No public testimony was heard.

Public Hearing on Acquisition of Utility Easement - 1814 N. Eddy (Casey's Retail Co.). Utilities Director Tim Luchsinger reported that a utility easement was needed at 1814 N. Eddy in order to have access to install, upgrade, maintain, and repair power appurtenances, including lines and transformers. Casey's Retail Company had constructed a new store located at 1814 North Eddy Street in 2008. Paperwork for the relocation of a water main had never been completed. The easement would allow the Utilities Department to access, operate and maintain the water infrastructure previously installed at this location. Staff recommended approval. No public testimony was heard.

Public Hearing on the Semi-Annual Report by the Grand Island Area Economic Development Corporation/Citizens Advisory Review Committee on the Economic Development Program Plan. Dave Taylor, President of the Grand Island Area Economic Development Corporation and David Koubek, Chairman of the Citizens Advisory Review Committee presented the Semi-Annual Report. Staff recommended approval. No public testimony was heard.

Public Hearing on Acquisition of Permanent Utility Easement for Sanitary Sewer District No. 287; 18th Street from Walnut Street to Wheeler Avenue. Public Works Director John Collins reported that Public utility easements were needed to accommodate the construction, operation, maintenance, extension, repair, replacement, and removal of sanitary sewer in Sanitary Sewer District No. 287; 18<sup>th</sup> Street from Walnut Street to Wheeler Avenue. Staff recommended approval. No public testimony was heard.

#### ORDINANCES:

Councilmember Guzinski moved "that the statutory rules requiring ordinances to be read by title on three different days are suspended and that ordinances numbered:

- #9830 - Consideration of Vacation of Utility Easements - 3625 Old Potash Highway - Hornady Manufacturing
- #9831 - Consideration of Approving Changes to Chapter 27 of the Grand Island City Code Relative to Procurement
- #9832 - Consideration of Approving Changes to Chapter 36 of the Grand Island City Code Relative to (B-3) Heavy Business Zone and the Zoning Matrix
- #9833 - Consideration of Vacation of Public Right-of-Way in Baker's Addition; Between 3rd Street and US Highway 30, from Garfield Avenue to US Highway 30
- #9834 - Consideration of Approving Salary Ordinance
- #9835 - Consideration of Approving Changes to Chapter 2 of the Grand Island City Code Relative to Public Works Director Job Description

be considered for passage on the same day upon reading by number only and that the City Clerk be permitted to call out the number of these ordinances on second reading and then upon final passage and call for a roll call vote on each reading and then upon final passage." Councilmember Nickerson seconded the motion. Upon roll call vote, all voted aye. Motion adopted.

- #9830 - Consideration of Vacation of Utility Easements - 3625 Old Potash Highway - Hornady Manufacturing

Utilities Director Tim Luchsinger reported that Hornady Manufacturing had requested the vacation of two unoccupied utility easements located at their manufacturing plant located at 3625 Old Potash Highway. Staff recommended approval.

Motion by Paulick, second by Stelk to approve Ordinance #9830.

City Clerk: Ordinance #9830 on first reading. All those in favor of the passage of this ordinance on first reading, answer roll call vote. Upon roll call vote, all voted aye. Motion adopted.

City Clerk: Ordinance #9830 on second and final reading. All those in favor of this passage of this ordinance on second and final reading, answer roll call vote. Upon roll call vote, all voted aye. Motion adopted.

Mayor Steele: By reason of the roll call votes on first reading and then upon second and final readings, Ordinance #9830 is declared to be lawfully adopted upon publication as required by law.

#9831 - Consideration of Approving Changes to Chapter 27 of the Grand Island City Code Relative to Procurement

Interim City Attorney Stacy Nonhof reported that the purpose of this ordinance was to update Chapter 27 of the Grand Island City Code and bring it into compliance with State Statute with regards to procurement. Staff recommended approval.

Motion by Guzinski, second by Fitzke to approve Ordinance #9831.

Councilmember Haase stated he had several questions concerning this Ordinance and felt it would be best to discuss this during a Study Session.

Motion by Haase, second by Paulick to move Ordinance #9831 to a Study Session. Upon roll call vote, all voted aye. Motion adopted.

#9832 - Consideration of Approving Changes to Chapter 36 of the Grand Island City Code Relative to (B-3) Heavy Business Zone and the Zoning Matrix

This item was related to the aforementioned Public Hearing. Staff recommended approval.

Motion by Haase, second by Guzinski to approve Ordinance #9832.

City Clerk: Ordinance #9832 on first reading. All those in favor of the passage of this ordinance on first reading, answer roll call vote. Upon roll call vote, all voted aye. Motion adopted.

City Clerk: Ordinance #9832 on second and final reading. All those in favor of this passage of this ordinance on second and final reading, answer roll call vote. Upon roll call vote, all voted aye. Motion adopted.

Mayor Steele: By reason of the roll call votes on first reading and then upon second and final readings, Ordinance #9832 is declared to be lawfully adopted upon publication as required by law.

#9833 - Consideration of Vacation of Public Right-of-Way in Baker's Addition; Between 3rd Street and US Highway 30, from Garfield Avenue to US Highway 30

Public Works Director John Collins reported that the section between 3<sup>rd</sup> Street and US Highway 30, from Garfield Avenue to US Highway 30 had been requested for vacation by the adjacent property owner. Due to several utilities being in this area a public utility easement would be retained over the complete section. Staff recommended approval.

Motion by Paulick, second by Guzinski to approve Ordinance #9833.

City Clerk: Ordinance #9833 on first reading. All those in favor of the passage of this ordinance on first reading, answer roll call vote. Upon roll call vote, all voted aye. Motion adopted.

City Clerk: Ordinance #9833 on second and final reading. All those in favor of this passage of this ordinance on second and final reading, answer roll call vote. Upon roll call vote, all voted aye. Motion adopted.

Mayor Steele: By reason of the roll call votes on first reading and then upon second and final readings, Ordinance #9833 is declared to be lawfully adopted upon publication as required by law.

#9834 - Consideration of Approving Salary Ordinance

Police Chief Robert Falldorf reported that the Police Department would like to implement a new lateral hiring incentive program that would allow Nebraska and out of state certified applicants to start on an equal pay step with the City, as our current program does, along with two additional added incentives of \$1,500 certification credit and 50 hours of comp time to be paid upon hire. Staff recommended approval.

Motion by Haase, second by Conley to approve Ordinance #9834.

City Clerk: Ordinance #9834 on first reading. All those in favor of the passage of this ordinance on first reading, answer roll call vote. Upon roll call vote, all voted aye. Motion adopted.

City Clerk: Ordinance #9834 on second and final reading. All those in favor of this passage of this ordinance on second and final reading, answer roll call vote. Upon roll call vote, all voted aye. Motion adopted.

Mayor Steele: By reason of the roll call votes on first reading and then upon second and final readings, Ordinance #9834 is declared to be lawfully adopted upon publication as required by law.

#9835 - Consideration of Approving Changes to Chapter 2 of the Grand Island City Code Relative to Public Works Director Job Description

Interim City Attorney Stacy Nonhof reported that the purpose of this ordinance was to bring Section 2-41 of City Code into compliance with State Statute. State Statute requires that the duties of the City Engineer/Public Works Director be done by a licensed professional engineer. Staff recommended approval.

Motion by Conley, second by Nickerson to approve Ordinance #9835.

City Clerk: Ordinance #9835 on first reading. All those in favor of the passage of this ordinance on first reading, answer roll call vote. Upon roll call vote, all voted aye. Motion adopted.

City Clerk: Ordinance #9835 on second and final reading. All those in favor of this passage of this ordinance on second and final reading, answer roll call vote. Upon roll call vote, all voted aye. Motion adopted.

Mayor Steele: By reason of the roll call votes on first reading and then upon second and final readings, Ordinance #9835 is declared to be lawfully adopted upon publication as required by law.

CONSENT AGENDA: Consent Agenda item G-10 (Resolution #2021-143) was removed for further discussion. Motion by Paulick, second by Stelk to approve the Consent Agenda excluding item G-10. Upon roll call vote, all voted aye. Motion adopted.

Approving Minutes of June 8, 2021 City Council Regular Meeting.

Approving Re-Appointments of Todd Enck, Marv Webb, Brad Kissler and Justin Oseka to the Building Code Advisory Board.

Approving Re-Appointment of Karl Kostbahn to the Occupation Tax Oversight Committee (Food & Beverage).

#2021-137 - Approving Acquisition of Utility Easement - 3234 West Schimmer Drive (GIG Ventures, LLC).

#2021-138 - Approving Acquisition of Utility Easement - 1814 N. Eddy Street (Casey's Retail Co.).

2021-139 - Approving Bid Award - 115 kV Relay Setting – 2021 with Mesa Associates, Inc. of Knoxville, Tennessee in an Amount of \$77,140.00.

#2021-140 - Approving Bid Award - Water Storage Tank Maintenance Program with Maguire Iron, Inc. of Sioux Fall, South Dakota in an Amount of \$160,569.00.

#2021-141 - Approving Bid Award - Electrostatic Precipitator Transformer-Rectifier with NWL, Inc. of Bordentown, New Jersey in an Amount of \$161,950.00.

#2021-142 - Approving Bobcat Excavator Lease Agreement for the Utilities Underground Division with Sourcewell in an Amount of \$5,800.00.

#2021-143 - Approving Resolution Directing Property Owner to Repair Sidewalk at 1208 N Broadwell Avenue. Public Works Director John Collins reported that the property owner had started the sidewalk repairs but had never finished it. The City would take the necessary steps to repair the sidewalk and assess the property owner for the costs.

Motion by Nickerson, second by Haase to approve Resolution #2021-143. Upon roll call vote, all voted aye. Motion adopted.

#2021-144 - Approving Agreement for the Nebraska Public Transportation Assistance Program.

#2021-145 - Approving Change Order No. 2 for Capital Avenue Drainage Improvements- North Road to Moores Creek; Project No. 2020-D-2 with Van Kirk Bros. Contracting for an Extension from June 14, 2021 to July 9, 2021.

#2021-146 - Approving Acquisition of Permanent Utility Easement for Sanitary Sewer District No. 287; 18th Street from Walnut Street to Wheeler Avenue.

#2021-147 - Approving Unified Planning Work Program (UPWP) for the Grand Island Area Metropolitan Planning Organization (GIAMPO) for the 2022 Fiscal Year Transportation Planning Program.

#2021-148 - Approving Relocation Compensation to Construction Rental, Inc. in Connection with Old Potash Highway Roadway Improvements; Project No. 2019-P-1 in an Amount of \$193,130.09.

#2021-149 - Approving Temporary Construction Easements for Sanitary Sewer Rehabilitation- Various Locations; Project No. 2020-S-8.

#2021-150 - Approving Acceptance of 2021 High Intensity Drug Trafficking Area (HIDTA) Grant.

#2021-151 - Approving Recruiting Firm for Search to Fill Assistant Public Works Director of Wastewater and Wastewater Plant Operations Engineer with ADK Consulting and Executive Search of Omaha, Nebraska in an Amount of \$22,600.00.

#### RESOLUTIONS:

#2021-152 - Consideration of Approving Blighted and Substandard Designation for CRA Area #32, (Josh Rhoads with Horizon Builders) located west of North Road on either side of Old Potash Highway, Grand Island, Nebraska. This item was related to the aforementioned Public Hearing. Josh Rhoads and Keith Marvin answered questions concerning the development of this area. Comments were made by Council that TIF projects were for redevelopment and this was for a new development.

Motion by Nickerson, second by Conley to approve Resolution #2021-152. Upon roll call vote, Councilmembers Nickerson, Guzinski, Conley, Stelk, and Fitzke, voted aye. Councilmembers

Haase, Mendoza, and Paulick voted no. Mayor Steele made the sixth and deciding vote to approve. Motion adopted.

#2021-153 - Consideration of Approving the Semi-Annual Report by the Grand Island Area Economic Development Corporation/Citizens Advisory Review Committee on the Economic Development Program Plan. This item was related to the aforementioned Public Hearing. Staff recommended approval.

Motion by Nickerson, second by Haase to approve Resolution #2021-153.. Upon roll call vote, all voted aye. Motion adopted.

#2021-154 - Consideration of Approving Economic Development Incentive Agreement with GIX Logistics, Inc. EDC Director Dave Taylor reported that GIX Logistics, Inc. had submitted the required LB-840 application for a forgivable loan in the amount of \$310,000.00. Proposed was the creation of 15 full-time equivalent (FTE) employees with an average hourly wage of \$29.50. Requested was \$310,000.00 for job creation, job training and infrastructure to be paid over three years. Staff recommended approval.

Motion by Guzinski, second by Paulick to approve Resolution #2021-154. Upon roll call vote, all voted aye. Motion adopted.

PAYMENT OF CLAIMS:

Motion by Guzinski, second by Nickerson to approve the payment of claims for the period of June 9, 2021 through June 22, 2021 for a total amount of \$5,196,378.47. Upon roll call vote, all voted aye. Motion adopted.

ADJOURNMENT: The meeting was adjourned at 8:44 p.m.

RaNae Edwards  
City Clerk





# City of Grand Island

Tuesday, July 13, 2021

Council Session

## Item G-2

**#2021-155 - Approving Request from Wine Beer & Spirits, LLC dba Wine Beer & Spirits, 1111 Allen Drive for a Class "C" Liquor License and Liquor Manager Designation for Beau Starkel**

*This item relates to the aforementioned Public Hearing item E-1.*

Staff Contact: RaNae Edwards

RESOLUTION 2021-155

WHEREAS, an application was filed by Wine Beer & Spirits, LLC doing business as Wine Beer & Spirits, 1111 Allen Drive for a Class "C" Liquor License; and

WHEREAS, a public hearing notice was published in the *Grand Island Independent* as required by state law on July 3, 2021; such publication cost being \$17.22; and

WHEREAS, a public hearing was held on July 13, 2021 for the purpose of discussing such liquor license application.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that:

\_\_\_\_\_ The City of Grand Island hereby recommends approval of the above-identified liquor license application contingent upon final inspections.

\_\_\_\_\_ The City of Grand Island hereby makes no recommendation as to the above-identified liquor license application.

\_\_\_\_\_ The City of Grand Island hereby makes no recommendation as to the above-identified liquor license application with the following stipulations:

\_\_\_\_\_

\_\_\_\_\_ The City of Grand Island hereby recommends denial of the above-identified liquor license application for the following reasons: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_ The City of Grand Island hereby recommends approval of Beau Starkel, 15361 Orchard Avenue, Omaha, Nebraska as liquor manager of such business contingent upon completion of a state approved alcohol server/seller training program.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, July 13, 2021.

\_\_\_\_\_  
Roger G. Steele, Mayor

Attest:

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

Approved as to Form	☐ _____
July 9, 2021	☐ City Attorney



# City of Grand Island

Tuesday, July 13, 2021

Council Session

## Item G-3

**#2021-156 - Approving Acquisition of Utility Easement - 3321 West Schimmer Drive (Bosselman Energy, Inc.)**

*This item relates to the aforementioned Public Hearing item E-2.*

Staff Contact: Tim Luchsinger, Stacy Nonhof

RESOLUTION 2021-156

WHEREAS, a public utility easement is required by the City of Grand Island from Bosselman Energy, Inc., to survey, construct, inspect, maintain, repair, replace, relocate, extend, remove, and operate thereon, public utilities and appurtenances, including power lines; and

WHEREAS, a public hearing was held on July 13, 2021, for the purpose of discussing the proposed acquisition of a utility easement located through a part of Lot Twenty-Two (22), Platte Valley Industrial Park Third Subdivision, in the City of Grand Island, Hall County, Nebraska, and more particularly described as follows:

Commencing at the Northwest corner of Lot Twenty-Two (22), Platte Valley Industrial Park Third Subdivision, in the City of Grand Island, Hall County, Nebraska; thence southerly along the westerly line of said Lot Twenty-Two (22) on an assumed bearing of S00°56'53"W, a distance of one hundred twenty-eight and sixty-three hundredths (128.63) feet to the ACTUAL Point of Beginning; thence S89°03'07"E, a distance of sixty-three and thirty-three hundredths (63.33) feet; thence S00°56'53"W, a distance of twenty (20.0) feet; thence S89°03'07"W, a distance of fourteen and one hundredths (14.01) feet; thence S45°25'20"W, a distance of forty-one and eighty-five hundredths (41.85); thence S00°56'53"W, a distance of one hundred thirty-six and one hundredths (136.01) feet to a point on a southerly line of said Lot Twenty-Two (22); thence N88°11'05"W, along a southerly line of said Lot Twenty-Two (22), a distance of twenty (20.0) feet to a Southwest corner of said Lot Twenty-Two (22); thence N00°56'53"E along the westerly line of said Lot Twenty-Two (22), a distance of one hundred eighty-five and fifty-seven hundredths (185.57) feet to the said Point of Beginning.

The above-described easement and right-of-way containing a total of .115 acres, more or less as shown on the plat dated 6/9/2021, marked Exhibit "A", attached hereto and incorporated herein by reference.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the City of Grand Island be, and hereby is, authorized to acquire a public utility easement from Bosselman Energy, Inc., on the above-described tract of land.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, July 13, 2021.

\_\_\_\_\_  
Roger G. Steele, Mayor

Attest:

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

Approved as to Form	by _____
July 7, 2021	City Attorney

NORTHWEST CORNER  
SECTION 5-10-9

NW CORNER- LOT 22,  
PLATTE VALLEY INDUSTRIAL  
PARK THIRD SUB.

SCHIMMER DRIVE

WEST LINE- LOT 22, PLATTE  
VALLEY INDUSTRIAL PARK  
THIRD SUB.

PLATTE VALLEY INDUSTRIAL

POINT OF  
BEGINNING

128.63'  
S0°56'53"W  
(ASSUMED)

63.33'  
S89°03'07"E  
41.85'  
S45°25'20"W

LOT 22

PARK 3RD SUB.

185.57'  
N0°56'53"E  
136.01'  
S0°56'53"W

SOUTH LINE- LOT 22,  
PLATTE VALLEY  
INDUSTRIAL PARK  
THIRD SUB.

SW COR.- LOT 22,  
PLATTE VALLEY  
INDUSTRIAL PARK  
THIRD SUB.

20.0'  
N88°11'05"W

111.55'

60.02' 1.5

60.0'

89.11'

216.76'

23.8'

20.0'  
S0°56'53"W

14.01'  
S89°03'07"W

236.69'

289.28'

JUERGEN ROAD

110.0'

60.0'

110.0'

56.57'

EXISTING  
EASEMENT

40.0'

U.S. HIGHWAY #34 & 281

### LEGEND



INDICATES  
UTILITY EASEMENT



CITY OF  
**GRAND ISLAND**  
UTILITIES DEPARTMENT

## EXHIBIT "A"



# City of Grand Island

Tuesday, July 13, 2021

Council Session

## Item G-4

**#2021-157 - Approving Bid Award for the Sale of Fly Ash from the Platte Generating Station**

Staff Contact: Tim Luchsinger, Stacy Nonhof

# **Council Agenda Memo**

**From:** Tim Luchsinger, Utilities Director  
Stacy Nonhof, Interim City Attorney

**Meeting:** July 13, 2021

**Subject:** Platte Generating Station Fly Ash Purchase

**Presenter(s):** Tim Luchsinger, Utilities Director

## **Background**

As part of the combustion process of the coal in the boiler at the Platte Generating Station, ash is entrained in the exhaust gas. This ash, referred to as fly ash, is removed by an electrostatic precipitator before the gas enters the chimney. It is conveyed from the precipitator to a storage silo. The ash must then be disposed in on-site landfill areas or used for off-site applications such as an additive for concrete or asphalt, or soil stabilization. Almost all of the ash is of a quality usable for these off-site uses and has been sold to contractors since shortly after plant start-up. The contractor is responsible for removal of the ash to ensure that the operation of the plant is not impacted.

## **Discussion**

The specifications for the Platte Generating Station Fly Ash Purchase were prepared and issued for bid in accordance with City purchasing procedures. This three-year contract is based on a “take all” basis during each calendar year with a price per ton paid to the City. Responses were received from the following bidders on June 24, 2021.

Bidder	Bid Price
Nebraska Ash Company Lincoln, Nebraska	\$24.00 per ton
WC Enterprises, Inc., Hastings, Nebraska	\$25.26 per ton

The specifications include a provision requiring the contractor to remove all ash produced at the plant. That has been a standard provision in the ash contract for over fifteen years.

## **Alternatives**

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

1. Move to approve
2. Refer the issue to a Committee
3. Postpone the issue to future date
4. Take no action on the issue

## **Recommendation**

City Administration recommends that the Council award the bid to WC Enterprises, Inc., of Hastings, Nebraska, as the high responsive bidder, with the bid purchase price of \$25.26 per ton.

## **Sample Motion**

Move to approve the bid of \$25.26 per ton from WC Enterprises, Inc., for the Platte Generating Station Fly Ash Purchase.





Stacy Nonhof, Purchasing Agent

*Working Together for a  
Better Tomorrow, Today*

**BID OPENING**

**BID OPENING DATE:** June 24, 2021 at 2:00 p.m.  
**FOR:** Platte Generating Station Fly Ash Purchase 2021 - 2024  
**DEPARTMENT:** Utilities  
**PUBLICATION DATE:** May 26, 2021  
**NO. POTENTIAL BIDDERS:** 2

**SUMMARY**

<b>Bidder:</b>	<u>WC Enterprises, Inc.</u> Hastings, NE	<u>Nebraska Ash Company</u> Lincoln, NE
<b>Exceptions:</b>	None	None
<b>Bid Price:</b>	\$25.26 per dry ton	\$24.00 per dry ton

cc: Tim Luchsinger, Utilities Director  
Jerry Janulewicz, City Administrator  
Stacy Nonhof, Purchasing Agent

Pat Gericke, Utilities Admin. Assist.  
Patrick Brown, Finance Director  
Lynn Mayhew, Assist. Utilities Director

**P2285**

RESOLUTION 2021-157

WHEREAS, the City of Grand Island invited sealed bids for Fly Ash Purchase according to plans and specifications on file with the Utilities Department; and

WHEREAS, on June 24, 2021, bids were received, opened and reviewed; and

WHEREAS WC Enterprises, Inc., of Hastings, Nebraska, submitted a bid in accordance with the terms of the advertisement of bids and plans and specifications and all other statutory requirements contained therein, such bid being in the amount of \$25.26 per ton.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the bid of WC Enterprises, Inc., for the purchase of Fly Ash, in the amount of \$25.26 per ton, is hereby approved as the highest responsible bid.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, July 13, 2021.

\_\_\_\_\_  
Roger G. Steele, Mayor

Attest:

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

Approved as to Form	▣ _____
July 9, 2021	▣ City Attorney



# City of Grand Island

Tuesday, July 13, 2021

Council Session

## Item G-5

### **#2021-158 - Approving Generating Station Distributive Control System Service Agreement**

Staff Contact: Tim Luchsinger, Stacy Nonhof

# **Council Agenda Memo**

**From:** Timothy G. Luchsinger, Utilities Director  
Stacy Nonhof, Interim City Attorney

**Meeting:** July 13, 2021

**Subject:** Generating Station Distributive Control System Service Agreement

**Presenter(s):** Timothy G. Luchsinger, Utilities Director

## **Background**

Platte and Burdick Generating Stations have a computer control system which controls the operation of the boiler and gas turbines. The control system must be routinely updated and maintained. Support is needed if this control equipment should have any issues. To maintain reliability and allow for operation of the generation units at Platte Generating Station and Burdick Station, a proposal was received from ABB, Inc., the supplier of the control system. ABB is the only company that can provide this service for it is specific to the control system.

## **Discussion**

The proposal provided by ABB is for a three-year agreement which includes updates to the software, maintenance, and emergency support.

		Three Year Agreement
ABB, Inc.	Houston, Texas	\$200,364.00

## **Alternatives**

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

1. Move to approve
2. Refer the issue to a Committee
3. Postpone the issue to future date
4. Take no action on the issue presented in this motion

### **Recommendation**

City Administration recommends that the Council award the Distributive Control System Service Agreement to ABB, Inc., of Houston, Texas as the only provider of this service, for a total three-year cost of \$200,364.00.

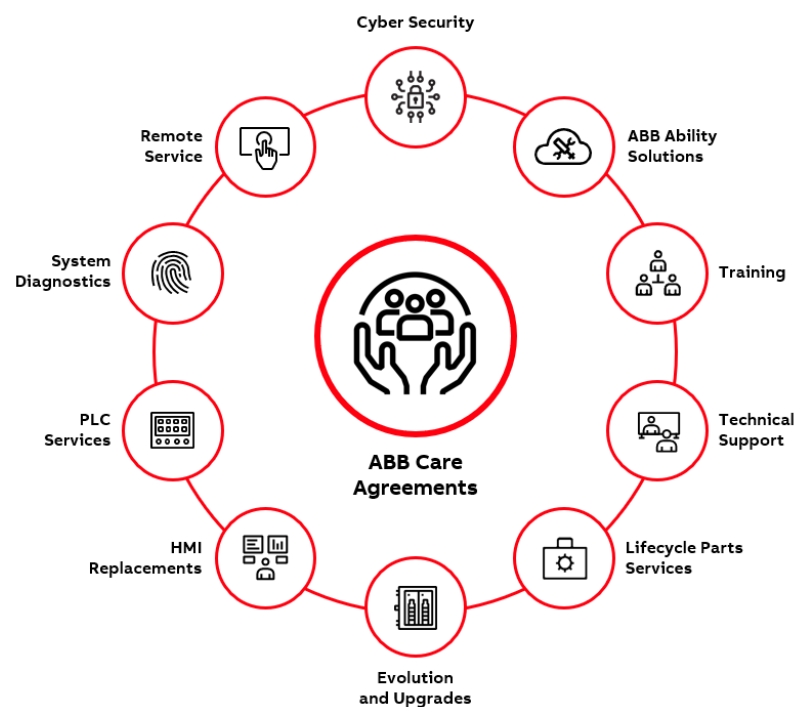
### **Sample Motion**

Move to approve the bid from ABB, Inc., of Houston, Texas for the Distributive Control System Service Agreement in the amount of \$200,364.00.

Let's write the future  
Together



## Industry Care Select



City of Grand Island  
Platte Generating Station  
1035 West Wildwood Drive  
Grand Island, NE 68802

And

C.W. Burdick Station  
800 E. Bischeld Street  
Grand Island, NE 68801 USA

Proposal Date: June 21, 2021  
Proposal Number: EGR-210308-1 Rev 01  
Service Account Manager: Amanda Rodriguez

**Confidential. Do not disclose to any 3<sup>rd</sup> party.**

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## 1 Introduction

Industry Care is a best-in-class service offering designed to increase your plants uptime, extend your plant's life, increase your operational efficacy, and ultimately, provide the means to support all service needs today and the expertise to plan for tomorrow's dynamic changes. With unparalleled knowledge resulting from solutions installed at thousands of facilities around the world, ABB is uniquely qualified to help manage all aspects of your plant, from your primary electrical equipment to your control system and all connected devices.

Industry Care drives value for your plant by providing **rapid response** to issues and questions, including services and technologies that **extend the lifecycle** and **improve the reliability** of your control system, and **improve the operating performance** of your process. The Care contract value can be further enhanced by leveraging the full breadth and depth of ABB capabilities including electrification services, drives services, and ABB Ability™ digital technologies.

It's all about improving *your* business outcomes. From ABB's portfolio of technology and services from field service, tuning services, and spare parts to consulting, optimization, ABB Ability™ digital portfolio, and turnkey services; we support every stage of the plants life cycle and ensure maximum results from your full fleet of assets.

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## 2 Scope of Work

The proposal includes coverage and services for the following City of Grand Island plants:

- C.W. Burdick Station
- Platte Generating Station

### 2.1 Contract Management Team

Contract management is adjusted to reflect the Scope of Work and also tailored to meet Customer requirements. The ABB contract management team is led by the Regional Operations Manager and includes the Service Coordinator, Business Administrator, Sales Account Manager, with escalation to a Regional Director.

The Contract Team will be responsible for the quality monitoring, reporting and follow up of continuous improvement of Scope of Work. The Contract Team is responsible for execution of the following functions:

- Overall responsible for Scope of Work and single point of contact for Customer's Contract Holder
- Operations of a resource team to meet requirements from Customer and Scope of Work
- Review of available lifecycle information for registered installed base
- Provide information about recommended spare parts

### 2.2 Rapid Response Services

#### 2.2.1 Telephone Support

City of Grand Island will have access to an **unlimited number** of technical support cases with a **1 hour** response commitment during normal business hours throughout the duration of this contract. Escalation of support cases is made through the ABB Contact Center. Response time is defined as the time from the request has been received and acknowledged by a specialist.

Technical support is available 24/365 with afterhours support limited to cases where the system is down, in danger of going down, or when system performance is significantly off from expected. This support function may be utilized by any employee of the customer using the ABB Systems (excluding contractors, subcontractors, integrators, or any party other than an employee of the purchaser).

ABB Contact Center contact details are:

Email: [AutomationSupportLine@us.abb.com](mailto:AutomationSupportLine@us.abb.com)

Telephone number: 1-800-HELP-365 (1-800-435-7365)

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City of Grand Island Request will include the following information to the ABB Contact Center:

- Customer name
- Name of inquirer
- Name of site
- Type of equipment
- Description of inquiry
- Priority of the inquiry
- Contact details of the inquirer

### 2.2.2 Online Support

Online support is available through the Premium version of MyABB / My Control System portal.

Through My Control System, you can:

- Check my system licenses / Automation Sentinel status
- See system details pages and system reports
- Have access to subscriptions and software licenses of the installed control system(s)
- Access cyber security related information, recommendations and downloads
- Determine contact information of designated ABB Service organization
- Find My safety reports / My product alerts
- Research available training
- Access security updates and patches, service packs, new control system software versions
- See validation results and downloadable qualified third party security updates form Microsoft / McAfee ePO policies/Symantec definition files
- Find user manuals, data sheets, product updates
- Check the overall status of the process control system health, performance and validated software updates

Online support may be utilized by any employee of the customer using the ABB Systems (excluding contractors, subcontractors, integrators, or any party other than an employee of the purchaser). For each system under contract, City of Grand Island will have up to fifteen (15) users, plus one (1) control system administrator. **City of Grand Island is responsible for completing and returning the form in Appendix B for user access.**

## 2.3 Rapid Response Options

### 2.3.1 Optional ABB Ability™ Remote Insights

Under the Industry Care Select contract, ABB will provide **three (3) ABB Ability™ Remote Insights licenses** for use by customer designated users. ABB Ability™ Remote Insights is a collaborative app that improves interaction between remote experts and field personnel by enabling live instruction and guidance that can be overlaid on live video using augmented reality technology. This new solution will simplify maintenance, reduce downtime, increase equipment effectiveness and improve safety. This allows you to expand the technical knowledge of your workforce as your

personnel gain hands-on maintenance experience from ABB's global expert support network. **City of Grand Island is responsible for completing and returning the form in Appendix C for user access.**

- Remote Insights service may be utilized by designated employees of the customer only. Contractors, subcontractors, integrators, or any party other than an employee of the purchaser are excluded from using the licenses supplied herein.
- Supported operating systems: iOS, Android, Windows 10
- Hands-free options through wearable technology (Hololens and Realware Headset) are supported
- ABB shall treat all the materials and information received from the site as confidential client data.
- Cellular/WiFi Service available in areas of plant intended for use with solution.
- Capture of Photo/Video of site equipment permitted as required by Remote Insights session.
- Additional licenses may be purchased at prices listed herein during the term of this contract.

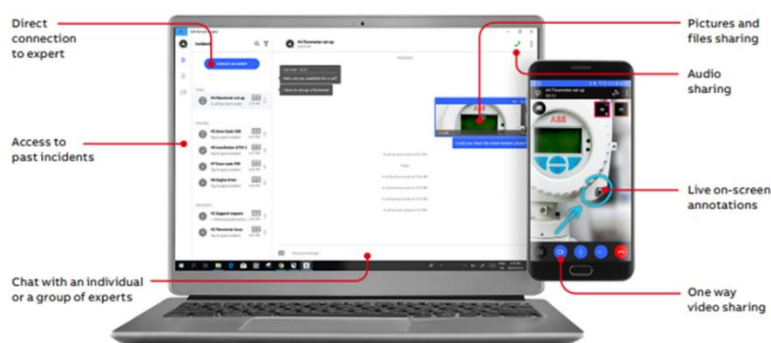


ABB MyLearning has designed a training course for customers to familiarize and utilize the Remote Insights application. The training course T1010E Remote Insights Quick Start Training is an on-demand, virtual class that can be taken any time.

## 2.4 Lifecycle Management Services

### 2.4.1 Sites and Systems Supported

The following table(s) outlines the sites and systems covered under this Contract with their corresponding software maintenance level.

#### City of Grand Island – Platte Generating Station - SID2125

Software Support Level	Maintain+ Level	# of Concurrent Users	16	System Functionality	<input type="checkbox"/> Turbine Analyst <input checked="" type="checkbox"/> History <input checked="" type="checkbox"/> Harm. Gateway
Licenses Included in System Identification					
License #	Product Description			Machine ID	
SL537050910163052	S+ Operations, Primary, v2.1 Client - Included - Yes Client Incl Clients Support - Additional - (13 clients) Real Time Data Server Tag Capacity - 20000 realtime tags Harmony Connect - Yes Harmony/INFI Driver - Yes Office ThinWebClient - (Total of 50 ThinClients) History Server - Yes Report Package (required with History Server) - Yes 4 Historical Logs x1000 - Packs of 1000 API Support - Run Time Alarm Portal - Yes Central Diagnostic - Yes OPC Client - Yes SNMP Scanner - Yes			0039	
SL772070910163052	S+ Operations, Redundant, v2.1 Client - Included - Yes Client Incl Clients Support - Additional - (13 clients) Real Time Data Server Tag Capacity - 20000 realtime tags Harmony/INFI Driver - Yes Harmony Connect - Yes Office ThinWebClient - (Total of 50 ThinClients) History Server - Yes Report Package (required with History Server) - Yes 4 Historical Logs x1000 - Packs of 1000 API Support - Run Time Alarm Portal - Yes Central Diagnostic - Yes (default) OPC Client - Yes SNMP Scanner - Yes			003A	
SL754510602092049	S+ Operations, Redundant, v2.1 Client - Included - Yes Client Incl Clients Support - Additional - (13 clients)			4CD98F382B5F	

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	Real Time Data Server Tag Capacity - 20000 realtime tags	
	Harmony/INFI Driver - Yes	
	Harmony Connect - Yes	
	API Support - Run Time	
	Central Diagnostic - Yes (default)	
	OPC Client - Yes	
	SNMP Scanner - Yes	
688415922	S+ Engineering Server, v2.1	78203
688415911	S+ Engineering Server, v2.1	78256
SL748415508082052	IET800, vA.0	00C0C901AA33
SL779415508082052	IET800, vA.0	00C0C901E8AF
SL817133615292095	IET800, vA.0	B89BE4023F92
SL848133615292095	IET800, vA.0	B89BE402E81E
SL151315713274069	Harmony Gateway, v7.0	
SL145132311033026	PNI800, vA.0	B89BE402F395
SL192132311033026	PNI800, vA.0	B89BE40310E8
SL298451415314125	PNI800, vA.0	
SL757374807133016	S+ Engineering for Harmony, v1.3	59166
SL788560002181029	Harmony Gateway, v7.0	
SL960520002181029	Harmony Gateway, v7.0	
SL319204005054064	Harmony Gateway, v6.0	
SL037012413252069	PNI800, vA.0	00C0C902945B
SL068012413252069	PNI800, vA.0	B89BE4045606

## 2.4.2 Software Maintenance

As part of this contract, City of Grand Island will have access to the **Maintain+** level of software maintenance. Please refer to the subsequent section for details on what systems and components are covered.

**Maintain+** level provides access to software or firmware error corrections, performance improvements, and 3<sup>rd</sup> party compatibility updates for the current software version installed, as well as the availability to upgrade the currently installed software products from one version of the platform to the latest version of the same platform for platforms that are “Active” or “Classic” lifecycle status.

Delivery of software updates will be through the myABB / My Control System portal, or on physical media in certain situations. Flashable firmware updates will be available through this portal as well. Firmware updates delivered on physical media may be purchased for an additional fee.

The software maintenance updates provided by ABB will automatically be subject to the applicable end-user software license agreement. Software corrections for individual issues are not available prior to the release of a periodic software maintenance update. Purchaser may

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request the correction of a specific issue and ABB will attempt to make available, at its option, a temporary correction if ABB determines the issue to be business critical, and both technically and economically feasible.

### **2.4.3 Cyber Security Patch Delivery**

Every month throughout the duration of this contract, ABB will provide a CD of all Microsoft validated patches for ABB control system software and associated ABB validation test status documentation. This document lists Microsoft security bulletins including relevant KB article numbers, criticality, affected Microsoft products, and ABB's validation status.

Patch validation applies only for ABB software at "Active" or "Classic" status at the latest available service pack. The validation testing of Microsoft security updates is done along with McAfee VirusScan® Enterprise. Documentation about the latest patch level, scan engine, and virus definition file versions validated are published together with the Microsoft security update test results. The information and software provided is for use on ABB systems covered by this Contract. **City of Grand Island is responsible for completing and returning the form in Appendix D for delivery contact and address of this disc.**

### **2.4.4 Control System Benchmark**

As part of the Care contract, ABB will conduct a Control System Benchmark during the term of the contract. The Control System Benchmark will provides to the customer an accurate depiction of the installed control system equipment, along with lifecycle status and criticality matrix, warranty information (if available) and which equipment is covered by the agreement within a report on the myABB customer portal.

The Control System Benchmark is conducted by running a Service Products Data Collector (SPDC) automated tool that can be downloaded from myControlSystem or provided to customer by USB storage media. The SPDC tool validates key parameters including:

- Lifecycle status of hardware and software
- ABB software versions are all loaded correctly and are on appropriate nodes
- Appropriate versions of Microsoft software, including patches are on every node
- Most up-to-date antivirus (McAfee or Symantec) software on every node
- Microsoft Windows, computer hardware and controller KPI's to determine system load
- Control hardware version
- Cybersecurity settings

In order to complete the Control System Benchmark the SPDC tool must be run from a Microsoft Windows workstation or server that is on the same network as all the other control system nodes. City of Grand Island may apply virus checks to media prior to loading the SPDC tool on the system. The SPDC tool runs in the background and does not need to be attended. The length of time needed to complete varies based on system size.

#### 2.4.5 Control System Spare Parts Audit

**ABB will provide the Control System Spare Parts Audit for Platte Generating Station or C.W. Burdick Station, one plant only.**

One time during the course of the contract term, ABB will utilize the Control System Benchmark data to conduct a Spare Parts Audit. The Spare Parts Audit utilizes the mySpareParts Analyzer available on myABB to develop high level recommendations regarding spare parts and inventory gaps. A report will be delivered regarding the results of the Spare Parts Audit via MyControlSystem or other electronic means.

#### 2.4.6 Onsite Field Service

As part of the Industry Care contract, ABB will provide a discounted rate of **10 percent** off the current field service labor rates to perform preventive and corrective maintenance services. Standard service labor rates and ABB recognized holidays are shown in Appendix A of this proposal. Service labor time includes travel to and from the site, time for training required to obtain site access, diagnostic time, repair time, verification time, time awaiting the delivery of parts, time waiting for access to equipment, and time required to complete the documentation of the service call activities. A minimum of four (4) hours is charged for any service call to a client's facility. The use of these hours are subject to defined Primary Working Hours as referenced in Appendix A.

Travel and living expenses will be invoiced separately for these hours.

Additional purchased material, equipment rental, oil processing trailers, etc. are in addition to service hours and will be quoted per the service required.

#### 2.4.7 Hardware & Software Discounts

ABB will provide hardware and software discounts off the current ABB price book for below listed hardware and software during the Industry Care contract period. Discounts for repairs and refurbished parts apply to listed hardware systems only. Discounts during the contract period will be extended at the following rates:

##### Hardware

New	Description
Symphony Plus Harmony (Rack)	10% discount (0.90 of list)
Symphony Plus (DIN)	10% discount (0.90 of list)
<b>Repairs and Refurbished parts</b>	
Repairs	10% discount (0.90 of list)



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New	Description
Refurbished	10% discount (0.90 of list)
<b>Software</b>	
Symphony Plus	10% discount (0.90 of list)

\* Discount applies to currently licensed products. Includes software licenses, media, and USB dongles for new or expansion licensing. Some software expansions may impact the annual price of the Industry Care contract.

#### 2.4.8 In-Person Training Classes

City of Grand Island is also entitled to purchase in-center training classes from ABB University at **10 percent** off the current list price if purchased during the contract period.

- The discounted pricing would only apply to list price, ABB in-center training classes, scheduled as open enrollment events.
- The discounted pricing would not apply to on-site training events or coaching services.
- This discount cannot be combined with any other agreements or promotions.

ABB University has the right to cancel an open enrollment class that does not meet the student minimum to conduct the training class. ABB University commits to cancelling a class at least 2 weeks prior to the scheduled start date. If the customer chooses to cancel an enrollment, they must do so at least 2 weeks prior to the class start date to avoid a cancellation fee.

#### 2.4.9 Loyalty Offers

As a participant in the Industry Care program, City of Grand Island will have access to quarterly published Loyalty Offers throughout the duration of the contract. These are special access discounts only made available to contract holders. The Loyalty Offers are made available at the beginning of each calendar year quarter and provide discounts to part and labor packages.

### 3 Commercial Summary

**Industry Care Select Contract – Three Year Contract:**  
The Contract starts **June 01, 2021** ending **May 31, 2024**.

Part Number	Description	Price
PAENC-SEL-03	Industry Care – Select 3-year agreement	\$ 59,789 Year 1
		\$ 62,778 Year 2
		\$ 65,917 Year 3
		\$ 188,484 Total

#### Optional Services\*

Part Number	Description	Price per Site
1 n/a	Remote Insights: 3 users	\$3,960 Annual

\* Optional Services pricing valid when purchased at the same time as this Industry Care contract.

#### 3.1 Purchase Order

PLEASE NOTE NEW SUBMISSION EMAIL ADDRESS.

This is a Three Year Contract, please submit your purchase order **referencing proposal number EGR-210308-1 Rev 01**. The Purchase Order needs to cover the full duration with line items for each year. Invoice dates are as follows:

Line Item	Part Number	Description	Invoice Date	Price
1	PAENC-SEL-03	Year 1	6/30/2021	\$ 59,789
2	PAENC-SEL-03	Year 2	6/1/2022	\$ 62,778
3	PAENC-SEL-03	Year 3	6/1/2023	\$ 65,917
TOTAL				\$ 188,484

Payment due NET-30 unless otherwise specified in a master agreement. The above table does not reflect any options. Should any options be purchased, the invoice amount in the above table needs to be increased by the annual amount of the option(s).

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The purchase order must reference terms and conditions of this Contract. Please fax or email your purchase order to:

Fax – (440) 585-5081

E-mail – ServiceContracts@us.abb.com

### 3.2 Invoice Schedule & Payment Terms

The terms of payment for all systems, services, and products purchased under this agreement shall be 30 days from date on invoice, subject to **annual** invoices issued following receipt and acceptance of your Purchase Order. **Annual** invoicing will continue automatically for multi-year contract periods per the invoice schedule outlined in Section 3.1 Purchase Order.

If you let the contract expire or lapse at any time, you may reinstate for an additional fee of 5% per month of the most recent annual contract amount that you are not covered under contract, with a maximum fee of 15% of the most recent annual contract amount.

### 3.3 Cancellation

Contract termination is assessed in 12-month intervals. Termination of this contract will be subject to the following cancellation schedule:

Cancellation Schedule	
Cancellation Timing	Amount
Up to the end of the third month	50% of annual contract amount. Subsequent years of the committed contract period are waived.
Any time between months 4 and 12	Full annual contract amount. Subsequent years of the committed contract period are waived.

### 3.4 Terms and Conditions

This Contract will commence on its effective date as specified in Section 3 Commercial Summary above, and will remain in effect until the end of the agreement as specified in Section 3 Commercial Summary above.

The Terms and Conditions of this proposal are based on ABB Standard Terms and Conditions. No other terms and conditions shall apply. Where there is a conflict between the Terms and Conditions and this proposal, terms of this proposal shall take precedence.

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#### **3.4.1 Corona virus (COVID 19) Sales Contract Clause**

The Parties are aware of the outbreak of a Coronavirus (commonly known as COVID-19) or any mutation of such virus which is or may impact normal business and execution of this Contract. The Parties agree that ABB is entitled to cost compensation, time extension, or other reasonably required contract adjustments, if any consequences whether directly or indirectly resulting out of, or in connection with the coronavirus outbreak, lead to delays in delivery of goods or provision of services or otherwise affect ABB's contractual obligations or duties.

### **3.5 Authorized Users**

The Industry Care agreement and services are for the operator/operating company of the specific to the site and systems identified in this proposal. Third parties performing work or services are not authorized or permitted to utilize any of the features or benefits provided with this agreement.

### **3.6 Travel and Living**

All travel and living expenses for services included in this Contract are not included. Work performed outside the scope of this Contract are subject to travel and living expenses being invoiced separately at actual incurred cost plus 10% (administrative fee).

### **3.7 Taxes and Duties**

All other taxes and duty not explicitly expressed herein will be billed to the consignee. This include VAT or/and Service related Withholding tax.

### **3.8 Proposal Validity**

This Proposal is subject to acceptance within sixty (60) days from the date of proposal. All prices, schedules, and technical descriptions are valid throughout this period.

### **3.9 Confidentiality**

The information contained in this proposal is proprietary to ABB Inc. and may not be disclosed to any third party or company without the written consent of ABB Inc.

### **3.10 Change Orders**

During the term of this Care agreement, work requested by City of Grand Island on equipment not included in Section 2 (inclusive) or that has been otherwise delineated as additional scope within this agreement will be completed by ABB under the following conditions:

- Additional Scope will be authorized by City of Grand Island in writing via a Change Order. In the event a Change Order ABB will, at earliest convenience, provide written confirmation.

- 
- City of Grand Island shall amend applicable Purchase Orders prior to resources being dispatched to site. In event of an Emergency the Purchase order will be amended to include Change Order additional scope within 5 business days of written confirmation.
  - Change Orders will be on a Time and Material basis.

A sample Change Order form is shown in Appendix E

### **3.11 Authorized Service Provider**

During the execution of this Care agreement, ABB reserves the right to utilize an Authorized Service Provider for services on covered equipment. In the event an Authorized Service Provider is utilized, all warranties herein will still apply.

### **3.12 Publication**

Customer approves the use of its name in ABB newsletters, press releases, proposals, experience lists, and resumes (for proposal purposes) of our employees.

### **3.13 Non-Solicitation**

During the term of this Agreement and for one year after any termination of this Agreement, Purchaser will not, without the prior written consent of ABB, either directly or indirectly, on Purchaser's own behalf or in the service or on behalf of others, solicit or attempt to solicit, divert or hire away any person employed by ABB or any customer of ABB. Purchaser acknowledges that money damages may not be a sufficient remedy for breach of this requirement. Accordingly, in the event of any such breach, in addition to any other remedies at law or in equity ABB may have, ABB shall be entitled to seek equitable relief, injunctive relief, or both.

### **3.14 Use of Remote Insights Software**

Customer acknowledges and accepts that, from time to time, ABB may utilize Remote Insights software in the execution of work associated with this agreement. Remote Insights software facilitates augmented video and audio communications between ABB field resources and ABB technical support/engineering across a standard cellular/wifi connection utilizing an ABB supplied cellular/wifi enabled device. The Remote Insights request will be initiated by ABB and shall be limited to the time frame necessary to perform the services requested by ABB engineer.

## Appendix A – ABB US Service Standard Rate Sheet – 2021

### Primary Work Hours

The following labor rates are applicable during Primary Working Hours (PWH) defined as an 8-hour period beginning between 7:00 A.M. and 10:00 A.M. Monday through Friday, excluding national and ABB recognized holidays. The primary work hours include a one half-hour non-paid lunch period and two 15-minute breaks during the day.

### Base Service Labor Rates

Technology	Service Type	Hourly Rate
Drives and Motors	Field Services	\$325
Open Control systems (OCS)	Field Services	\$315
	Process Application Engineering Services	\$355
Paper Quality Control Systems & Web Imaging Systems (QCS & WIS)	Field Services	\$315
	Sensor Specialist Services	\$352
	Systems Engineering Services	\$352
	Process Application Engineering Services	\$355
	Lorentzen & Wettre Engineering Services	\$355
	Lorentzen & Wettre Specialist Service	\$381
Power Generation	Turbine Control Systems Services	\$345
	Flame Scanner Services	\$345
	Power Plant Tuning	\$345
All	Project Management Services	\$347
	Process Control Tuning Services	\$349
	Regional Technical Advisor, Network & Security Services	\$355
	Process Optimization Services	\$370

### Overtime Hours

For billing purposes ABB Inc. defines overtime as those hours worked outside the Primary Working Hours or in excess of eight (8) hours in one day. The standard charges for overtime are defined as follows:

- All work performed outside the PWH or over 8 hours in one day is charged at one and one half times the labor rate (Base Service Labor Rate X 1.5).
- All work performed on Saturday is charged at one and one half times the labor rate (Base Service Labor Rate X 1.5).
- All work performed on Sunday is charged at two times the labor rate (Base Service Labor Rate X 2).
- All work performed on national or an ABB holiday is charged at three times the labor rate (Base Service Labor Rate X 3).

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### Field Engineer Stand-By

Engineer Stand-By support occurs when a customer requests an engineer to perform “stand-by” duty where that engineer is specifically reserved for that Customer and cannot be dispatched to another Customer job site. The customer reserving the engineer in stand-by readiness mode shall be charged for Stand-By service.

Field Engineer Stand-By Service is charged at 4 PWH per day. If the “reserved” Field Engineer is called to this site, then 2 PWH will be credited to the customer. Overtime hours, travel expenses, travel time and other conditions of service per this rate sheet shall apply.

### 2021 Holiday Schedule

Friday, Jan. 1 - New Year's Day	Thursday, Nov. 11 – Veterans Day
Monday, Jan. 18 – Martin Luther King Jr. Day	Thursday, Nov. 25 –Thanksgiving Day
Monday, Feb. 15 – Presidents Day	Friday, Nov. 26 – Day After Thanksgiving
Monday, May 31 - Memorial Day	Thursday, Dec. 23 – Day Before Christmas
Monday, July 5 – Independence Day	Friday, Dec. 24 – Christmas Day
Monday Sept. 6 - Labor Day	

## Appendix B – My Control System Access

Please complete the form below and include it with your Purchase Order to complete registration and/or renewal of your My Control System access.

Contact Name	Contact Phone Number	Contact address	e-mail	What system(s) is this contact responsible for? (Only required for multi-system contracts)	User Role
					Control System Administrator
					Maintenance Engineer
					Maintenance Engineer
					Maintenance Engineer
					Maintenance Engineer
					Maintenance Engineer
					Maintenance Engineer
					Maintenance Engineer
					Maintenance Engineer
					Maintenance Engineer
					Maintenance Engineer
					Maintenance Engineer
					Maintenance Engineer
					Maintenance Engineer



[illegible]

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## Appendix D – Cyber Security Patch Delivery

Please complete the form below and include with your Purchase Order to receive proper delivery of your Cyber Security Patch Disc(s).

Contact Name	Contact Phone No.	Address	City	State	Zip Code

## Appendix E – Change Order Form

ABB Inc. is pleased to provide to you, this change to purchase order \_\_\_\_\_ dated \_\_\_\_\_, which includes terms and conditions and pricing per service agreement proposal \_\_\_\_\_ to support the following scope:

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Labor	Quantity	List	Discount	Total
Standard labor (1X)				
Overtime labor (1.5x)				
Double time labor (2x)				
Holiday labor (3X)				
Total Labor				
Expenses	Quantity	List	Discount	Total
Miles				
Air fare				
Hotel				
Pier diem				
Car rental				
Parking/tolls				
Other				
Admin				
Total Expenses				
Parts	Quantity	List	Discount	Total
Parts				
Total Parts				
Miscellaneous	Quantity	List	Discount	Total
+				
+				
-				
Total Miscellaneous				
Total Price				

All the terms and conditions of Purchase Order \_\_\_\_\_ dated \_\_\_\_\_ remain in full force and effect and control this change.

If this proposal meets with your approval, please submit an adjusted or new purchase order referencing proposal number \_\_\_\_\_ for the amount of \_\_\_\_\_.



## Appendix F – Terms and Conditions

ABB INC.

### GENERAL TERMS AND CONDITIONS OF SALE

**1. General.** The terms and conditions contained herein, together with any additional or different terms contained in ABB's Proposal, if any, submitted to Purchaser (which Proposal shall control over any conflicting terms), constitute the entire agreement (the "Agreement") between the parties with respect to the order and supersede all prior communications and agreements regarding the order. Acceptance by ABB of the order, or Purchaser's acceptance of ABB's Proposal, is expressly limited to and conditioned upon Purchaser's acceptance of these terms and conditions, payment for or acceptance of any performance by ABB being acceptance. These terms and conditions may not be changed or superseded by any different or additional terms and conditions proposed by Purchaser to which terms ABB hereby objects. Unless the context otherwise requires, the term "Equipment" as used herein means all of the equipment, parts, accessories sold, and all software and software documentation, if any, licensed to Purchaser by ABB ("Software") under the order. Unless the context otherwise requires, the term "Services" as used herein means all labor, supervisory, technical and engineering, installation, repair, consulting or other services provided by ABB under the order. As used herein, the term "Purchaser" shall include the initial end use of the Equipment and/or services; provided, however, that Paragraph 13(a) shall apply exclusively to the initial end user.

### **2. Prices.**

(a) Unless otherwise specified in writing, all Proposals expire thirty (30) days from the date thereof.

(b) Unless otherwise stated herein, Services prices are based on normal business hours (8 a.m. to 5 p.m. Monday through Friday). Overtime and Saturday hours will be billed at one and one-half (1 1/2) times the hourly rate; and Sunday hours will be billed at two (2) times the hourly rate; holiday hours will be billed at three (3) times the hourly rate. If a Services rate sheet is attached hereto, the applicable Services rates shall be those set forth in the rate sheet. Rates are subject to change without notice.

(c) The price does not include any federal, state or local property, license, privilege, sales, use, excise, gross receipts, or other like taxes which may now or hereafter be applicable. Purchaser agrees to pay or reimburse any such taxes which ABB or its suppliers are required to pay or collect. If Purchaser is exempt from the payment of any tax or holds a direct payment permit, Purchaser shall, upon order placement, provide ABB a copy, acceptable to the relevant governmental authorities of any such certificate or permit.

(d) The price includes customs duties and other importation or exportation fees, if any, at the rates in effect on the date of ABB's Proposal. Any change after that date in such duties, fees, or rates, shall increase the price by ABB's additional cost.

### **3. Payment.**

(a) Unless specified to the contrary in writing by ABB, payment terms are net cash, payable without offset, in United States Dollars, 30 days from date of invoice by wire transfer to the account designated by ABB in the Proposal.

(b) If in the judgment of ABB the financial condition of Purchaser at any time prior to delivery does not justify the terms of payment specified, ABB may require payment in advance, payment security satisfactory to ABB, or may terminate the order, whereupon ABB shall be entitled to receive reasonable cancellation charges. If delivery is delayed by Purchaser, payment shall be due on the date ABB is prepared to make delivery. Delays in delivery or nonconformities in any installments delivered shall not relieve Purchaser of its obligation to accept and pay for remaining installments.

(c) Purchaser shall pay, in addition to the overdue payment, a late charge equal to the lesser of 1 1/2% per month or any part thereof or the highest applicable rate allowed by law on all such overdue amounts plus ABB's attorneys' fees and court costs incurred in connection with collection.

### **4. Changes.**

(a) Any changes requested by Purchaser affecting the ordered scope of work must be accepted by ABB and resulting adjustments to affected provisions, including price, schedule, and guarantees mutually agreed in writing prior to implementation of the change.

(b) ABB may, at its expense, make such changes in the Equipment or Services as it deems necessary, in its sole discretion, to conform the Equipment or Services to the applicable specifications. If Purchaser objects to any such changes, ABB shall be relieved of its obligation to conform to the applicable specifications to the extent that conformance may be affected by such objection.

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## 5. Delivery.

(a) All Equipment manufactured, assembled or warehoused in the continental United States is delivered F.O.B. point of shipment. Equipment shipped from outside the continental United States is delivered F.O.B. United States port of entry. Purchaser shall be responsible for any and all demurrage or detention charges.

(b) If the scheduled delivery of Equipment is delayed by Purchaser or by Force Majeure, ABB may move the Equipment to storage for the account of and at the risk of Purchaser whereupon it shall be deemed to be delivered.

(c) Shipping and delivery dates are contingent upon Purchaser's timely approvals and delivery by Purchaser of any documentation required for ABB's performance hereunder.

(d) Claims for shortages or other errors in delivery must be made in writing to ABB within ten days of delivery. Equipment may not be returned except with the prior written consent of and subject to terms specified by ABB. Claims for damage after delivery shall be made directly by Purchaser with the common carrier

**6. Title & Risk of Loss.** Except with respect to Software (for which title shall not pass, use being licensed) title to Equipment shall remain in ABB until fully paid for. Notwithstanding any agreement with respect to delivery terms or payment of transportation charges, risk of loss or damage shall pass to Purchaser upon delivery.

## 7. Inspection, Testing and Acceptance.

(a) Any inspection by Purchaser of Equipment on ABB's premises shall be scheduled in advance to be performed during normal working hours.

(b) If the order provides for factory acceptance testing, ABB shall notify Purchaser when ABB will conduct such testing prior to shipment. Unless Purchaser states specific objections in writing within ten (10) days after completion of factory acceptance testing, completion of the acceptance test constitutes Purchaser's factory acceptance of the Equipment and its authorization for shipment.

(c) If the order provides for site acceptance testing, testing will be performed by ABB personnel to verify that the Equipment has arrived at site complete, without physical damage, and in good operating condition. Completion of site acceptance testing constitutes full and final acceptance of the Equipment. If, through no fault of ABB, acceptance testing is not completed within thirty (30) days after arrival of the Equipment at the site, the site acceptance test shall be deemed completed and the Equipment shall be deemed accepted.

## 8. Warranties and Remedies.

(a) Equipment and Services Warranty. ABB warrants that Equipment (excluding Software, which is warranted as specified in paragraph (d) below) shall be delivered free of defects in material and workmanship and that Services shall be free of defects in workmanship. The Warranty Remedy Period for Equipment (excluding Software, Spare Parts and Refurbished or Repaired Parts) shall end twelve (12) months after installation or eighteen (18) months after date of shipment, whichever first occurs. The Warranty Remedy Period for new spare parts shall end twelve (12) months after date of shipment. The Warranty Remedy Period for refurbished or repaired parts shall end ninety (90) days after date of shipment. The Warranty Remedy Period for Services shall end ninety (90) days after the date of completion of Services.

(b) Equipment and Services Remedy. If a nonconformity to the foregoing warranty is discovered in the Equipment or Services during the applicable Warranty Remedy Period, as specified above, under normal and proper use and provided the Equipment has been properly stored, installed, operated and maintained and written notice of such nonconformity is provided to ABB promptly after such discovery and within the applicable Warranty Remedy Period, ABB shall, at its option, either (i) repair or replace the nonconforming portion of the Equipment or re-perform the nonconforming Services or (ii) refund the portion of the price applicable to the nonconforming portion of Equipment or Services. If any portion of the Equipment or Services so repaired, replaced or re-performed fails to conform to the foregoing warranty, and written notice of such nonconformity is provided to ABB promptly after discovery and within the original Warranty Remedy Period applicable to such Equipment or Services or 30 days from completion of such repair, replacement or re-performance, whichever is later, ABB will repair or replace such nonconforming Equipment or re-perform the nonconforming Services. The original Warranty Remedy Period shall not otherwise be extended.

(c) Exceptions. ABB shall not be responsible for providing working access to the nonconforming Equipment, including disassembly and re-assembly of non-ABB supplied equipment, or for providing transportation to or from any repair facility, all of which shall be at Purchaser's risk and expense. ABB shall have no obligation hereunder with respect to any Equipment which (i) has been improperly repaired or altered; (ii) has been subjected to misuse, negligence or accident; (iii) has been used in a manner contrary to ABB's instructions; (iv) is comprised of materials provided by or a design specified by Purchaser; or (v) has failed as a result of ordinary wear and tear. Equipment supplied by ABB but manufactured by others is warranted only to the extent of the manufacturer's warranty, and only the remedies, if any, provided by the manufacturer will be allowed.

**(d) Software Warranty and Remedies.** ABB warrants that, except as specified below, the Software will, when properly installed, execute in accordance with ABB's published specification. If a nonconformity to the foregoing warranty is discovered during the period ending one (1) year after the date of shipment and written notice of such nonconformity is provided to ABB promptly after such discovery and within that period, including a description of the nonconformity and complete information about the manner of its discovery, ABB shall correct the nonconformity by, at its option, either (i) modifying or making available to the Purchaser instructions for modifying the Software; or (ii) making available at ABB's facility necessary corrected or replacement programs. ABB shall have no obligation with respect to any nonconformities resulting from (i) unauthorized modification of the Software or (ii) Purchaser-supplied software or interfacing. ABB does not warrant that the functions contained in the software will operate in combinations which may be selected for use by the Purchaser, or that the software products are free from errors in the nature of what is commonly categorized by the computer industry as "bugs".

**(e) THE FOREGOING WARRANTIES ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES OF QUALITY AND PERFORMANCE, WHETHER WRITTEN, ORAL OR IMPLIED, AND ALL OTHER WARRANTIES INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USAGE OF TRADE ARE HEREBY DISCLAIMED. THE REMEDIES STATED HEREIN CONSTITUTE PURCHASER'S EXCLUSIVE REMEDIES AND ABB'S ENTIRE LIABILITY FOR ANY BREACH OF WARRANTY.**

#### **9. Patent Indemnity.**

(a) ABB shall defend at its own expense any action brought against Purchaser alleging that the Equipment or the use of the Equipment to practice any process for which such Equipment is specified by ABB (a "Process") directly infringes any claim of a patent of the United States of America and to pay all damages and costs finally awarded in any such action, provided that Purchaser has given ABB prompt written notice of such action, all necessary assistance in the defense thereof and the right to control all aspects of the defense thereof including the right to settle or otherwise terminate such action in behalf of Purchaser.

(b) ABB shall have no obligation hereunder and this provision shall not apply to: (i) any other equipment or processes, including Equipment or Processes which have been modified or combined with other equipment or process not supplied by ABB; (ii) any Equipment or Process supplied according to a design, other than an ABB design, required by Purchaser; (iii) any products manufactured by the Equipment or Process; (iv) any patent issued after the date hereof; or (v) any action settled or otherwise terminated without the prior written consent of ABB.

(c) If, in any such action, the Equipment is held to constitute an infringement, or the practice of any Process using the Equipment is finally enjoined, ABB shall, at its option and its own expense, procure for Purchaser the right to continue using said Equipment; or modify or replace it with non-infringing equipment or, with Purchaser's assistance, modify the Process so that it becomes non-infringing; or remove it and refund the portion of the price allocable to the infringing Equipment. THE FOREGOING PARAGRAPHS STATE THE ENTIRE LIABILITY OF ABB AND EQUIPMENT MANUFACTURER FOR ANY PATENT INFRINGEMENT.

(d) To the extent that said Equipment or any part thereof is modified by Purchaser, or combined by Purchaser with equipment or processes not furnished hereunder (except to the extent that ABB is a contributory infringer) or said Equipment or any part thereof is used by Purchaser to perform a process not furnished hereunder by ABB or to produce an article, and by reason of said modification, combination, performance or production, an action is brought against ABB, Purchaser shall defend and indemnify ABB in the same manner and to the same extent that ABB would be obligated to indemnify Purchaser under this "Patent Indemnity" provision.

#### **10. Limitation of Liability.**

(a) In no event shall ABB, its suppliers or subcontractors be liable for special, indirect, incidental or consequential damages, whether in contract, warranty, tort, negligence, strict liability or otherwise, including, but not limited to, loss of profits or revenue, loss of use of the Equipment or any associated equipment, cost of capital, cost of substitute equipment, facilities or services, downtime costs, delays, and claims of customers of the Purchaser or other third parties for any damages. ABB's liability for any claim whether in contract, warranty, tort, negligence, strict liability, or otherwise for any loss or damage arising out of, connected with, or resulting from this Agreement or the performance or breach thereof, or from the design, manufacture, sale, delivery, resale, repair, replacement, installation, technical direction of installation, inspection, operation or use of any equipment covered by or furnished under this Agreement, or from any services rendered in connection therewith, shall in no case (except as provided in the section entitled "Patent Indemnity") exceed one-half (1/2) of the purchase price allocable to the Equipment or part thereof or Services which gives rise to the claim.

(b) All causes of action against ABB arising out of or relating to this Agreement or the performance or breach hereof shall expire unless brought within one year of the time of accrual thereof.

(c) In no event, regardless of cause, shall ABB be liable for penalties or penalty clauses of any description or for indemnification of Purchaser or others for costs, damages, or expenses arising out of or related to the Equipment and/Services.

**11. Laws and Regulations.** ABB does not assume any responsibility for compliance with federal, state or local laws and regulations, except as expressly set forth herein, and compliance with any laws and regulations relating to the operation or use of the Equipment or Software is the sole responsibility of the Purchaser. All laws and regulations referenced herein shall be those in effect as of the Proposal date. In the event of any subsequent revisions or changes thereto, ABB assumes no responsibility for compliance therewith. If Purchaser desires a modification as a result of any such change or revision, it shall be treated as a change per Article 4. Nothing contained herein shall be construed as imposing responsibility or liability upon ABB for obtaining any permits, licenses or approvals from any agency required in

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connection with the supply, erection or operation of the Equipment. This Agreement shall be governed by the laws of the State of New York, but excluding the provisions of the United Nations Convention on Contracts for the International Sale of Goods and excluding New York law with respect to conflicts of law. Purchaser agrees that all causes of action against ABB under this Agreement shall be brought in the State Courts of the State of New York, or the U.S. District Court for the Southern District of New York. If any provision hereof, partly or completely, shall be held invalid or unenforceable, such invalidity or unenforceability shall not affect any other provision or portion hereof and these terms shall be construed as if such invalid or unenforceable provision or portion thereof had never existed.

**12. OSHA.** ABB warrants that the Equipment will comply with the relevant standards of the Occupational Safety and Health Act of 1970 ("OSHA") and the regulations promulgated thereunder as of the date of the Proposal. Upon prompt written notice from the Purchaser of a breach of this warranty, ABB will replace the affected part or modify it so that it conforms to such standard or regulation. ABB's obligation shall be limited to such replacement or modification. In no event shall ABB be responsible for liability arising out of the violation of any OSHA standards relating to or caused by Purchaser's design, location, operation, or maintenance of the Equipment, its use in association with other equipment of Purchaser, or the alteration of the Equipment by any party other than ABB.

**13. Software License.**

(a) ABB owns all rights in or has the right to sublicense all of the Software, if any, to be delivered to Purchaser under this Agreement. As part of the sale made hereunder Purchaser hereby obtains a limited license to use the Software, subject to the following: (i) The Software may be used only in conjunction with equipment specified by ABB; (ii) The Software shall be kept strictly confidential; (iii) The Software shall not be copied, reverse engineered, or modified; (iv) The Purchaser's right to use the Software shall terminate immediately when the specified equipment is no longer used by the Purchaser or when otherwise terminated, e.g. for breach, hereunder; and (v) the rights to use the Software are non-exclusive and non-transferable, except with ABB's prior written consent.

(b) Nothing in this Agreement shall be deemed to convey to Purchaser any title to or ownership in the Software or the intellectual property contained therein in whole or in part, nor to designate the Software a "work made for hire" under the Copyright Act, nor to confer upon any person who is not a named party to this Agreement any right or remedy under or by reason of this Agreement. In the event of termination of this License, Purchaser shall immediately cease using the Software and, without retaining any copies, notes or excerpts thereof, return to ABB the Software and all copies thereof and shall remove all machine readable Software from all of Purchaser's storage media.

**14. Inventions and Information.** Unless otherwise agreed in writing by ABB and Purchaser, all right, title and interest in any inventions, developments, improvements or modifications of or for Equipment and Services shall remain with ABB. Any design, manufacturing drawings or other information submitted to the Purchaser remains the exclusive property of ABB. Purchaser shall not, without ABB's prior written consent, copy or disclose such information to a third party. Such information shall be used solely for the operation or maintenance of the Equipment and not for any other purpose, including the duplication thereof in whole or in part.

**15. Force Majeure.** ABB shall neither be liable for loss, damage, detention or delay nor be deemed to be in default for failure to perform when prevented from doing so by causes beyond its reasonable control including but not limited to acts of war (declared or undeclared), Acts of God, fire, strike, labor difficulties, acts or omissions of any governmental authority or of Purchaser, compliance with government regulations, insurrection or riot, embargo, delays or shortages in transportation or inability to obtain necessary labor, materials, or manufacturing facilities from usual sources or from defects or delays in the performance of its suppliers or subcontractors due to any of the foregoing enumerated causes. In the event of delay due to any such cause, the date of delivery will be extended by period equal to the delay plus a reasonable time to resume production, and the price will be adjusted to compensate ABB for such delay.

**16. Cancellation.** Any order may be cancelled by Purchaser only upon prior written notice and payment of termination charges, including but not limited to, all costs identified to the order incurred prior to the effective date of notice of termination and all expenses incurred by ABB attributable to the termination, plus a fixed sum of ten (10) percent of the final total price to compensate for disruption in scheduling, planned production and other indirect costs.

**17. Termination.** No termination by Purchaser for default shall be effective unless, within fifteen (15) days after receipt by ABB of Purchaser's written notice specifying such default, ABB shall have failed to initiate and pursue with due diligence correction of such specified default.

**18. Export Control.**

(a) Purchaser represents and warrants that the Equipment and Services provided hereunder and the "direct product" thereof are intended for civil use only and will not be used, directly or indirectly, for the production of chemical or biological weapons or of precursor chemicals for such weapons, or for any direct or indirect nuclear end use. Purchaser agrees not to disclose, use, export or re-export, directly or indirectly, any information provided by ABB or the "direct product" thereof as defined in the Export Control Regulations of the United States Department of Commerce, except in compliance with such Regulations.

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(b) If applicable, ABB shall file for a U.S. export license, but only after appropriate documentation for the license application has been provided by Purchaser. Purchaser shall furnish such documentation within a reasonable time after order acceptance. Any delay in obtaining such license shall suspend performance of this Agreement by ABB. If an export license is not granted or, if once granted, is thereafter revoked or modified by the appropriate authorities, this Agreement may be canceled by ABB without liability for damages of any kind resulting from such cancellation. At ABB's request, Purchaser shall provide to ABB a Letter of Assurance and End-User Statement in a form reasonably satisfactory to ABB.

**19. Assignment.** Any assignment of this Agreement or of any rights or obligations under the Agreement without prior written consent of ABB shall be void.

**20. Nuclear Insurance – Indemnity.** For applications in nuclear projects, the Purchaser and/or its end user customer shall have complete insurance protection against liability and property damage resulting from a nuclear incident to and shall indemnify ABB, its subcontractors, suppliers and vendors against all claims resulting from a nuclear incident.

**21. Resale.** If Purchaser resells any of the Equipment, the sale terms shall limit ABB's liability to the buyer to the same extent that ABB's liability to Purchaser is limited hereunder.

**22. Entire Agreement.** This Agreement constitutes the entire agreement between ABB and Purchaser. There are no agreements, understandings, restrictions, warranties, or representations between ABB and Purchaser other than those set forth herein or herein provided.



RESOLUTION 2021-158

WHEREAS, Platte and Burdick Generating Stations have a computer control system which controls the operation of the boiler and gas turbines; and

WHEREAS, the control system must be routinely updated and maintained and support is needed if this control equipment should have any issues; and

WHEREAS, ABB, Inc., is the supplier of the control system and is the only company that can provide this service that is specific to the control system; and

WHEREAS, a proposal was submitted for a three-year agreement with includes updates to the software, maintenance, and emergency support in the amount of \$200,364.00.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the Distributive Control System Service Agreement be awarded to ABB, Inc., of Houston, Texas, in the amount of \$200,364.00.

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Adopted by the City Council of the City of Grand Island, Nebraska, July 13, 2021.

\_\_\_\_\_  
Roger G. Steele, Mayor

Attest:

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

Approved as to Form	▣ _____
July 9, 2021	▣ City Attorney



# City of Grand Island

Tuesday, July 13, 2021

Council Session

## Item G-6

### **#2021-159 - Approving Engineering Services for the 2021 Wastewater Treatment Plant Operations On-Call**

Staff Contact: John Collins, P.E. - Public Works Director

# **Council Agenda Memo**

**From:** Keith Kurz PE, Assistant Public Works Director

**Meeting:** July 13, 2021

**Subject:** Approving Engineering Services for the 2021 Wastewater Treatment Plant Operations On-Call

**Presenter(s):** John Collins PE, Public Works Director

## **Background**

The Wastewater Treatment Plant Operation Engineer resigned effective September 9, 2020, and the Assistant Public Works Director of Wastewater retired July 9, 2021. To date no qualified applicants have been identified, leaving a gap in the technical abilities of the Wastewater Treatment Plant Operations.

The Wastewater Treatment Plant Operations On-Call is for a qualified firm to provide engineering services for assistance with the more complex aspects of the operations of the Wastewater Treatment Plant.

On April 24, 2021 the Engineering Division of the Public Works Department advertised for Engineering Services for the 2021 Wastewater Treatment Plant Operations On-Call, with seventeen (17) potential respondents.

## **Discussion**

One (1) engineering firm submitted qualifications for the engineering services for the Wastewater Treatment Plant Operations On-Call. HDR Engineering, Inc. of Omaha, Nebraska was selected as the top engineering firm based on the pre-approved selection criteria.

- Firm experience and qualifications on similar work (50%)
- Proposed project schedule/approach (40%)
- Past experience working with the City of Grand Island Public Works Department (10%)

Compensation for HDR Engineering, Inc.'s services will be provided on an hourly basis with a not to exceed amount of \$175,109.00. Such services will include project management and on-call operations support.

## **Alternatives**

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

1. Move to approve
2. Refer the issue to a Committee
3. Postpone the issue to future date
4. Take no action on the issue

## **Recommendation**

City Administration recommends that the Council approve the agreement with HDR Engineering, Inc. of Omaha, Nebraska, in the amount of \$175,109.00.

## **Sample Motion**

Move to approve the resolution.



Stacy Nonhof, Purchasing Agent

*Working Together for a  
Better Tomorrow, Today*

**REQUEST FOR QUALIFICATIONS  
FOR 2021 WWTP ON CALL OPERATIONS**

**RFP DUE DATE:** May 6, 2021 at 4:30 p.m.

**DEPARTMENT:** Public Works

**PUBLICATION DATE:** April 24, 2021

**NO. POTENTIAL BIDDERS:** 17

**PROPOSALS RECEIVED**

**HDR**  
**Omaha, NE**

cc: John Collins, Public Works Director  
Jerry Janulewicz, City Administrator  
Stacy Nonhof, Purchasing Agent

Catrina Delosh, Admin. Asst. Public Works  
Patrick Brown, Finance Director  
Keith Kurz, Asst. Public Works Director

**P2276**

RESOLUTION 2021-159

WHEREAS, on April 24, 2021 the Engineering Division of the Public Works Department advertised for Engineering Services for the 2021 Wastewater Treatment Plant Operations On-Call; and

WHEREAS, on May 6, 2021 one (1) engineering firm submitted qualifications for such services; and

WHEREAS, based on the pre-approved selection criteria HDR Engineering, Inc. of Omaha, Nebraska was selected as the top engineering firm; and

WHEREAS, the City of Grand Island and HDR Engineering, Inc. of Omaha, Nebraska wish to enter into an Engineering Services Agreement to provide project management and on-call operations support.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the Engineering Services Agreement between the City of Grand Island and HDR Engineering, Inc. of Omaha, Nebraska for engineering services related to 2021 Wastewater Treatment Plant Operations On-Call, provided on an hourly basis with a not to exceed amount of \$175,109.00, is hereby approved.

BE IT FURTHER RESOLVED, that the Mayor is hereby authorized and directed to execute such agreement on behalf of the City of Grand Island.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, July 13, 2021.

\_\_\_\_\_  
Roger G. Steele, Mayor

Attest:

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

Approved as to Form	☐ _____
July 9, 2021	☐ City Attorney



# City of Grand Island

Tuesday, July 13, 2021

Council Session

## Item G-7

**#2021-160 - Approving Change Order No. 1 for Sanitary Sewer District No. 544; Ellington Pointe and Westwood Park Subdivisions**

Staff Contact: John Collins, P.E. - Public Works Director

# **Council Agenda Memo**

**From:** Keith Kurz PE, Assistant Public Works Director

**Meeting:** July 13, 2021

**Subject:** Approving Change Order No. 1 for Sanitary Sewer District No. 544; Ellington Pointe and Westwood Park Subdivisions

**Presenter(s):** John Collins PE, Public Works Director

## **Background**

The Diamond Engineering Company of Grand Island, Nebraska was awarded a \$678,366.25 contract on September 22, 2020, via Resolution No. 2020-238, for Sanitary Sewer District No. 544; Ellington Pointe and Westwood Park Subdivisions.

Sanitary Sewer District No. 544 was created by the City Council on January 28, 2020, via Ordinance No. 9755. Legal notice of the creation of the District was published in the *Grand Island Independent* on February 3, 2020, with notification being mailed to all involved property owners.

City Council continued the creation of Sanitary Sewer District No. 544 on March 24, 2020, via Resolution No. 2020-78, with only one (1) protest being filed against this district. The owner represented 120.00 front feet, or 1.76% of the total district frontage of 6,802.11 feet.

## **Discussion**

Due to the unusually late wet spring and site conditions that prevented natural drainage The Diamond Engineering Company has requested a time extension for Sanitary Sewer District No. 544; Ellington Pointe and Westwood Park Subdivisions.

Substantial completion date was set at July 15, 2021, with a request to extend this to August 9, 2021; and final completion date set at July 22, 2021, with a request to extend this to August 16, 2021. There will not be any contract amount modification with this change order.



## **Alternatives**

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

1. Move to approve
2. Refer the issue to a Committee
3. Postpone the issue to future date
4. Take no action on the issue

## **Recommendation**

City Administration recommends that the Council approve extending the substantial completion date to August 9, 2021 and the final completion date to August 16, 20201, as noted in Change Order No. 1.

## **Sample Motion**

Move to approve the resolution.

RESOLUTION 2021-160

WHEREAS, on September 22, 2020, via Resolution 2020-238, the City of Grand Island awarded The Diamond Engineering Company of Grand Island, Nebraska the bid in the amount of \$678,366.25 for Sanitary Sewer District No. 544; Ellington Pointe and Westwood Park Subdivision; and

WHEREAS, the completion of such project has been delayed due to inclement weather and drainage issues; and

WHEREAS, The Diamond Engineering Company has requested a substantial completion date change from July 15, 2021 to August 9, 2021; and final completion date from July 22, 2021 to August 16, 2021 in order to complete the project; and

WHEREAS, there will not be any contract amount modification with such time extension; and

WEREAS, the Public Works Department supports such contract extension.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the Mayor be, and hereby is, authorized and directed to execute Change Order No. 1 between the City of Grand Island and The Diamond Engineering Company of Grand Island, Nebraska to provide the requested time extension for Sanitary Sewer District No. 544; Ellington Pointe and Westwood Park Subdivisions.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, July 13, 2021.

---

Roger G. Steele, Mayor

Attest:

---

RaNae Edwards, City Clerk

Approved as to Form	by _____
July 9, 2021	City Attorney



# City of Grand Island

Tuesday, July 13, 2021

Council Session

## Item G-8

**#2021-161 - Approving Amendment No. 2 to Engineering Consulting Services for Sanitary Sewer District No. 544; Ellington Pointe and Westwood Park Subdivisions**

Staff Contact: John Collins, P.E. - Public Works Director

# **Council Agenda Memo**

**From:** Keith Kurz PE, Assistant Public Works Director

**Meeting:** July 13, 2021

**Subject:** Approving Amendment No. 2 to Engineering Consulting Services for Sanitary Sewer District No. 544; Ellington Pointe and Westwood Park Subdivisions

**Presenter(s):** John Collins PE, Public Works Director

## **Background**

Sanitary Sewer District No. 544; Ellington Pointe and Westwood Park Subdivisions was created by City Council on January 28, 2020, via Ordinance No. 9755. Such district was continued by City Council on March 24, 2020 via Resolution No. 2020-78.

On March 24, 2020, via Resolution No. 2020-79, City Council approved an agreement with Alfred Benesch & Company of Lincoln, Nebraska in the amount of \$59,428.00 for engineering design services related to Sanitary Sewer District No. 544; Ellington Pointe and Westwood Park Subdivisions.

On September 22, 2020, via Resolution No. 2020-233, City Council approved Change Order No. 1 to the original agreement with Alfred Benesch & Company in the amount of \$73,592.00 to allow for construction phase services and project closeout. Such change order resulted in a revised total agreement amount of \$133,020.00.

## **Discussion**

The original agreement with Alfred Benesch & Company requires an amendment to cover additional construction services due to inclement weather. This amendment will be in the amount of \$12,250.00 for a revised agreement of \$145,270.00.

## **Alternatives**

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

1. Move to approve
2. Refer the issue to a Committee

3. Postpone the issue to future date
4. Take no action on the issue

### **Recommendation**

City Administration recommends that the Council approve Amendment No. 2 to the original agreement with Alfred Benesch & Company of Lincoln, Nebraska, in the amount of \$12,250.00.

### **Sample Motion**

Move to approve the resolution.

RESOLUTION 2021-161

WHEREAS, on March 24, 2020, via Resolution No. 2020-79 the Grand Island City Council approved entering into an agreement with Alfred Benesch & Company of Lincoln, Nebraska in the amount of \$59,428.00 for engineering design services related to Sanitary Sewer District No. 544; Ellington Pointe and Westwood Park Subdivisions; and

WHEREAS, on September 22, 2020, via Resolution No. 2020-233, City Council approved Change Order No. 1 to the original agreement in the amount of \$73,592.00 to allow for construction phase services and project closeout, resulting in a revised total agreement amount of \$133,020.00; and

WHEREAS, the original agreement is now being amended to allow for additional construction services; and

WHEREAS, such amendment is in the amount of \$12,250.00, for a revised agreement amount of \$145,270.00; and

WHEREAS, Amendment No. 2 to the original agreement with Alfred Benesch & Company of Lincoln, Nebraska is required to proceed with this project.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that Amendment No. 2 with Alfred Benesch & Company of Lincoln, Nebraska for engineering consulting services related to Sanitary Sewer District No. 544; Ellington Pointe and Westwood Park Subdivisions is hereby approved.

BE IT FURTHER RESOLVED, that the Mayor is hereby authorized and directed to execute such amendment on behalf of the City of Grand Island.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, July 13, 2021.

\_\_\_\_\_  
Roger G. Steele, Mayor

Attest:

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

Approved as to Form	☐ _____
July 9, 2021	☐ City Attorney



# City of Grand Island

Tuesday, July 13, 2021

Council Session

## Item G-9

**#2021-162 - Approving Lease Agreement Renewal for Transit Services Office Facility**

Staff Contact: John Collins, P.E. - Public Works Director

# **Council Agenda Memo**

**From:** Charley Falmlen, Transit Program Manager

**Meeting:** July 13, 2021

**Subject:** Approving Lease Agreement Renewal for Transit Services Office Facility

**Presenter(s):** John Collins PE, Public Works Director

## **Background**

On June 25, 2019, via Resolution No. 2019-197, Grand Island City Council approved an agreement between the City and Senior Citizens Industries, Inc. for the provision of Public Transit Services. Rates of the agreement are as follows:

- July 1, 2020- June 30, 2021 = \$718,129.57 maximum annual rate
- July 1, 2021- June 30, 2022 = \$739,673.46 maximum annual rate
- July 1, 2022- June 30, 2023 = \$761,863.66 maximum annual rate
- July 1, 2023- June 30, 2024 = \$784,719.57 maximum annual rate

The City has the option of renewing the agreement on an annual basis for a two (2) year period, at which time proposals will be solicited.

As of July 1, 2016 the City of Grand Island assumed management of the transit service.

In order to facilitate the City's transit program in an efficient manner, a location was selected to house both City staff and the service provider. On July 10, 2018, via Resolution No. 2018-208, City Council approved a lease agreement between the City and Mid-Country Trading, LLC for office space located at 1016 Diers Avenue, Suite 119, Grand Island, Nebraska.

## **Discussion**

The original approved lease agreement between the City of Grand Island and Mid-Country Trading, LLC was for a three (3) years, with the option to extend the lease for three (3) six (6) month period(s) on the same terms as provided in the original lease. It is now time for the first renewal of such lease agreement.



The annual cost of the lease will remain at the initial \$40,000.00, which equates to monthly rental of \$3,333.34. A renewed sub-lease agreement is being presented at tonight's council meeting to assign such rental fee to the transit provider, which is currently Senior Citizens Industries, Inc.

This lease is considered an "operating lease" by the Federal Transit Administration, and is therefore reimbursed at 50%.

Transit staff is also requesting approval for all future renewals, through August 2024.

### **Alternatives**

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

1. Move to approve
2. Refer the issue to a Committee
3. Postpone the issue to future date
4. Take no action on the issue

### **Recommendation**

City Administration recommends that the Council approve the lease agreement renewal with Mid-Country Trading, LLC for office space located at 1016 Diers Avenue, Suite 119, Grand Island, Nebraska.

### **Sample Motion**

Move to approve the resolution.

RESOLUTION 2021-162

WHEREAS, on June 25, 2019, via Resolution No. 2019-197, Grand Island City Council approved an agreement between the City and Senior Citizens Industries, Inc. for the provision of Public Transit Services; and

WHEREAS, The City has the option of renewing the agreement on an annual basis for a two (2) year period, at which time proposals will be solicited; and

WHEREAS, As of July 1, 2016 the City of Grand Island assumed management of the transit service; and

WHEREAS, in order to facilitate the City's transit program in an efficient manner, a location was selected to house both City staff and the service provider; and

WHEREAS, on July 10, 2018, via Resolution No. 2018-208, City Council approved a lease agreement between the City and Mid-Country Trading, LLC for office space located at 1016 Diers Avenue, Suite 119, Grand Island, Nebraska; and

WHEREAS, the original approved lease agreement between the City of Grand Island and Mid-Country Trading, LLC was for a three (3) years, with the option to extend the lease for three (3) six (6) month period(s) on the same terms as provided in the original lease; and

WHEREAS, it is now time for the first renewal of such lease agreement; and

WHEREAS, the annual cost of the lease will remain at the initial \$40,000.00, which equates to monthly rental of \$3,333.34; and

WHEREAS, Transit staff also is granted approval for all future renewals, through August 2024.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the Mayor is hereby authorized and directed to sign the lease agreement renewal with Mid-Country Trading, LLC, and all future renewals through August 2024.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, July 13, 2021.

\_\_\_\_\_  
Roger G. Steele, Mayor

Attest:

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

Approved as to Form	☐
July 9, 2021	☐ City Attorney



# City of Grand Island

Tuesday, July 13, 2021

Council Session

## Item G-10

**#2021-163 - Approving Sub-Lease Agreement Renewal with Senior Citizen Industries, Inc. for Occupancy of Transit Services Office Facility**

Staff Contact: John Collins, P.E. - Public Works Director

# **Council Agenda Memo**

**From:** Charley Falmlen, Transit Program Manager

**Meeting:** July 13, 2021

**Subject:** Approving Sub-Lease Agreement Renewal with Senior Citizen Industries, Inc. for Occupancy of Transit Services Office Facility

**Presenter(s):** John Collins PE, Public Works Director

## **Background**

On June 25, 2019, via Resolution No. 2019-197, Grand Island City Council approved an agreement between the City and Senior Citizens Industries, Inc. for the provision of Public Transit Services. Rates of the agreement are as follows:

- July 1, 2020- June 30, 2021 = \$718,129.57 maximum annual rate
- July 1, 2021- June 30, 2022 = \$739,673.46 maximum annual rate
- July 1, 2022- June 30, 2023 = \$761,863.66 maximum annual rate
- July 1, 2023- June 30, 2024 = \$784,719.57 maximum annual rate

The City has the option of renewing the agreement on an annual basis for a two (2) year period, at which time proposals will be solicited.

As of July 1, 2016 the City of Grand Island assumed management of the transit service.

In order to facilitate the City's transit program in an efficient manner, a location was selected to house both City staff and the service provider. On July 10, 2018, via Resolution No. 2018-208, City Council approved a lease agreement between the City and Mid-Country Trading, LLC for office space located at 1016 Diers Avenue, Suite 119, Grand Island, Nebraska.

## **Discussion**

An original lease agreement renewal is being presented at tonight's council meeting. The City of Grand Island is renewing a lease, and subsequent sub-lease renewal at the request of the Federal Transit Administration (FTA.) Assigning the lease to the City's contracted transit service provider, allows the funding to flow through an already assigned operating award.

The proposed sub-lease renewal agreement between the City of Grand Island and Senior Citizens Industries, Inc. is for occupancy of the office space located at 1016 Diers Avenue, Suite 119, Grand Island, Nebraska. The term of this lease would be from August 1, 2021 to July 31, 2024. The annual cost of such sub-lease is \$40,000.00, which equates to monthly rental of \$3,333.34.

### **Alternatives**

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

1. Move to approve
2. Refer the issue to a Committee
3. Postpone the issue to future date
4. Take no action on the issue

### **Recommendation**

City Administration recommends that the Council approve the sub-lease agreement renewal with Senior Citizen Industries, Inc. for occupancy of office space located at 1016 Diers Avenue, Suite 119, Grand Island, Nebraska.

### **Sample Motion**

Move to approve the resolution.

RESOLUTION 2021-163

WHEREAS, on June 25, 2019, via Resolution No. 2019-197, Grand Island City Council approved an agreement between the City and Senior Citizens Industries, Inc. for the provision of Public Transit Services; and

WHEREAS, The City has the option of renewing the agreement on an annual basis for a two (2) year period, at which time proposals will be solicited; and

WHEREAS, as of July 1, 2016 the City of Grand Island assumed management of the transit service; and

WHEREAS, in order to facilitate the City's transit program in an efficient manner, a location was selected to house both City staff and the service provider; and

WHEREAS, on July 10, 2018, via Resolution No. 2018-208, City Council approved a lease agreement between the City and Mid-Country Trading, LLC for office space located at 1016 Diers Avenue, Suite 119, Grand Island, Nebraska; and

WHEREAS, the City of Grand Island is renewing a lease, and subsequent sub-lease renewal at the request of the Federal Transit Administration (FTA.) Assigning the lease to the City's contracted transit service provider, allows the funding to flow through an already assigned operating award; and

WHEREAS, the proposed sub-lease renewal agreement between the City of Grand Island and Senior Citizens Industries, Inc. is for occupancy of the office space located at 1016 Diers Avenue, Suite 119, Grand Island, Nebraska; and

WHEREAS, the term of this lease would be from August 1, 2021 to July 31, 2024, with the annual cost of such sub-lease at \$40,000.00, which equates to monthly rental of \$3,333.34.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the Mayor is hereby authorized and directed to sign the sub-lease agreement renewal with Senior Citizens Industries, Inc..

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, July 13, 2021.

\_\_\_\_\_  
Roger G. Steele, Mayor

Attest:

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

Approved as to Form	☐
July 9, 2021	☐ City Attorney



# City of Grand Island

Tuesday, July 13, 2021

Council Session

## Item G-11

**#2021-164 - Approving Acquisition of Drainage Easement in  
Prairie Commons Fourth Subdivision- 3490 Ewoldt Street  
(Tabitha Grand Island, Inc.)**

*This item relates to the aforementioned Public Hearing item E-3.*

Staff Contact: John Collins, P.E. - Public Works Director

RESOLUTION 2021-164

WHEREAS, a public drainage easement is required by the City of Grand Island, from Tabitha Grand Island, Inc. in Prairie Commons Fourth Subdivision, City of Grand Island, Hall County, Nebraska and more particularly described as follows:

A 20' FT. WIDE DRAINAGE EASEMENT LOCATED IN PART OF LOT 1, PRAIRIE COMMONS FOURTH SUBDIVISION, IN THE CITY OF GRAND ISLAND AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE CENTERLINE OF A 20 FT. WIDE EASEMENT BEING 10 FT. ON BOTH SIDES OF SAID DESCRIBED CENTERLINE; COMMENCING AT THE NORTHWEST CORNER OF LOT 1, PRAIRIE COMMONS FOURTH SUBDIVISION; THENCE ON AN ASSUMED BEARING OF N88°19'49"E, ALONG THE NORTH LINE OF SAID LOT 1, A DISTANCE OF 80.00 FEET; THENCE S02°03'02"E A DISTANCE OF 60.00 TO POINT ON A LINE OF EXISTING 50' TRAIL, UTILITY AND DRAINAGE EASEMENT AND ALSO BEING THE POINT OF BEGINNING; THENCE N88°19'49"E, ALONG THE CENTERLINE OF A 20 FT. WIDE DRAINAGE EASEMENT BEING 10 FT. ON BOTH SIDES OF SAID CENTERLINE, A DISTANCE OF 165.19 FEET; THENCE S47°29'35"E, ALONG SAID CENTERLINE, A DISTANCE OF 98.33 FEET; THENCE S03°50'04"E, ALONG SAID CENTERLINE, A DISTANCE OF 248.63 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY OF EWOLDT STREET AND ALSO BEING THE POINT OF TERMINATION. SAID 20 FT. DRAINAGE EASEMENT CONTAINS A CALCULATED AREA OF 10267.52 SQUARE FEET OR 0.236 ACRES MORE OR LESS.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the City of Grand Island be, and hereby is, authorized to acquire such public drainage easement from the property owner on the above described tracts of land.

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Adopted by the City Council of the City of Grand Island, Nebraska, July 13, 2021.

\_\_\_\_\_  
Roger G. Steele, Mayor

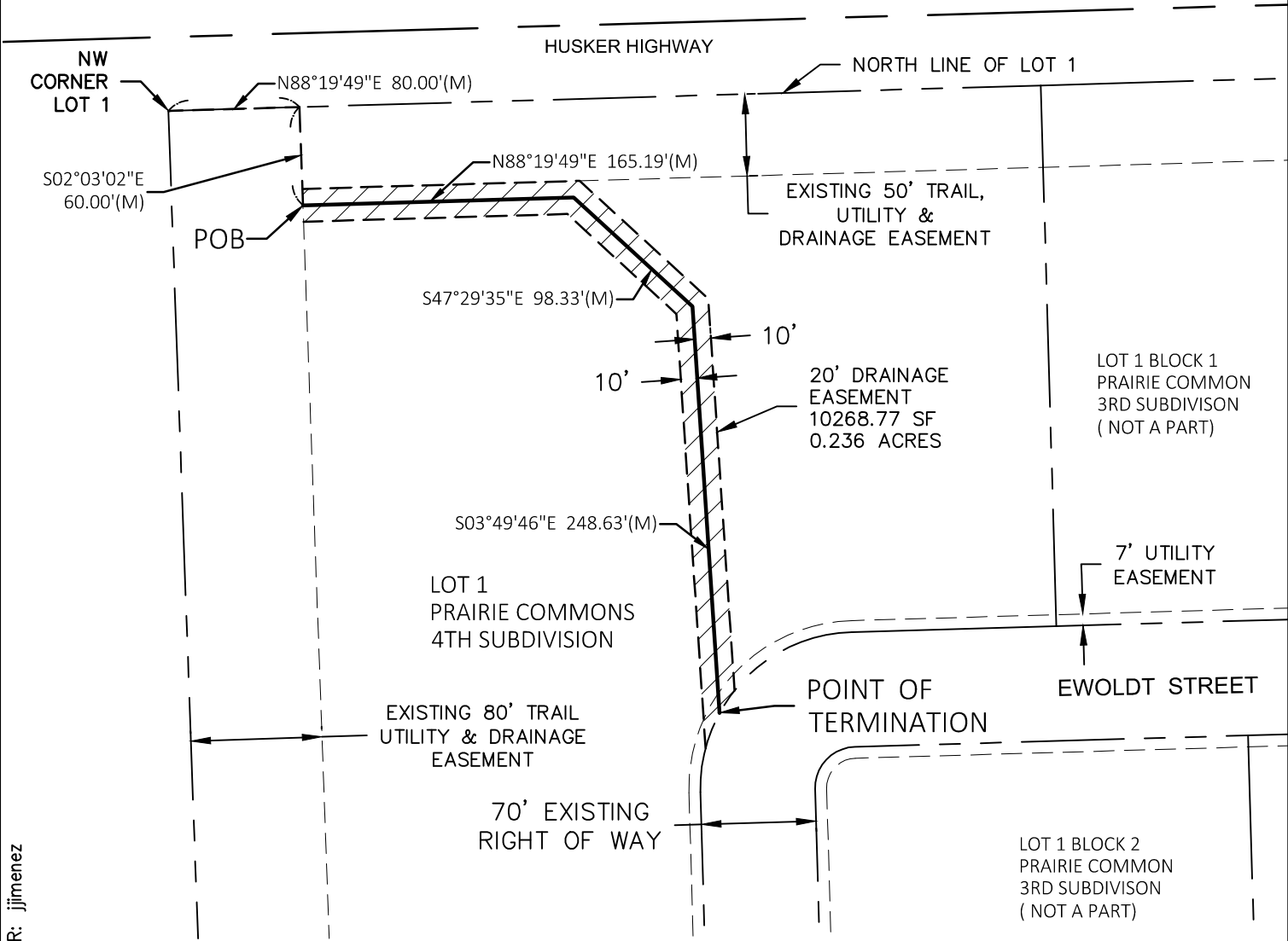
Attest:

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

Approved as to Form	☐ _____
July 9, 2021	☐ City Attorney



DRAINAGE EASEMENT



LEGEND

- PROPERTY LINE
- EXISTING EASEMENT LINE
- PROPOSED EASEMENT



0' 50' 100'  
SCALE IN FEET

20' DRAINAGE EASEMENT DESCRIPTION

A 20' FT. WIDE DRAINAGE EASEMENT LOCATED IN PART OF LOT 1, PRAIRIE COMMONS FOURTH SUBDIVISION, IN THE CITY OF GRAND ISLAND AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE CENTERLINE OF A 20 FT. WIDE EASEMENT BEING 10 FT. ON BOTH SIDES OF SAID DESCRIBED CENTERLINE; COMMENCING AT THE NORTHWEST CORNER OF LOT 1, PRAIRIE COMMONS FOURTH SUBDIVISION; THENCE ON AN ASSUMED BEARING OF N88°19'49"E, ALONG THE NORTH LINE OF SAID LOT 1, A DISTANCE OF 80.00 FEET; THENCE S02°03'02"E A DISTANCE OF 60.00 FEET TO POINT ON A LINE OF EXISTING 50' TRAIL, UTILITY AND DRAINAGE EASEMENT AND ALSO BEING THE POINT OF BEGINNING; THENCE N88°19'49"E, ALONG THE CENTERLINE OF A 20 FT. WIDE DRAINAGE EASEMENT BEING 10 FT. ON BOTH SIDES OF SAID CENTERLINE, A DISTANCE OF 165.19 FEET; THENCE S47°29'35"E, ALONG SAID CENTERLINE, A DISTANCE OF 98.33 FEET; THENCE S03°50'04"E, ALONG SAID CENTERLINE, A DISTANCE OF 248.63 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY OF EWOLDT STREET AND ALSO BEING THE POINT OF TERMINATION. SAID 20 FT. DRAINAGE EASEMENT CONTAINS A CALCULATED AREA OF 10267.52 SQUARE FEET OR 0.236 ACRES MORE OR LESS.

DWC: F:\2019\2501-3000\019-2696\40-Design\Survey\SRVY\Sheets\V\_ESMT\_0192696.dwg  
DATE: Mar 24, 2021 10:40am  
XREFS: V\_RWAY-PC 3RD\_61176  
USER: jjimenez

PROJECT NO: 2019-2696	DRAINAGE EASEMENT		201 East 2nd Street Grand Island, NE 68801 TEL 308.384.8750	EXHIBIT
DRAWN BY: JMJ				1
DATE: 2021-03-24				



# City of Grand Island

Tuesday, July 13, 2021

Council Session

## Item G-12

**#2021-165 - Approving Change Order No. 3 for the 2020 Asphalt Resurfacing Project No. 2020-AC-1**

Staff Contact: John Collins, P.E. - Public Works Director

# **Council Agenda Memo**

**From:** Keith Kurz PE, Assistant Public Works Director

**Meeting:** July 13, 2021

**Subject:** Approving Change Order No. 3 for the 2020 Asphalt Resurfacing Project No. 2020-AC-1

**Presenter(s):** John Collins PE, Public Works Director

## **Background**

Gary Smith Construction Co., Inc. of Grand Island, Nebraska was awarded a \$898,534.85 contract on March 24, 2020, via Resolution No. 2020-76, for the 2020 Asphalt Resurfacing Project No. 2020-AC-1.

On September 22, 2020, via Resolution No. 2020-231, Grand Island City Council approved Change Order No. 1 to the project which allowed for a time extension to complete the project from September 4, 2020 to November 15, 2020. This change order was at no cost to the City.

On November 24, 2020, via Resolution No. 2020-304, Grand Island City Council approved Change Order No. 2 to the project which allowed for a time extension from November 15, 2020 to July 1, 2021.

2020 Asphalt Resurfacing Project No. 2020-AC-1 work involves asphalt resurfacing on the following City streets.

**Section #1**– Husker Highway; US Highway 30 to Regal Drive

**Section #2**– Engleman Road; Husker Highway to US Highway 30

**Section #3**– Schimmer Drive; North Road to Blaine Street

**Section #4**– Blaine Street; Schimmer Drive to US Highway 34

## **Discussion**

Coordination for sections near railroad crossings has proven to be a lengthier process than anticipated, which requires more time than planned for. A time extension is being requested from July 1, 2021 to August 15, 2021.

There will be no cost associated with Change Order No. 3, leaving the contract agreement amount of \$898,534.85.

## **Alternatives**

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

1. Move to approve
2. Refer the issue to a Committee
3. Postpone the issue to future date
4. Take no action on the issue

## **Recommendation**

City Administration recommends that the Council approve Change Order No. 3 for the 2020 Asphalt Resurfacing Project No. 2020-AC-1 with Gary Smith Construction Co., Inc. of Grand Island, Nebraska.

## **Sample Motion**

Move to approve the resolution.

RESOLUTION 2021-165

WHEREAS, on March 24, 2020, via Resolution No.2020-76, the City of Grand Island awarded Gary Smith Construction Co., Inc. of Grand Island, Nebraska the bid in the amount of \$898,534.85 for Asphalt Resurfacing Project No. 2020-AC-1; and

WHEREAS, on September 22, 2020, via Resolution No. 2020-231, Grand Island City Council approved Change Order No. 1, at no cost, to the project which allowed for a time extension to complete the project from September 4, 2020 to November 15, 2020; and

WHEREAS, On November 24, 2020, via Resolution No. 2020-304, Grand Island City Council approved Change Order No. 2 to the project which allowed for a time extension from November 15, 2020 to July 1, 2021; and

WHEREAS, it has been determined that additional time is necessary to complete such project; and

WHEREAS, such modifications have been incorporated into Change Order No. 3; and

WHEREAS, there will be no cost associated with such time extension, leaving the contract agreement amount of \$898,534.85; and

WHEREAS, the project completion date will be extended from July 1, 2021 to August 15, 2021.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the Mayor be, and hereby is, authorized and directed to execute Change Order No. 3, at no additional cost, between the City of Grand Island and Gary Smith Construction Co., Inc. of Grand Island, Nebraska to provide the modifications.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, July 13, 2021.

\_\_\_\_\_  
Roger G. Steele, Mayor

Attest:

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

Approved as to Form July 9, 2021	<input checked="" type="checkbox"/> _____ City Attorney
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# City of Grand Island

Tuesday, July 13, 2021

Council Session

## Item G-13

**#2021-166 - Approving CDBG Sub-Recipient Agreement with  
Railside Downtown BID**

Staff Contact: Amber Alvidrez

# **Council Agenda Memo**

**From:** Amber Alvidrez, Community Development

**Meeting:** July 13, 2021

**Subject:** Approving CDBG Contract #2020-4 with Downtown Business Improvement District

**Presenter(s):** Amber Alvidrez, Community Development Administrator

## **Background**

In May of 2021, the City of Grand Island was awarded an annual allocation of \$427,392.00 from the United States Department of Housing and Urban Development's Community Development Block Grant Program. In March of 2021, City Council approved the 2020-2021 Annual Action Plan, which included various projects throughout Grand Island, all of which benefit low to moderate income persons or areas. Each one of these projects requires a separate contract, which comes before City Council.

## **Discussion**

Railside will implement a Small Business Rental Assistance Program using funds allocated from the 2020 Annual Action Plan funding. The rental assistance Program will be made available to qualifying businesses in Blight and Substandard Area #1, which includes the Downtown Business Improvement District, along with other adjacent business area, including 4<sup>th</sup> Street.

The Downtown BID will develop the application, review/approve applicants, and disperse funds, all under the monitoring requirements of the Community Development Division.

The Downtown BID will have twelve months to disperse the allotted funds of thirty-five thousand dollars (\$35,000). Additional funding will be allocated from the 2021 plan, when the 2021 CDBG funds are eligible for use

## **Alternatives**

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

1. Move to approve
2. Refer the issue to a Committee
3. Postpone the issue to future date
4. Take no action on the issue

### **Recommendation**

City Administration recommends that the Council approves CDBG Contract #2020-4 with the Downtown Business Improvement District and authorizes Mayor to sign all related documents.

### **Sample Motion**

Move to approve CDBG Contract #2020-4 with The Downtown Business Improvement District.



SUBRECIPIENT CONTRACT FOR  
COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDING  
ENTITLEMENT FUNDS

SECTION I.

RECITALS

THIS AGREEMENT, made and entered into this 13th day of July, 2021 by and between the City of Grand Island ("City/Grantee,") and Downtown Business Improvement District ("Sub recipient,") witnesseth:

WHEREAS, the Grantee has applied for and received funds from the U.S. Department of Housing and Urban Development (HUD), under Title 1 of the Housing and Community Development Act of 1974, as amended (HCD Act), Public Law 93-383; and

WHEREAS, the Grantee wishes to engage the Sub-Recipient to assist the Grantee in utilizing such funds;

NOW, THEREFORE, it is agreed between the parties hereto that;

SECTION II.

SCOPE OF SERVICE

A. Activities

The Sub recipient will be responsible for administering CDBG Fiscal Year 2020 Entitlement Community Development Block Grant program funds in a manner satisfactory to the City/Grantee and consistent with any standards required by the United States Department of Housing and Urban Development, as a condition of providing the funds, and consistent with all provisions of this Agreement. Sub recipient warrants and represents it has the requisite authority and capacity to perform all terms and conditions on Sub recipients part to be performed hereunder.

B. Program Delivery

Downtown Business Improvement District shall use Thirty-Five thousand dollars and 00/100(\$35,000.00) of Community Development Block Grant funds to foster growth in downtown Grand Island by implementing a Small Business Rental Assistance Program that will recruit and support new and expanded businesses to the blight and substandard area #1 within Grand Island as submitted in the application for Community Development Block Grant (CDBG) funds dated (March 30, 2021) toward the goal of eliminating slum and blight areas within Grand Island.

The major tasks the Sub recipient will perform include, but are not necessarily limited to the following:

- a. financial aid in the form of rental assistance to new or expanded businesses in the Slum and Blight area #1 of Grand Island.
- b. utilizing CDBG funds allocated to filling downtown properties that are currently vacant or underutilized by recruiting new businesses.

#### C. National Objective Compliance

The Sub recipient certifies that the activity (ies) carried out under this Agreement will meet the following H.U.D. National Objective:

##### Eliminating Slum and Blight

Failure by the Sub recipient to fulfill the National Objective may result in grant funds being disallowed and required to be returned to the City/Grantee.

#### D. Level(s) of Performance & Accomplishment - Goals and Performance Measures

- a. Downtown Business Improvement District's goal is to implement a Small Business Rental Assistance program. The Downtown Business Improvement District is responsible to perform all administrative services necessary to administer the above mentioned program.
- b. The Downtown Business Improvement District is to provide quarterly reports on achievements and program impact to include
  - a. Number of households served
  - b. A summary of project progress
  - c. Client Demographics

Units of Service include:

The Sub-recipient's progress will be monitored by the amount of units served, each unit being one business that receives rental assistance services. The Sub-recipient will benefit a minimum of 2 units located in the Slum and Blighted area #1 within the City of Grand Island.

#### E. Project Description

Type of Project: Eliminating Slum and Blight  
Project Location: City of Grand Island  
Service Area: City of Grand Island  
Project: 2020-4  
Basic Eligibility Citation: 24 CFR 570.208(b)(1)  
Amount Funded: \$35,000

#### F. Performance Monitoring

The City/Grantee reserves the right to monitor and evaluate the progress and

Performance of the Sub recipient to assure the terms of this agreement are being satisfactorily met in accordance with HUD, City/Grantee and other applicable monitoring and evaluating criteria and standards. Sub recipient shall cooperate with the City/Grantee relating to such monitoring and evaluation. The City/Grantee will monitor the performance of the Sub recipient against goals and performance standards as stated above. Substandard performance as determined by the City/Grantee will constitute noncompliance with this Agreement. If action to correct such substandard performance is not taken by the Sub recipient within a reasonable 90 days of time after being notified by the City/Grantee, Agreement suspension or termination procedures will be initiated.

#### G. Time of Performance

Downtown Business Improvement District shall perform the services set out above, and shall expend the Community Development Block Grant funding provided for above between July 13, 2021 and July 13, 2022. The term of this Agreement and the provisions herein shall be extended to cover any additional time period during which the Sub recipient remains in control of CDBG funds or other CDBG assets, including program income.

#### H. Budget

Downtown Business Improvement District shall use Thirty Five Thousand Dollars &00/100 (\$35,000.00) of Community Development Block Grant funds provided for the Rental assistance as part of the Small Business Rental Assistance Program.

In addition, the City/Grantee may require a more detailed budget breakdown than the one contained herein, and the Sub recipient shall provide such supplementary budget information in a timely fashion in the form and content prescribed by the City/Grantee. Any amendments to this budget must be approved in writing by the City/Grantee and Sub recipient.

#### I. Compensation and Method of Payment

If Sub recipient is not in default hereunder, and subject to City/Grantee's receipt of the U.S. Department of Housing & Urban Development Community Development Block Grant funds, and provided the Agreement and Scope of Service are eligible Expenditures of Community Development Block Grant funds, the City/Grantee agrees to pay the Sub recipient an amount not to exceed Thirty Five Thousand Dollars and Zero Cents (\$35,000.00). There are no eligible delivery costs. Payments may be contingent upon certification of the Sub recipients' financial management system in accordance with the standards specified in 2 CFR 200, as now in effect and as may be amended from time to time.

- a. Draw-down requests may be submitted to the Community Development

Administrator. Draw-down requests must be in writing and accompanied by acceptable documentation supporting the draw-down amount. Documentation should include, at a minimum, the following information:

- 1) Invoice itemizing amounts requested;
- 2) Supporting documentation for each item; and
- 3) Payroll slips or time cards, if applicable.

Additional documentation may be requested as needed for clarification. Payment requests require City/Grantee Council approval prior to disbursement, and will only be processed once a month.

#### J. Environmental Review

An Environmental Review must be completed prior to the Sub recipient committing or expending any Community Development Block Grant funds. The Sub recipient may not proceed with any services until receipt of written notification of the Environmental Review findings by the City/Grantee.

Housing projects will require environmental reviews to be conducted on each property as it is identified. If the Environmental Review requires mitigation, no funds may be expended until mitigation has been accomplished and certified as completed and meeting HUD minimum standards by an acceptable source to the City/Grantee. Documentation evidencing the Sub recipients' completion of its responsibilities and compliance with the National Environmental Policy Act of 1969 (NEPA), and other provisions of federal law as specified in 24 C.F.R. Part 58 which furthers the purposes of the NEPA.

#### K. Procurement Standards and Code of Conduct

Documentation evidencing adoption of Procurement Standards and Code of Conduct equivalent to those established in 2 CFR 200, as now in effect and as may be amended from time to time, and 24 CFR Part 570.

#### K. Fair Housing

Documentation that the Sub recipient has specifically provided a description of the actions they will take during the course of the grant to fulfill the requirements to affirmatively further fair housing. (Applicable to housing projects)

#### L. Implementation Schedule

CDBG Sub recipient to complete and submit to the City/Grantee the Implementation Schedule form.

#### L. Sources and Uses of Funds (if applicable)

not applicable

#### M. Other Special Conditions

Indenture of restrictive covenants, Davis Bacon sub recipient and contractor's meeting, Davis Bacon regulations apply.

#### N. Notices

Notices required by this Agreement shall be in writing and delivered via United States Postal Service mail (postage prepaid), commercial courier, or personal delivery or sent by facsimile or other electronic means. Any notice delivered or sent as aforesaid shall be effective on the date of delivery or sending. All notices and other written communications under this Agreement shall be addressed to the individuals in the capacities indicated below, unless otherwise modified by subsequent written notice. Communication and details concerning this Agreement shall be directed to the following agreement representatives:

City/Grantee		Sub-recipient:	
City of Grand Island		Downtown Business Improvement District	
ATTN: Community Development Division		Shelly Siwinski	
100 East First Street		201 W. Third Street	
Grand Island NE, 68801-1968		Grand Island Nebraska, 68801	
Telephone:	(308)385-5444 ext. 212	Telephone:	308-398-7022
Fax:	(308) 385-5488	Fax:	

### SECTION III.

#### GENERAL CONDITIONS

##### A. General Compliance

Any changes to the program goals, scope of services, schedule or budget, unless otherwise noted, may only be made through a written amendment to this Agreement, executed by the Sub-recipient and the City/Grantee. Changes to key Personnel assigned or their general responsibilities under this project are subject to notification and approval from the City/Grantee.

The Sub-recipient hereby agrees to comply with the requirements of Title 24 of the Code of Federal Regulations, Part 570 (the U.S. Housing and Urban Development regulations concerning Community Development Block Grants (CDBG) including Subpart K of these regulations). The Sub-recipient also agrees to comply with all other

applicable federal, state, and local laws, regulations, and policies governing the funds provided under this agreement.

The Sub-recipient further agrees to utilize funds available under this Agreement to supplement rather than supplant funds otherwise available.

#### B. Independent Contractor

Nothing contained in this Agreement is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the parties. The Sub-recipient shall at all times remain an "independent contractor" with respect to services to be performed under this Agreement. The City/Grantee shall be exempt from payment of all Unemployment Compensation, FICA, retirement, life and/or medical insurance and Worker's Compensation Insurance, as the Sub-recipient is an independent contractor. Sub-recipient shall be solely and entirely responsible for its acts and the acts of its agents, employees and subcontractors.

#### C. Hold Harmless

Sub-recipient further agrees to indemnify, defend and hold harmless the City/Grantee, its officers, agents and employees, from and against any and all claims, liabilities, costs, expenses, penalties or attorney fees, arising from such injuries to persons, or damages to property, or based upon or arising out of the performance or non-performance of this Agreement by Sub recipient, or out of any violation of Sub recipient of any local, state, or federal statute, ordinance, rule or regulation.

#### D. Worker's Compensation

The Sub recipient shall provide Workers' Compensation Insurance coverage in the amount required by law, for all of its employees involved in the performance of this Agreement.

#### E. Insurance and Bonding

The Sub recipient shall carry sufficient insurance coverage to protect Agreement assets from loss due to theft, fraud and/or undue physical damage, and as a minimum shall purchase a blanket fidelity bond covering all employees in an amount equal to cash advances from the City/Grantee. The Sub recipient shall comply with the bonding and insurance requirements of 2 CFR 200, as now in effect and as may be amended from time to time.

#### F. City/Grantee Recognition

The Sub recipient shall ensure recognition of the role of the City/Grantee in providing services through this Agreement. All activities, facilities and items utilized pursuant to this Agreement shall be prominently labeled as to the funding source. In

addition, the Sub recipient will include a reference to the support provided herein in all publications made possible with funds made available under this Agreement.

#### G. Amendments

The City/Grantee or Sub recipient may amend this Agreement at any time provided that such amendments make specific reference to this Agreement, and are executed in writing, signed by a duly authorized representative of each organization, and approved by the City/Grantee's governing body. Such amendments shall not invalidate this Agreement, nor relieve or release the City/Grantee or Sub recipient from its obligations under this Agreement.

The City/Grantee may, in its discretion, amend this Agreement to conform with federal, state or local governmental guidelines, policies and available funding amounts, or for other reasons. If such amendments result in a change in the funding, the scope of services, or schedule of the activities to be undertaken as part of this Agreement, such modifications will be incorporated only by written amendment signed by both City/Grantee and Sub recipient.

### SECTION IV.

#### LIABILITY

Sub recipient agrees to assume the risk of all personal injuries, including death resulting therefrom, to persons, and damage to and destruction of property, including loss of use therefrom, caused by or sustained, in whole or in part, in connection with or arising out of the performance or non-performance of this Agreement by Sub recipient, or by the conditions created thereby.

### SECTION V.

#### SUSPENSION OR TERMINATION FOR CAUSE

In accordance with 2 CFR 200, as now in effect and as may be amended from time to time, the City/Grantee may suspend or terminate this Agreement if the Sub recipient materially fails to comply with any terms of this Agreement, which include but are not limited to, the following:

1. Failure to comply with any of the rules, regulations or provisions referred to herein, or such statutes, regulations, executive orders, and HUD guidelines, policies or directives as may become applicable at any time;
2. Failure, for any reason, of the Sub recipient to fulfill in a timely and proper manner its obligations under this Agreement;
3. Ineffective or improper use of funds provided under this Agreement;
4. Submission by the Sub recipient to the City/Grantee reports that are incorrect or incomplete in any material respect; or

5. Financial instability of the Sub recipient organization that will affect the abilities of the organization to carry out or complete the stated activities and scope of work.

In the event of agency financial instability, a default or violation of the terms of this Agreement by the Sub recipient, or failure to use the grant for only those purposes set forth, the City/Grantee may take the following actions:

A. Suspension for Cause

After notice to the Sub recipient, the City/Grantee may suspend the Agreement and withhold any further payment or prohibit the Sub recipient from incurring additional obligations of grant funds, pending corrective action by the Sub recipient or a decision to terminate.

B. Termination for Cause

This Agreement may be terminated, in accordance with 2 CFR 200, as now in effect and as may be amended from time to time, if the Sub recipient materially fails to comply with any term of the Agreement or applicable federal regulations. The City/Grantee may terminate the Agreement upon ten (10) days written notice, together with documentation of the reasons therefore, and after an opportunity for a hearing is afforded. The determination of the City/Grantee as to the cause of termination and the appropriateness therefore shall be final and binding upon both City/Grantee and Sub recipient. In the event projects are delayed, the Sub recipient shall notify the City/Grantee in writing, informing the City/Grantee of the issues surrounding the delay of the project. In cases where the project is not moving forward, the City/Grantee shall notify the Sub recipient of termination of the funding. In the event of termination, all finished or unfinished documents, data, studies and reports prepared by the Sub recipient under this Agreement shall, at the option of the City/Grantee, become its property and the Sub recipient shall be entitled to receive just and equitable compensation for satisfactory work completed on such materials for which compensation has not previously been paid.

## SECTION VI.

### TERMINATION FOR CONVENIENCE

This Agreement may be terminated for convenience in accordance with 2 CFR 200, as now in effect and as may be amended from time to time, by either the City/Grantee or the Sub recipient, in whole or in part, by setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if in the case of a partial termination, the City/Grantee determines that the remaining portion of the award will not accomplish the purpose for which the award was made, the City/Grantee may terminate the award in its entirety.

## SECTION VII.



## TERMINATION OF CITY/GRANTEE'S OBLIGATIONS

The City/Grantee's obligations under this Agreement will terminate in the event of suspension or non-receipt of Community Development Block Grant funds by the City/Grantee.

## SECTION VIII.

### ADMINISTRATIVE REQUIREMENTS

#### A. Financial Management

Records of the Sub recipient and reimbursable expenses pertaining to the Scope of Services and records of accounts between the City/Grantee and the Sub recipient shall be kept on a generally recognized accounting basis.

##### 1. Accounting Standards

The Sub recipient agrees to comply with 2 CFR 200, as now in effect and as may be amended from time to time, and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

##### 2. Cost Principles

The Sub recipient shall administer its program in conformance with 2 CFR 200, as now in effect and as may be amended from time to time. These principles shall be applied for all costs incurred whether charged on a direct or indirect basis.

#### B. Documentation & Record Keeping

##### 1. Records to be maintained

The Sub recipient shall maintain all records required by the federal regulations specified in 24 CFR Part 570.506 that are pertinent to the activities to be funded under this Agreement. Such records shall include but are not limited to:

- a) Record(s) providing a full description of each activity undertaken;
- b) Record(s) demonstrating that each activity undertaken meets one of the National Objectives of the CDBG program;
- c) Record(s) required to determine the eligibility of activities;
- d) Record(s) required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance;
- e) Record(s) documenting compliance with the fair housing and equal opportunity components of the CDBG program;
- f) Financial records as required by 24 CFR Part 570.502 and 2 CFR 200, as now in effect and as may be amended from time to time;

- g) Other records as necessary to document compliance with Subpart K of 24 CFR 570; and
- h) Real property inventory records which clearly identify properties purchased, improved or sold. Properties retained shall continue to meet eligibility criteria and shall conform to the “changes in use” restrictions specified in 24 CFR 570.505, as applicable.

## 2. Retention

The Sub recipient shall retain all records pertinent to expenditures incurred under this Agreement for a period of five (5) years. The retention period begins on the date of submission of the City/Grantee’s Consolidated Annual Performance and Evaluation Report (CAPER) to HUD in which the activities assisted under the Agreement are reported on for the final time. Records for non-expendable property acquired with funds under this Agreement shall be retained for five (5) years after final disposition of such property. Records for any displaced person must be kept for five (5) years after he/she has received final payment.

Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the five-year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the five year period, whichever occurs later.

## 3. Client Data-if applicable

The Sub recipient shall maintain client data demonstrating client eligibility for services provided. Such information shall be made available to City/Grantee monitors or their designees for review upon request. Such data shall include, but not be limited to:

- a) Client name;
- b) Client address;
- c) Members age or other basis for determining eligibility;
- d) Description of services provided;
- e) Dates services provided;
- f) Beneficiary information (ethnicity, income, sex, female head of household, elderly, disabled, etc.); and
- g) Residence Addresses.

Such information shall be made available to City/Grantee monitors or their designees for review upon request.

## 4. Disclosure

The Sub recipient understands that client information collected under this Agreement is private and the use or disclosure of such information, when not directly connected with the administration of the City/Grantee’s or Sub recipients responsibilities with respect to services provided under this Agreement, is prohibited unless written consent is obtained from such person receiving service

and, in the case of a minor, that of a responsible parent/guardian.

#### 5. Close-outs

The Sub recipient's obligation to the City/Grantee shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the City/Grantee), and determining the custodianship of records.

Notwithstanding the foregoing, the terms of this Agreement shall remain in effect during any period that the Sub recipient has control over CDBG funds, including program income. All financial records pertaining to this Agreement upon completion shall remain the property of the City/Grantee.

### C. Reporting and Payment Procedures

#### 1. Program Income

The Sub recipient shall immediately report to the City/Grantee all program income (as defined at 24 CFR 570.500(a)) generated by activities carried out with CDBG funds made available under this Agreement. Program income generally means gross income received by the Sub recipient, directly generated from the use of CDBG funds, with some exceptions which are detailed in 24 C.F.R. §570.500. Program income includes, but is not limited to:

- a) Payments of principal and interest on loans made using CDBG funds;
- b) Proceeds from the disposition by sale or long-term lease of real property purchased or improved with CDBG funds;
- c) Proceeds from the disposition of equipment purchased with CDBG funds;
- d) Interest earned on program income pending its disposition; and
- e) Interest earned on CDBG funds held in a revolving loan fund's cash balance interest bearing account.

The use of program income by the Sub recipient must be approved by the City/Grantee prior to such use and must comply with the requirements set forth at 24 CFR 570.504. The Sub recipient may retain and use program income funds only for the activity (ies) approved under this Agreement. Program income funds should be held in a non-interest bearing account. If program income funds are held in an interest bearing account, any interest earned on the program income funds must be returned to the City/Grantee on a monthly basis. Receipt and expenditures of program income funds shall be reported, in writing, at the time of receipt and expenditure, along with supporting documentation. Program income must be expended prior to drawing any remaining grant funds.

In the event the Sub recipient desires to use the program income for some other activity, it must request and receive permission from the City/Grantee

before undertaking such a use. The City/Grantee will determine whether the proposed use meets the eligibility criteria of the regulations established by the CDBG funds, and notify the Sub recipient of either approval or disapproval. At conclusion of the Agreement period, or in the case of disapproval, all program income will be returned to the City/Grantee.

## 2. Payment Procedures

Draw-downs for the payment of eligible expenses and general administration items shall be made against the line item budgets specified in the Scope of Service, and in accordance with performance. Payments shall be made upon presentation of invoices that Sub recipient certifies are true and correct copies of payments due on behalf of the Sub recipient for an activity covered by this Agreement and made in accordance and compliance with the Scope of Service. With the exception of certain advances, payments will be made for eligible expenses actually incurred by the Sub recipient, and not to exceed actual cash requirements. Payments will be adjusted by the City/Grantee in accordance with advance fund and program income balances available in the Sub recipient account. In addition, the City/Grantee reserves the right to liquidate funds available under this Agreement for costs incurred by the City/Grantee on behalf of the Sub recipient. Payment may be suspended by the City/Grantee in the event of nonperformance by the Sub recipient. Payments may be contingent upon certification of the Sub recipients financial management system in accordance with the standards specified in 2 CFR 200, as now in effect and as may be amended from time to time.

## D. Procurement

### 1. Compliance

The Sub recipient shall comply with current City/Grantee policies concerning the purchase of equipment and shall maintain inventory records of all nonexpendable property as defined by such policies as may be procured with funds provided herein. All program assets (unexplained program income, property, equipment, etc.) shall revert to the City/Grantee upon termination of this Agreement.

#### a. OMB Standards

The Sub recipient shall procure all materials, property, or services and then shall subsequently follow all Property Standards as set out in and in accordance with the requirements of 2 CFR 200, as now in effect and as may be amended from time to time, including but not limited to the requirements covering utilization and disposal of property.

#### b. Travel expenses

Travel and related expenses for travel outside the city limits of the City of Grand Island Nebraska shall not be paid with funds provided under this Agreement without prior written approval from the City/Grantee.

## E. Use & Reversion of Assets

Sub recipient hereby agrees to use all personal assets and all real property, acquired or improved, in whole or in part, with Community Development Block Grant funds, as set forth in the Scope of Service. In the event Sub recipient ceases to use a personal asset or real property acquired or improved with Community Development Block Grant funds, in accordance with the Scope of Service, the use and disposition of real property and equipment under this Agreement shall be in compliance with the requirements of 24 CFR 200, as now in effect and as may be amended from time to time, and 24 CFR 570.502, 570.503, and 570.504, as applicable, which include but are not limited to the following:

1. The Sub recipient shall transfer to the City/Grantee any CDBG funds on hand and any accounts receivable attributable to the use of funds under this Agreement at the time of expiration, cancellation, or termination.

2. Real property under the Sub recipients control that was acquired or improved, in whole or in part, with funds under this Agreement in excess of Fifteen Thousand dollars (\$15,000) shall be used to meet one of the CDBG National Objectives pursuant to 24 CFR 570.208 until thirty (30) years after expiration of this Agreement. Real property acquired or improved, in whole or in part, with funds under this Agreement between Seven Thousand and One Dollars (\$7,001) and Fifteen Thousand dollars (\$15,000) shall be used to meet one of the CDBG National Objectives pursuant to 24 CFR 570.208 until ten (10) years after expiration of this Agreement.

3. Sub recipient hereby agrees to use all personal assets and all real property, acquired or improved, in whole or in part, with Community Development Block Grant funds, as set forth in the Scope of Service. In the event Sub recipient ceases to use a personal asset or real property acquired, or improved, with Community Development Block Grant funds, in accordance with the Scope of Service, the Sub recipient shall return the personal asset or real property to the City/Grantee, or pay to the City/Grantee, a sum equal to its fair market value, less any portion of the value attributable to expenditures of non-Community Development Block Grant funds for the acquisition of, or improvement to, the asset or property. The Sub recipient shall transfer to the City/Grantee any Community Development Block Grant funds on hand at the time of expiration of this Agreement and any accounts receivable of Community Development Block Grant funds.

Sub recipient also hereby agrees to enter into an Indenture of Restrictive Covenants Agreement ("Indenture") with the City/Grantee of City of Grand Island/Grantee at the time of real property purchase. In this Indenture, Sub recipient agrees to represent, warrant and covenant throughout the term of the Indenture that the land and/or facility purchased with CDBG funds will be used in accordance with Section 42 of the United States Code. Further, Sub recipient

agrees that the use of such property may not change from that for which the acquisition was made unless the Owner provides affected citizens with reasonable notice of, and opportunity to comment on, any proposed change, and either (1) the new use of such property qualifies as meeting one of the national objectives in Volume 24 of the Code of Federal Regulations, Section 570.208 (24 CFR, § 570.208), or (2) if the Owner determines, after consultation with affected citizens, that it is appropriate to change the use of the property to a use which does not qualify under 24 CFR, Section 570.208, it may retain or dispose of the property for the changed use if the Sub recipients CDBG program is reimbursed in the amount of the current fair market value of the property, less any portion of the value attributable to expenditures of non-CDBG funds for acquisition of, and improvements to, the property.

a) The Indenture of Restrictive Covenants shall terminate in the year designated in the Restrictive Covenant according to the terms stated in paragraph E above, based on the dollar amount of the funds granted, after the first day of the Compliance Period (such period being herein referred to as the "Compliance Period" or the "Extended Use Period"):

b) Notwithstanding paragraph "a" above, the Compliance period for any building that is part of the Project shall terminate on the date the Project is acquired by foreclosure or transferred by a deed or other instrument in lieu of foreclosure unless the Secretary of the Treasury determines that such acquisition is part of an arrangement with Sub recipient a purpose of which is to terminate such Compliance Period.

4. In all cases in which equipment acquired, in whole or in part, with funds under this Agreement is sold, the proceeds shall be program income (prorated to reflect the extent that funds received under this Agreement were used to acquire the equipment). Equipment not needed by the Sub recipient for activities under this Agreement shall be:

- a. Transferred to the City/Grantee for the CDBG program, or
- b. Retained after compensating the City/Grantee (an amount equal to the current fair market value of the equipment less the percentage of non-CDBG funds used to acquire the equipment).

## SECTION IX.

### RELOCATION, REAL PROPERTY ACQUISITION AND ONE-FOR-ONE HOUSING REPLACEMENT

The Sub recipient agrees to comply with:

A. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), and implementing regulations at 49 CFR Part 24 and 24 CFR 570.606(b);

B. The requirements of 24 CFR 570.606(c) governing the Residential Anti-displacement and Relocation Assistance Plan under (42 USC 5304(d)); and  
C. The requirements in 24 CFR 570.606(d) governing optional relocation policies. [The City/Grantee may preempt the optional policies.] The Sub recipient shall provide relocation assistance to displaced persons as defined by 24 CFR 570.606(b) (2) that are displaced as a direct result of acquisition, rehabilitation, demolition or conversion for a CDBG-assisted project. The Sub recipient also agrees to comply with applicable City/Grantee ordinances, resolutions, and policies concerning the displacement of persons from their residences.

## SECTION X.

### ASSURANCES

The Sub recipient hereby agrees to use Community Development Block Grant funds for the purposes authorized by the City/Grantee. The Sub recipient further hereby agrees to comply with the assurances, attached hereto and incorporated herein which are required by the U.S. Department of Housing & Urban Development for all Community Development Block Grant projects. These include Federal Labor Standards requirements.

## SECTION XI.

### PERSONNEL & PARTICIPANT CONDITIONS

#### A. Civil Rights

##### 1. Compliance

The Sub recipient hereby agrees to comply with all applicable state, local and civil rights laws and with Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended, Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974 as amended, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and Executive Order 11246 as amended by Executive Orders 11375, 11478, 12107, and 12086.

##### 2. Nondiscrimination

The Sub recipient hereby agrees to comply with the non-discrimination in employment and contracting opportunities laws, regulations, and executive orders referenced in 24 CFR 570.607, as revised by Executive Order 13279. The applicable non-discrimination provisions in (42 USC 5309 (a)) are still applicable. Sub-recipients shall comply with state and local civil rights laws proscribing housing discrimination based on sexual orientation or gender identity.

##### 3. Land Covenants

This Agreement is subject to the requirements of Title VI of the Civil Rights Act of 1964 (42 USC 2000d et seq.) and 24 CFR 570.601 and 570.602. In regard to the sale, lease or other transfer of land acquired, cleared or improved with assistance provided under this Agreement, the Sub recipient shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease or rental, or in the use or occupancy of such land, or in any improvements erected or to be erected thereon, providing that the City/Grantee and the United States are beneficiaries of and entitled to enforce such covenants. The Sub recipient, in undertaking its obligation to carry out the program assisted hereunder, agrees to take such measures as are necessary to enforce such covenant, and will not itself so discriminate.

#### 4. Section 504

The Sub recipient agrees to comply with all federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), which prohibits discrimination against the individuals with disabilities or handicaps in any federally assisted program. The City/Grantee shall provide the Sub recipient with any guidelines necessary for compliance with that portion of the regulations in force during the term of this Agreement.

### B. Equal Opportunity

#### 1. Approved Plan

The Sub recipient hereby agrees that it shall be committed to carry out pursuant to the City/Grantee's specifications an Affirmative Action Program in keeping with the principles as provided in President's Executive Order 11246 of September 24, 1966. The City/Grantee shall provide Affirmative Action guidelines to the Sub recipient to assist in the formulation of such program. The Sub recipient shall submit a plan for an Affirmative Action Program for approval prior to the award of funds.

#### 2. Women-and Minority-Owners Businesses (W/MBE)

The Sub recipient will use its best efforts to afford small businesses, minority business enterprises, and women's business enterprises the maximum practicable opportunity to participate in the performance of this Agreement. As used in this Agreement, the terms, "small business" means a business that meets the criteria set forth in section 3(a) of the Small Business Act, as amended (15 U.S.C. 632), and "minority and women's business enterprise" means a business at least fifty-one (51%) percent owned and controlled by minority group members or women. The Sub recipient may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

#### 3. Access to Records

The Sub recipient shall furnish and cause each of its own sub recipients or



subcontractors to furnish all information and reports required hereunder and will permit access to its books, records and accounts by the City/Grantee, HUD or its agent, or other authorized federal officials for purposes of investigation to ascertain compliance with the rules, regulations and provisions stated herein.

4. Equal Employment Opportunity and Affirmative Action (EEO/AA) Statement

The Sub recipient will, in all solicitations or advertisements for employees placed by or on behalf of the Sub recipient, state that it is an Equal Opportunity or Affirmative Action employer.

5. Subcontract Provisions

The Sub recipient will include the provisions of paragraphs, XI. A., Civil Rights, and XI. B., Affirmative Action in every subcontract or purchase order, specifically or by reference, so that such provisions will be binding upon each of its own sub recipients or subcontractors.

C. Employment Restrictions

1. Prohibited Activity

The Sub recipient is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities, inherently religious activities, lobbying, political patronage, and nepotism activities.

2. Labor Standards

The Sub recipient hereby agrees to comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act and Related Acts as amended (40 USC 3141 et seq.), the provisions of Contract Work Hours and Safety Standards Act (40 USC 3701 et seq.) and all other applicable federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this Agreement. The Sub recipient agrees to comply with the Copeland Anti-Kick Back Act (18 U.S.C. 874 *et seq.*) and its implementing regulations of the U.S. Department of Labor at 29 CFR Part 5. The Sub recipient shall maintain documentation that demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the City/Grantee for review upon request. The Sub recipient agrees that, except with respect to the rehabilitation or construction of residential property containing less than eight (8) units, all contractors engaged under contracts in excess of \$2,000,000 for construction, renovation or repair work financed in whole or in part with assistance provided under this Agreement, shall comply with federal requirements adopted by the City/Grantee pertaining to such contracts and with the applicable requirements of the regulations of the Department of Labor, under 29CFR Parts 1,3,5 and 7 governing the payment of wages and ratio of apprentices and trainees to journey workers; provided that, if wage rates higher than those required under the regulations are imposed by

state or local law, nothing hereunder is intended to relieve the Sub recipient of its obligation, if any, to require payment of the higher wage. The Sub recipient shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of this paragraph.

3. "Section 3" Clause

a. Compliance

Compliance with the provisions of Section 3 of the HUD Act of 1968, as amended (12 USC 1701u), and as implemented by the regulations set forth in 24 CFR 135, and all applicable rules and orders issued hereunder prior to the execution of this Agreement, shall be a condition of the federal financial assistance provided under this Agreement and binding upon the City/Grantee, the Sub recipient and any of the Sub recipient's sub recipients and subcontractors, their successors and assigns, to those sanctions specified by the Agreement through which federal assistance is provided. The Sub recipient certifies and hereby agrees that no contractual or other disability exists that would prevent compliance with these requirements.

The Sub recipient further agrees to comply with these "Section 3" requirements and to include the following language in all subcontracts executed under this Agreement: "The work to be performed under this Agreement is a project assisted under a program providing direct federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701). Section 3 requires that to the greatest extent feasible opportunities for training and employment be given to low and very low-income residents of the project area, and that contracts for work in connection with the project be awarded to business concerns that provide economic opportunities for low- and very low-income persons residing in the metropolitan area in which the project is located."

The Sub recipient further agrees to ensure that opportunities for training and employment arising in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to low- and very low-income persons residing within the metropolitan area in which the CDBG funded project is located; where feasible, priority should be given to low- and very low-income persons within the service area of the project or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs; and award contracts for work undertaken in connection with a housing rehabilitation (including reduction and abatement of lead based paint hazards), housing construction, or other public construction project to business concerns that provide economic opportunities for low- and very low-income persons residing within the metropolitan area in which the CDBG funded project is located; where feasible, priority should be given to business concerns that provide economic opportunities to low- and very low income residents within the

service area or the neighborhood in which the project is located and to low-and very low-income participants in other HUD programs. The Sub recipient certifies and agrees that no contractual or other legal incapacity exists that would prevent compliance with these requirements.

b. Subcontracts

The Sub recipient will include this Section 3 clause in every subcontract and will take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the grantor agency. The Sub recipient will not subcontract with any entity where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Part 135 and will not let any subcontract unless the entity has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

D. Conduct

1. Assignability

This Agreement shall not be assigned or transferred by the Sub recipient without the prior written consent of the City/Grantee; provided however, that claims for money due or to become due to the Sub recipient from the City/Grantee under this contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be promptly furnished in writing to the City/Grantee.

2. Subcontracts

a. Approvals

The Sub recipient shall not enter into any subcontracts with any agency or individual in the performance of this Agreement without the prior written consent of the City/Grantee prior to the execution of the agreement.

b. Monitoring

The Sub recipient will monitor all subcontracted services on a regular basis to assure contract compliance. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of noncompliance.

c. Content

The Sub recipient shall cause all of the provisions of this Agreement in its entirety to be included in and made a part of any subcontract executed in the performance of this Agreement.

d. Selection Process

The Sub recipient shall undertake to insure that all subcontracts let in the performance of this Agreement shall be awarded on a fair and open

competition basis in accordance with applicable procurement requirements. Executed copies of all subcontracts shall be forwarded to the City/Grantee along with documentation concerning the selection process.

### 3. Hatch Act

The Sub recipient hereby agrees that no funds provided, nor personnel employed under this Agreement, shall in any way or to any extent engage in the conduct of political activities in violation of Chapter 15 of Title V of the U.S.C.

### 4. Conflict of Interest

The Sub recipient hereby agrees to abide by the provisions of 2 CFR 200, as now in effect and as may be amended from time to time and 24 CFR 570.611, which include (but are not limited to) the following:

- a. The Sub recipient shall maintain a written code or standards of conduct that shall govern the performance of its officers, employees or agents engaged in the award and administration of contracts supported by federal funds;
- b. No employee, officer or agent of the Sub recipient shall participate in the selection, or in the award, or administration of, a contract supported by federal funds if a conflict of interest, real or apparent, would be involved;
- c. No covered persons who exercise or have exercised any functions or responsibilities with respect to CDBG-assisted activities, or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest in any contract, or have a financial interest in any contract, subcontract, or agreement with respect to the CDBG-assisted activity, or with respect to the proceeds from the CDBG-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for a period of one (1) year thereafter. For purposes of this paragraph, a "covered person" includes but is not limited to any person who is an employee, agent, consultant, officer, or elected or appointed official of the City/Grantee, the Sub recipient, or any designated public agency; and
- d. The Sub recipient covenants that neither it nor any member of its Board of Directors, officers, or employees presently have any interest in any project to be financed under the Scope of Service, and shall not acquire any interest therein which would conflict with the performance of the Scope of Service required under this Agreement or applicable statute, rule or regulation. Such a conflict would arise when: the employee, officer or agent; any member of their immediate family; their partner; or an organization which employs, or is about to employ, any of the above, has

a financial or other interest in the firm/household selected for award. The Sub recipients officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to sub-agreements during office tenure or for one year after the closeout of the grant. This stipulation must be included in all other contracts and subcontracts to this grant.

#### 5. Lobbying

The Sub recipient certifies, to the best of its knowledge and belief, that:

a. No federal appropriated funds have been paid or will be paid, by or on behalf of the Sub recipient, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, or the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan or cooperative agreement.

b. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

c. The Sub recipient shall require that the language of paragraph (d) of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and co-operative agreements) and that all Sub recipients shall certify and disclose accordingly.

d. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S.C. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

#### 6. Copyright

If this Agreement results in any copyrightable material or inventions, the Grantee and/or City/Grantee reserves the right to a royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize

others to use, the work or materials for governmental purposes.

#### 7. Religious Activities

The Sub recipient hereby agrees that funds provided under this Agreement will not be utilized for inherently religious activities prohibited by 24 CFR 570.200(j), such as worship, religious instruction, or proselytization.

### SECTION XII.

#### ENVIRONMENTAL CONDITIONS

##### A. Air and Water

The Sub recipient hereby agrees to comply with the following requirements insofar as they apply to the performance of this Agreement:

1. Clean Air Act, 42 U.S.C., 7401, *et seq.*;
2. Federal Water Pollution Control Act, as amended, 33 U.S.C., 1251, *et seq.*, as amended, 1318 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 308, and all regulations and guidelines issued thereunder; and
3. Environmental Protection Agency (EPA) regulations pursuant to 40 CFR Part 50, as amended.

##### B. Flood Disaster Protection

In accordance with the requirements of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001), the Sub recipient shall assure that the activities located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation).

##### C. Lead-Based Paint

The Sub recipient agrees that any construction or rehabilitation of residential structures with assistance provided under this Agreement shall be subject to HUD Lead-Based Paint Regulations at 24 CFR 570.608, and 24 CFR 35.100 *et seq.* Such regulations pertain to all CDBG-assisted housing and require that all owners, prospective owners, and tenants of properties constructed prior to 1978 be properly notified that such properties may include lead-based paint. Such notification shall point out the hazards of lead-based paint and explain the symptoms, treatment and precautions that should be taken when dealing with lead-based paint poisoning and the advisability and availability of blood lead level screening for children under seven. The notice should also point out that if lead-based paint is found on the property, abatement measures may be undertaken. The regulations further require that, depending on the amount of federal funds applied to a property, paint testing,

risk assessment, treatment and/or abatement may be conducted.

#### D. Historic Preservation

The Sub recipient agrees to comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470) and the procedures set forth in 36 CFR Part 800, Advisory Council on Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the performance of this Agreement. In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty years old or older or that are included on a federal, state, or local historic property list.

### SECTION XII.

#### SEVERABILITY

If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby and all other parts of this Agreement shall nevertheless be in full force and effect.

### SECTION XIV.

#### SECTION HEADINGS AND SUBHEADINGS

The section headings and subheadings contained in this Agreement are included for convenience only and shall not limit or otherwise affect the terms of this Agreement.

### SECTION XV.

#### WAIVER

The City/Grantee's failure to act with respect to a breach by the Sub recipient shall not result in a waiver of its right to act with respect to subsequent or similar breaches. The failure of the City/Grantee to exercise or enforce any right or provision shall not constitute a waiver of such right or provision.

### SECTION XVI.

#### ENTIRE AGREEMENT

The provisions set forth in Sections I-XVI, and all attachments of this Agreement constitute, the entire agreement between the parties hereto and no statement, promise, conditions, understanding, inducement or representation, oral or written, express or implied, which is not contained herein shall not be binding or valid.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date of the most recent signatory.

Grantee: City of Grand Island, Nebraska

Date \_\_\_\_\_ By \_\_\_\_\_

Roger G. Steele,  
Mayor, City of Grand Island

Attest:

\_\_\_\_\_  
CITY CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

\_\_\_\_\_  
Stacy R. Nonhof, Assistant City Attorney

Sub-Recipient: Downtown Business Improvement District

Date \_\_\_\_\_ By \_\_\_\_\_  
Sherry Siwinski, Executive Director

Date \_\_\_\_\_ By \_\_\_\_\_  
Board President



RESOLUTION 2021-166

WHEREAS, the City of Grand Island, Nebraska was awarded a \$427,392 as part of the United States Department of Housing and Urban Development's Community Development Block Grant (CDBG) Program; and

WHEREAS, City Council approved the 2020-2021 Annual Action Plan which identified The Downtown Business Improvement District as an approved program to utilize CDBG Funds; and

WHEREAS, the City must enter into a Sub-Recipient Agreement with each organization identified in the 2020-2021 Annual Action Plan; and

WHEREAS, the Downtown Business Improvement District was awarded \$35,000 to implement the Small Business Rental Assistance Program to aid businesses in the Slum and Blight Area #1 of Grand Island.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the City of Grand Island, Nebraska is hereby authorized to enter into a Sub-Recipient Agreement with the Downtown Business Improvement District and the Mayor is hereby authorized and directed to execute such contracts.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, July 13, 2021.

\_\_\_\_\_  
Roger G. Steele, Mayor

Attest:

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

Approved as to Form	▣ _____
July 9, 2021	▣ City Attorney



# City of Grand Island

Tuesday, July 13, 2021

Council Session

## Item G-14

**#2021-167 - Approving CDBG Sub-Recipient Agreement with YWCA**

Staff Contact: Amber Alvidrez

# **Council Agenda Memo**

**From:** Amber Alvidrez, Community Development

**Meeting:** July 13, 2021

**Subject:** Approving CDBG Contract #2020-5 with Young Women's Christian Association of Grand Island (YWCA)

**Presenter(s):** Amber Alvidrez, Community Development Administrator

## **Background**

In May of 2021, the City of Grand Island was awarded an annual allocation of \$427,392.00 from the United States Department of Housing and Urban Development's Community Development Block Grant Program. In March of 2021, City Council approved the 2020-2021 Annual Action Plan, which included various projects throughout Grand Island, all of which benefit low to moderate income persons or areas. Each one of these projects requires a separate contract, which comes before City Council.

## **Discussion**

The YWCA Empowerment program will remove the childcare barrier for women by providing childcare to mothers who are looking for employment, are participating in college or trade school classes, participating in a certification training program or receiving services from another local non-profit. Mothers will be referred to the YWCA through partner programs and will be provided childcare at no cost to them for up to 20 hours a week if meeting the criteria of the program. After they have found employment or completed their respective program the YWCA will work with the parent to ensure they find the best childcare fit for their family. The YWCA will also provide aid in applying for any state or local childcare subsidies for which individuals are eligible.

The YWCA will keep a minimum of 10 openings a day of various ages with a goal to serve 150 individual children. The YWCA is has been awarded \$25,000 of CDBG funds from the 2020 Annual Allocation.

## **Alternatives**

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

1. Move to approve
2. Refer the issue to a Committee
3. Postpone the issue to future date
4. Take no action on the issue

## **Recommendation**

City Administration recommends that the Council approves CDBG Contract #2020-5 with The Young Women's Christian Association of Grand Island and authorizes Mayor to sign all related documents.

## **Sample Motion**

Move to approve CDBG Contract #2020-5 with The Young Women's Christian Association of Grand Island.

SUBRECIPIENT CONTRACT FOR  
COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDING  
ENTITLEMENT FUNDS

SECTION I.

RECITALS

THIS AGREEMENT, made and entered into this 13th day of July, 2021 by and between the City of Grand Island ("City/Grantee,") and Young Women's Christian Association of Grand Island ("Sub recipient,") witnesseth:

WHEREAS, the Grantee has applied for and received funds from the U.S. Department of Housing and Urban Development (HUD), under Title 1 of the Housing and Community Development Act of 1974, as amended (HCD Act), Public Law 93-383; and

WHEREAS, the Grantee wishes to engage the Sub-Recipient to assist the Grantee in utilizing such funds;

NOW, THEREFORE, it is agreed between the parties hereto that;

SECTION II.

SCOPE OF SERVICE

A. Activities

The Sub recipient will be responsible for administering CDBG Fiscal Year 2020 Entitlement Community Development Block Grant program funds in a manner satisfactory to the City/Grantee and consistent with any standards required by the United States Department of Housing and Urban Development, as a condition of providing the funds, and consistent with all provisions of this Agreement. Sub recipient warrants and represents it has the requisite authority and capacity to perform all terms and conditions on Sub recipients part to be performed hereunder.

B. Program Delivery

Young Women's Christian Association of Grand Island shall use Twenty-Five thousand dollars and 00/100(\$25,000.00) of Community Development Block Grant funds to will provide childcare to mothers who are looking for employment, are participating in college or trade school classes, are participating in a certification training program or receiving services from another local non-profits, by the creation of the Empowerment Program as submitted in the application for Community Development Block Grant (CDBG) funds dated (March 30, 2021) toward the goal of benefitting Low to moderate income persons within Grand Island.

The major tasks the Sub recipient will perform include, but are not necessarily limited to the following:

- a. Young Women's Christian Association of Grand Island will aid to remove the childcare barrier within our community of offering 20 hours of free child care to women, if looking for employment, taking classes at a community college or trade school, or for the total length of a training certification program.
- b. The Young Women's Christian Association of Grand Island will aid eligible parents enrolled in the Empowerment program in applying for any state or local daycare Subsidies and find necessary daycare placement upon exiting the program.

#### C. National Objective Compliance

The Sub recipient certifies that the activity (ies) carried out under this Agreement will meet the following H.U.D. National Objective:

Benefiting Low to Moderate Income persons

Failure by the Sub recipient to fulfill the National Objective may result in grant funds being disallowed and required to be returned to the City/Grantee.

#### D. Level(s) of Performance & Accomplishment - Goals and Performance Measures

- a. Young Women's Christian Association of Grand Island's goal is to implement the Empowerment Program. The Young Women's Christian Association of Grand Island is responsible to perform all administrative services necessary to administer the above mentioned program.
- b. The Young Women's Christian Association of Grand Island is to provide quarterly reports on achievements and program impact to include
  - a. Number of households served
  - b. A summary of project progress
  - c. Client Demographics

Units of Service include:

The Sub-recipient's progress will be monitored by the amount of units served, each unit being one household that receives services. The Sub-recipient will benefit a minimum of 85 households who are low to moderate income within the City of Grand Island.

#### E. Project Description

Type of Project: Eliminating Slum and Blight  
 Project Location: City of Grand Island  
 Service Area: City of Grand Island  
 Project: 2020-5  
 Basic Eligibility Citation: 24 CFR 570.208(b)(1)  
 Amount Funded: \$25,000

#### F. Performance Monitoring

The City/Grantee reserves the right to monitor and evaluate the progress and Performance of the Sub recipient to assure the terms of this agreement are being satisfactorily met in accordance with HUD, City/Grantee and other applicable monitoring and evaluating criteria and standards. Sub recipient shall cooperate with the City/Grantee relating to such monitoring and evaluation. The City/Grantee will monitor the performance of the Sub recipient against goals and performance standards as stated above. Substandard performance as determined by the City/Grantee will constitute noncompliance with this Agreement. If action to correct such substandard performance is not taken by the Sub recipient within a reasonable 90 days of time after being notified by the City/Grantee, Agreement suspension or termination procedures will be initiated.

#### G. Time of Performance

Young Women's Christian Association of Grand Island shall perform the services set out above, and shall expend the Community Development Block Grant funding provided for above between July 13, 2021 and July 13, 2022. The term of this Agreement and the provisions herein shall be extended to cover any additional time period during which the Sub recipient remains in control of CDBG funds or other CDBG assets, including program income.

#### H. Budget

Young Women's Christian Association of Grand Island shall use Twenty Five Thousand Dollars &00/100 (\$25,000.00) of Community Development Block Grant funds provided Daycare assistance to those enrolled in the Empowerment Program.

In addition, the City/Grantee may require a more detailed budget breakdown than the one contained herein, and the Sub recipient shall provide such supplementary budget information in a timely fashion in the form and content prescribed by the City/Grantee. Any amendments to this budget must be approved in writing by the City/Grantee and Sub recipient.

#### I. Compensation and Method of Payment

If Sub recipient is not in default hereunder, and subject to City/Grantee's receipt of the U.S. Department of Housing & Urban Development Community Development Block Grant funds, and provided the Agreement and Scope of Service are eligible Expenditures of Community Development Block Grant funds, the City/Grantee agrees to pay the Sub recipient an amount not to exceed Twenty-Five Thousand Dollars and Zero Cents (\$25,000.00). There are no eligible delivery costs. Payments may be contingent upon certification of the Sub recipients' financial management system in accordance with the standards specified in 2 CFR 200, as now in effect and as may be amended from time to time.

a. Draw-down requests may be submitted to the Community Development Administrator. Draw-down requests must be in writing and accompanied by acceptable documentation supporting the draw-down amount. Documentation should include, at a minimum, the following information:

- 1) Invoice itemizing amounts requested;
- 2) Supporting documentation for each item; and
- 3) Payroll slips or time cards, if applicable.

Additional documentation may be requested as needed for clarification. Payment requests require City/Grantee Council approval prior to disbursement, and Drawdown Reimbursement Request will only be processed once a month.

#### J. Environmental Review

An Environmental Review must be completed prior to the Sub recipient committing or expending any Community Development Block Grant funds. The Sub recipient may not proceed with any services until receipt of written notification of the Environmental Review findings by the City/Grantee.

Housing projects will require environmental reviews to be conducted on each property as it is identified. If the Environmental Review requires mitigation, no funds may be expended until mitigation has been accomplished and certified as completed and meeting HUD minimum standards by an acceptable source to the City/Grantee. Documentation evidencing the Sub recipients' completion of its responsibilities and compliance with the National Environmental Policy Act of 1969 (NEPA), and other provisions of federal law as specified in 24 C.F.R. Part 58 which furthers the purposes of the NEPA.

#### K. Procurement Standards and Code of Conduct

Documentation evidencing adoption of Procurement Standards and Code of Conduct equivalent to those established in 2 CFR 200, as now in effect and as may be amended from time to time, and 24 CFR Part 570.

#### K. Fair Housing

Documentation that the Sub recipient has specifically provided a description of the actions they will take during the course of the grant to fulfill the requirements to affirmatively further fair housing. (Applicable to housing projects)

#### L. Implementation Schedule

CDBG Sub recipient to complete and submit to the City/Grantee the Implementation Schedule form.



L. Sources and Uses of Funds (if applicable)

not applicable

M. Other Special Conditions

Indenture of restrictive covenants, Davis Bacon sub recipient and contractor's meeting, Davis Bacon regulations apply.

N. Notices

Notices required by this Agreement shall be in writing and delivered via United States Postal Service mail (postage prepaid), commercial courier, or personal delivery or sent by facsimile or other electronic means. Any notice delivered or sent as aforesaid shall be effective on the date of delivery or sending. All notices and other written communications under this Agreement shall be addressed to the individuals in the capacities indicated below, unless otherwise modified by subsequent written notice. Communication and details concerning this Agreement shall be directed to the following agreement representatives:

City/Grantee		Sub-recipient:	
City of Grand Island		Young Women's Christian Association of Grand Island	
ATTN: Community Development Division		Amy Bennett	
100 East First Street		211 E. Fonner Park Rd	
Grand Island NE, 68801-1968		Grand Island Nebraska, 68801	
Telephone:	(308)385-5444 ext. 212	Telephone:	308-384-9922
Fax:	(308) 385-5488	Fax:	

SECTION III.

GENERAL CONDITIONS

A. General Compliance

Any changes to the program goals, scope of services, schedule or budget, unless otherwise noted, may only be made through a written amendment to this Agreement, executed by the Sub-recipient and the City/Grantee. Changes to key Personnel assigned or their general responsibilities under this project are subject to notification and approval from the City/Grantee.

The Sub-recipient hereby agrees to comply with the requirements of Title 24 of the Code of Federal Regulations, Part 570 (the U.S. Housing and Urban Development

regulations concerning Community Development Block Grants (CDBG) including Subpart K of these regulations). The Sub-recipient also agrees to comply with all other applicable federal, state, and local laws, regulations, and policies governing the funds provided under this agreement.

The Sub-recipient further agrees to utilize funds available under this Agreement to supplement rather than supplant funds otherwise available.

#### B. Independent Contractor

Nothing contained in this Agreement is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the parties. The Sub-recipient shall at all times remain an "independent contractor" with respect to services to be performed under this Agreement. The City/Grantee shall be exempt from payment of all Unemployment Compensation, FICA, retirement, life and/or medical insurance and Worker's Compensation Insurance, as the Sub-recipient is an independent contractor. Sub-recipient shall be solely and entirely responsible for its acts and the acts of its agents, employees and subcontractors.

#### C. Hold Harmless

Sub-recipient further agrees to indemnify, defend and hold harmless the City/Grantee, its officers, agents and employees, from and against any and all claims, liabilities, costs, expenses, penalties or attorney fees, arising from such injuries to persons, or damages to property, or based upon or arising out of the performance or non-performance of this Agreement by Sub recipient, or out of any violation of Sub recipient of any local, state, or federal statute, ordinance, rule or regulation.

#### D. Worker's Compensation

The Sub recipient shall provide Workers' Compensation Insurance coverage in the amount required by law, for all of its employees involved in the performance of this Agreement.

#### E. Insurance and Bonding

The Sub recipient shall carry sufficient insurance coverage to protect Agreement assets from loss due to theft, fraud and/or undue physical damage, and as a minimum shall purchase a blanket fidelity bond covering all employees in an amount equal to cash advances from the City/Grantee. The Sub recipient shall comply with the bonding and insurance requirements of 2 CFR 200, as now in effect and as may be amended from time to time.

#### F. City/Grantee Recognition

The Sub recipient shall ensure recognition of the role of the City/Grantee in providing services through this Agreement. All activities, facilities and items utilized

pursuant to this Agreement shall be prominently labeled as to the funding source. In addition, the Sub recipient will include a reference to the support provided herein in all publications made possible with funds made available under this Agreement.

#### G. Amendments

The City/Grantee or Sub recipient may amend this Agreement at any time provided that such amendments make specific reference to this Agreement, and are executed in writing, signed by a duly authorized representative of each organization, and approved by the City/Grantee's governing body. Such amendments shall not invalidate this Agreement, nor relieve or release the City/Grantee or Sub recipient from its obligations under this Agreement.

The City/Grantee may, in its discretion, amend this Agreement to conform with federal, state or local governmental guidelines, policies and available funding amounts, or for other reasons. If such amendments result in a change in the funding, the scope of services, or schedule of the activities to be undertaken as part of this Agreement, such modifications will be incorporated only by written amendment signed by both City/Grantee and Sub recipient.

### SECTION IV.

#### LIABILITY

Sub recipient agrees to assume the risk of all personal injuries, including death resulting therefrom, to persons, and damage to and destruction of property, including loss of use therefrom, caused by or sustained, in whole or in part, in connection with or arising out of the performance or non-performance of this Agreement by Sub recipient, or by the conditions created thereby.

### SECTION V.

#### SUSPENSION OR TERMINATION FOR CAUSE

In accordance with 2 CFR 200, as now in effect and as may be amended from time to time, the City/Grantee may suspend or terminate this Agreement if the Sub recipient materially fails to comply with any terms of this Agreement, which include but are not limited to, the following:

1. Failure to comply with any of the rules, regulations or provisions referred to herein, or such statutes, regulations, executive orders, and HUD guidelines, policies or directives as may become applicable at any time;
2. Failure, for any reason, of the Sub recipient to fulfill in a timely and proper manner its obligations under this Agreement;
3. Ineffective or improper use of funds provided under this Agreement;
4. Submission by the Sub recipient to the City/Grantee reports that are incorrect or incomplete in any material respect; or

5. Financial instability of the Sub recipient organization that will affect the abilities of the organization to carry out or complete the stated activities and scope of work.

In the event of agency financial instability, a default or violation of the terms of this Agreement by the Sub recipient, or failure to use the grant for only those purposes set forth, the City/Grantee may take the following actions:

A. Suspension for Cause

After notice to the Sub recipient, the City/Grantee may suspend the Agreement and withhold any further payment or prohibit the Sub recipient from incurring additional obligations of grant funds, pending corrective action by the Sub recipient or a decision to terminate.

B. Termination for Cause

This Agreement may be terminated, in accordance with 2 CFR 200, as now in effect and as may be amended from time to time, if the Sub recipient materially fails to comply with any term of the Agreement or applicable federal regulations. The City/Grantee may terminate the Agreement upon ten (10) days written notice, together with documentation of the reasons therefore, and after an opportunity for a hearing is afforded. The determination of the City/Grantee as to the cause of termination and the appropriateness therefore shall be final and binding upon both City/Grantee and Sub recipient. In the event projects are delayed, the Sub recipient shall notify the City/Grantee in writing, informing the City/Grantee of the issues surrounding the delay of the project. In cases where the project is not moving forward, the City/Grantee shall notify the Sub recipient of termination of the funding. In the event of termination, all finished or unfinished documents, data, studies and reports prepared by the Sub recipient under this Agreement shall, at the option of the City/Grantee, become its property and the Sub recipient shall be entitled to receive just and equitable compensation for satisfactory work completed on such materials for which compensation has not previously been paid.

## SECTION VI.

### TERMINATION FOR CONVENIENCE

This Agreement may be terminated for convenience in accordance with 2 CFR 200, as now in effect and as may be amended from time to time, by either the City/Grantee or the Sub recipient, in whole or in part, by setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if in the case of a partial termination, the City/Grantee determines that the remaining portion of the award will not accomplish the purpose for which the award was made, the City/Grantee may terminate the award in its entirety.

## SECTION VII.

## TERMINATION OF CITY/GRANTEE'S OBLIGATIONS

The City/Grantee's obligations under this Agreement will terminate in the event of suspension or non-receipt of Community Development Block Grant funds by the City/Grantee.

## SECTION VIII.

### ADMINISTRATIVE REQUIREMENTS

#### A. Financial Management

Records of the Sub recipient and reimbursable expenses pertaining to the Scope of Services and records of accounts between the City/Grantee and the Sub recipient shall be kept on a generally recognized accounting basis.

##### 1. Accounting Standards

The Sub recipient agrees to comply with 2 CFR 200, as now in effect and as may be amended from time to time, and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

##### 2. Cost Principles

The Sub recipient shall administer its program in conformance with 2 CFR 200, as now in effect and as may be amended from time to time. These principles shall be applied for all costs incurred whether charged on a direct or indirect basis.

#### B. Documentation & Record Keeping

##### 1. Records to be maintained

The Sub recipient shall maintain all records required by the federal regulations specified in 24 CFR Part 570.506 that are pertinent to the activities to be funded under this Agreement. Such records shall include but are not limited to:

- a) Record(s) providing a full description of each activity undertaken;
- b) Record(s) demonstrating that each activity undertaken meets one of the National Objectives of the CDBG program;
- c) Record(s) required to determine the eligibility of activities;
- d) Record(s) required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance;
- e) Record(s) documenting compliance with the fair housing and equal opportunity components of the CDBG program;
- f) Financial records as required by 24 CFR Part 570.502 and 2 CFR 200, as now in effect and as may be amended from time to time;

- g) Other records as necessary to document compliance with Subpart K of 24 CFR 570; and
- h) Real property inventory records which clearly identify properties purchased, improved or sold. Properties retained shall continue to meet eligibility criteria and shall conform to the “changes in use” restrictions specified in 24 CFR 570.505, as applicable.

## 2. Retention

The Sub recipient shall retain all records pertinent to expenditures incurred under this Agreement for a period of five (5) years. The retention period begins on the date of submission of the City/Grantee’s Consolidated Annual Performance and Evaluation Report (CAPER) to HUD in which the activities assisted under the Agreement are reported on for the final time. Records for non-expendable property acquired with funds under this Agreement shall be retained for five (5) years after final disposition of such property. Records for any displaced person must be kept for five (5) years after he/she has received final payment.

Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the five-year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the five year period, whichever occurs later.

## 3. Client Data-if applicable

The Sub recipient shall maintain client data demonstrating client eligibility for services provided. Such information shall be made available to City/Grantee monitors or their designees for review upon request. Such data shall include, but not be limited to:

- a) Client name;
- b) Client address;
- c) Members age or other basis for determining eligibility;
- d) Description of services provided;
- e) Dates services provided;
- f) Beneficiary information (ethnicity, income, sex, female head of household, elderly, disabled, etc.); and
- g) Residence Addresses.

Such information shall be made available to City/Grantee monitors or their designees for review upon request.

## 4. Disclosure

The Sub recipient understands that client information collected under this Agreement is private and the use or disclosure of such information, when not directly connected with the administration of the City/Grantee’s or Sub recipients responsibilities with respect to services provided under this Agreement, is prohibited unless written consent is obtained from such person receiving service

and, in the case of a minor, that of a responsible parent/guardian.

#### 5. Close-outs

The Sub recipient's obligation to the City/Grantee shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the City/Grantee), and determining the custodianship of records.

Notwithstanding the foregoing, the terms of this Agreement shall remain in effect during any period that the Sub recipient has control over CDBG funds, including program income. All financial records pertaining to this Agreement upon completion shall remain the property of the City/Grantee.

### C. Reporting and Payment Procedures

#### 1. Program Income

The Sub recipient shall immediately report to the City/Grantee all program income (as defined at 24 CFR 570.500(a)) generated by activities carried out with CDBG funds made available under this Agreement. Program income generally means gross income received by the Sub recipient, directly generated from the use of CDBG funds, with some exceptions which are detailed in 24 C.F.R. §570.500. Program income includes, but is not limited to:

- a) Payments of principal and interest on loans made using CDBG funds;
- b) Proceeds from the disposition by sale or long-term lease of real property purchased or improved with CDBG funds;
- c) Proceeds from the disposition of equipment purchased with CDBG funds;
- d) Interest earned on program income pending its disposition; and
- e) Interest earned on CDBG funds held in a revolving loan fund's cash balance interest bearing account.

The use of program income by the Sub recipient must be approved by the City/Grantee prior to such use and must comply with the requirements set forth at 24 CFR 570.504. The Sub recipient may retain and use program income funds only for the activity (ies) approved under this Agreement. Program income funds should be held in a non-interest bearing account. If program income funds are held in an interest bearing account, any interest earned on the program income funds must be returned to the City/Grantee on a monthly basis. Receipt and expenditures of program income funds shall be reported, in writing, at the time of receipt and expenditure, along with supporting documentation. Program income must be expended prior to drawing any remaining grant funds.

In the event the Sub recipient desires to use the program income for some other activity, it must request and receive permission from the City/Grantee

before undertaking such a use. The City/Grantee will determine whether the proposed use meets the eligibility criteria of the regulations established by the CDBG funds, and notify the Sub recipient of either approval or disapproval. At conclusion of the Agreement period, or in the case of disapproval, all program income will be returned to the City/Grantee.

## 2. Payment Procedures

Draw-downs for the payment of eligible expenses and general administration items shall be made against the line item budgets specified in the Scope of Service, and in accordance with performance. Payments shall be made upon presentation of invoices that Sub recipient certifies are true and correct copies of payments due on behalf of the Sub recipient for an activity covered by this Agreement and made in accordance and compliance with the Scope of Service. With the exception of certain advances, payments will be made for eligible expenses actually incurred by the Sub recipient, and not to exceed actual cash requirements. Payments will be adjusted by the City/Grantee in accordance with advance fund and program income balances available in the Sub recipient account. In addition, the City/Grantee reserves the right to liquidate funds available under this Agreement for costs incurred by the City/Grantee on behalf of the Sub recipient. Payment may be suspended by the City/Grantee in the event of nonperformance by the Sub recipient. Payments may be contingent upon certification of the Sub recipients financial management system in accordance with the standards specified in 2 CFR 200, as now in effect and as may be amended from time to time.

## D. Procurement

### 1. Compliance

The Sub recipient shall comply with current City/Grantee policies concerning the purchase of equipment and shall maintain inventory records of all nonexpendable property as defined by such policies as may be procured with funds provided herein. All program assets (unexplained program income, property, equipment, etc.) shall revert to the City/Grantee upon termination of this Agreement.

#### a. OMB Standards

The Sub recipient shall procure all materials, property, or services and then shall subsequently follow all Property Standards as set out in and in accordance with the requirements of 2 CFR 200, as now in effect and as may be amended from time to time, including but not limited to the requirements covering utilization and disposal of property.

#### b. Travel expenses

Travel and related expenses for travel outside the city limits of the City of Grand Island Nebraska shall not be paid with funds provided under this Agreement without prior written approval from the City/Grantee.



## E. Use & Reversion of Assets

Sub recipient hereby agrees to use all personal assets and all real property, acquired or improved, in whole or in part, with Community Development Block Grant funds, as set forth in the Scope of Service. In the event Sub recipient ceases to use a personal asset or real property acquired or improved with Community Development Block Grant funds, in accordance with the Scope of Service, the use and disposition of real property and equipment under this Agreement shall be in compliance with the requirements of 2 CFR 200, as now in effect and as may be amended from time to time, and 24 CFR 570.502, 570.503, and 570.504, as applicable, which include but are not limited to the following:

1. The Sub recipient shall transfer to the City/Grantee any CDBG funds on hand and any accounts receivable attributable to the use of funds under this Agreement at the time of expiration, cancellation, or termination.

2. Real property under the Sub recipients control that was acquired or improved, in whole or in part, with funds under this Agreement in excess of Fifteen Thousand dollars (\$15,000) shall be used to meet one of the CDBG National Objectives pursuant to 24 CFR 570.208 until thirty (30) years after expiration of this Agreement. Real property acquired or improved, in whole or in part, with funds under this Agreement between Seven Thousand and One Dollars (\$7,001) and Fifteen Thousand dollars (\$15,000) shall be used to meet one of the CDBG National Objectives pursuant to 24 CFR 570.208 until ten (10) years after expiration of this Agreement.

3. Sub recipient hereby agrees to use all personal assets and all real property, acquired or improved, in whole or in part, with Community Development Block Grant funds, as set forth in the Scope of Service. In the event Sub recipient ceases to use a personal asset or real property acquired, or improved, with Community Development Block Grant funds, in accordance with the Scope of Service, the Sub recipient shall return the personal asset or real property to the City/Grantee, or pay to the City/Grantee, a sum equal to its fair market value, less any portion of the value attributable to expenditures of non-Community Development Block Grant funds for the acquisition of, or improvement to, the asset or property. The Sub recipient shall transfer to the City/Grantee any Community Development Block Grant funds on hand at the time of expiration of this Agreement and any accounts receivable of Community Development Block Grant funds.

Sub recipient also hereby agrees to enter into an Indenture of Restrictive Covenants Agreement ("Indenture") with the City/Grantee of City of Grand Island/Grantee at the time of real property purchase. In this Indenture, Sub recipient agrees to represent, warrant and covenant throughout the term of the Indenture that the land and/or facility purchased with CDBG funds will be used in accordance with Section 42 of the United States Code. Further, Sub recipient

agrees that the use of such property may not change from that for which the acquisition was made unless the Owner provides affected citizens with reasonable notice of, and opportunity to comment on, any proposed change, and either (1) the new use of such property qualifies as meeting one of the national objectives in Volume 24 of the Code of Federal Regulations, Section 570.208 (24 CFR, § 570.208), or (2) if the Owner determines, after consultation with affected citizens, that it is appropriate to change the use of the property to a use which does not qualify under 24 CFR, Section 570.208, it may retain or dispose of the property for the changed use if the Sub recipients CDBG program is reimbursed in the amount of the current fair market value of the property, less any portion of the value attributable to expenditures of non-CDBG funds for acquisition of, and improvements to, the property.

a) The Indenture of Restrictive Covenants shall terminate in the year designated in the Restrictive Covenant according to the terms stated in paragraph E above, based on the dollar amount of the funds granted, after the first day of the Compliance Period (such period being herein referred to as the "Compliance Period" or the "Extended Use Period"):

b) Notwithstanding paragraph "a" above, the Compliance period for any building that is part of the Project shall terminate on the date the Project is acquired by foreclosure or transferred by a deed or other instrument in lieu of foreclosure unless the Secretary of the Treasury determines that such acquisition is part of an arrangement with Sub recipient a purpose of which is to terminate such Compliance Period.

4. In all cases in which equipment acquired, in whole or in part, with funds under this Agreement is sold, the proceeds shall be program income (prorated to reflect the extent that funds received under this Agreement were used to acquire the equipment). Equipment not needed by the Sub recipient for activities under this Agreement shall be:

- a. Transferred to the City/Grantee for the CDBG program, or
- b. Retained after compensating the City/Grantee (an amount equal to the current fair market value of the equipment less the percentage of non-CDBG funds used to acquire the equipment).

## SECTION IX.

### RELOCATION, REAL PROPERTY ACQUISITION AND ONE-FOR-ONE HOUSING REPLACEMENT

The Sub recipient agrees to comply with:

A. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), and implementing regulations at 49 CFR Part 24 and 24 CFR 570.606(b);

B. The requirements of 24 CFR 570.606(c) governing the Residential Anti-displacement and Relocation Assistance Plan under (42 USC 5304(d)); and  
C. The requirements in 24 CFR 570.606(d) governing optional relocation policies. [The City/Grantee may preempt the optional policies.] The Sub recipient shall provide relocation assistance to displaced persons as defined by 24 CFR 570.606(b) (2) that are displaced as a direct result of acquisition, rehabilitation, demolition or conversion for a CDBG-assisted project. The Sub recipient also agrees to comply with applicable City/Grantee ordinances, resolutions, and policies concerning the displacement of persons from their residences.

## SECTION X.

### ASSURANCES

The Sub recipient hereby agrees to use Community Development Block Grant funds for the purposes authorized by the City/Grantee. The Sub recipient further hereby agrees to comply with the assurances, attached hereto and incorporated herein which are required by the U.S. Department of Housing & Urban Development for all Community Development Block Grant projects. These include Federal Labor Standards requirements.

## SECTION XI.

### PERSONNEL & PARTICIPANT CONDITIONS

#### A. Civil Rights

##### 1. Compliance

The Sub recipient hereby agrees to comply with all applicable state, local and civil rights laws and with Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended, Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974 as amended, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and Executive Order 11246 as amended by Executive Orders 11375, 11478, 12107, and 12086.

##### 2. Nondiscrimination

The Sub recipient hereby agrees to comply with the non-discrimination in employment and contracting opportunities laws, regulations, and executive orders referenced in 24 CFR 570.607, as revised by Executive Order 13279. The applicable non-discrimination provisions in (42 USC 5309 (a)) are still applicable. Sub-recipients shall comply with state and local civil rights laws proscribing housing discrimination based on sexual orientation or gender identity.

##### 3. Land Covenants

This Agreement is subject to the requirements of Title VI of the Civil Rights Act of 1964 (42 USC 2000d et seq.) and 24 CFR 570.601 and 570.602. In regard to the sale, lease or other transfer of land acquired, cleared or improved with assistance provided under this Agreement, the Sub recipient shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease or rental, or in the use or occupancy of such land, or in any improvements erected or to be erected thereon, providing that the City/Grantee and the United States are beneficiaries of and entitled to enforce such covenants. The Sub recipient, in undertaking its obligation to carry out the program assisted hereunder, agrees to take such measures as are necessary to enforce such covenant, and will not itself so discriminate.

#### 4. Section 504

The Sub recipient agrees to comply with all federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), which prohibits discrimination against the individuals with disabilities or handicaps in any federally assisted program. The City/Grantee shall provide the Sub recipient with any guidelines necessary for compliance with that portion of the regulations in force during the term of this Agreement.

### B. Equal Opportunity

#### 1. Approved Plan

The Sub recipient hereby agrees that it shall be committed to carry out pursuant to the City/Grantee's specifications an Affirmative Action Program in keeping with the principles as provided in President's Executive Order 11246 of September 24, 1966. The City/Grantee shall provide Affirmative Action guidelines to the Sub recipient to assist in the formulation of such program. The Sub recipient shall submit a plan for an Affirmative Action Program for approval prior to the award of funds.

#### 2. Women-and Minority-Owners Businesses (W/MBE)

The Sub recipient will use its best efforts to afford small businesses, minority business enterprises, and women's business enterprises the maximum practicable opportunity to participate in the performance of this Agreement. As used in this Agreement, the terms, "small business" means a business that meets the criteria set forth in section 3(a) of the Small Business Act, as amended (15 U.S.C. 632), and "minority and women's business enterprise" means a business at least fifty-one (51%) percent owned and controlled by minority group members or women. The Sub recipient may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

#### 3. Access to Records

The Sub recipient shall furnish and cause each of its own sub recipients or

subcontractors to furnish all information and reports required hereunder and will permit access to its books, records and accounts by the City/Grantee, HUD or its agent, or other authorized federal officials for purposes of investigation to ascertain compliance with the rules, regulations and provisions stated herein.

4. Equal Employment Opportunity and Affirmative Action (EEO/AA) Statement

The Sub recipient will, in all solicitations or advertisements for employees placed by or on behalf of the Sub recipient, state that it is an Equal Opportunity or Affirmative Action employer.

5. Subcontract Provisions

The Sub recipient will include the provisions of paragraphs, XI. A., Civil Rights, and XI. B., Affirmative Action in every subcontract or purchase order, specifically or by reference, so that such provisions will be binding upon each of its own sub recipients or subcontractors.

C. Employment Restrictions

1. Prohibited Activity

The Sub recipient is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities, inherently religious activities, lobbying, political patronage, and nepotism activities.

2. Labor Standards

The Sub recipient hereby agrees to comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act and Related Acts as amended (40 USC 3141 et seq.), the provisions of Contract Work Hours and Safety Standards Act (40 USC 3701 et seq.) and all other applicable federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this Agreement. The Sub recipient agrees to comply with the Copeland Anti-Kick Back Act (18 U.S.C. 874 *et seq.*) and its implementing regulations of the U.S. Department of Labor at 29 CFR Part 5. The Sub recipient shall maintain documentation that demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the City/Grantee for review upon request. The Sub recipient agrees that, except with respect to the rehabilitation or construction of residential property containing less than eight (8) units, all contractors engaged under contracts in excess of \$2,000,000 for construction, renovation or repair work financed in whole or in part with assistance provided under this Agreement, shall comply with federal requirements adopted by the City/Grantee pertaining to such contracts and with the applicable requirements of the regulations of the Department of Labor, under 29CFR Parts 1,3,5 and 7 governing the payment of wages and ratio of apprentices and trainees to journey workers; provided that, if wage rates higher than those required under the regulations are imposed by

state or local law, nothing hereunder is intended to relieve the Sub recipient of its obligation, if any, to require payment of the higher wage. The Sub recipient shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of this paragraph.

3. "Section 3" Clause

a. Compliance

Compliance with the provisions of Section 3 of the HUD Act of 1968, as amended (12 USC 1701u), and as implemented by the regulations set forth in 24 CFR 135, and all applicable rules and orders issued hereunder prior to the execution of this Agreement, shall be a condition of the federal financial assistance provided under this Agreement and binding upon the City/Grantee, the Sub recipient and any of the Sub recipient's sub recipients and subcontractors, their successors and assigns, to those sanctions specified by the Agreement through which federal assistance is provided. The Sub recipient certifies and hereby agrees that no contractual or other disability exists that would prevent compliance with these requirements.

The Sub recipient further agrees to comply with these "Section 3" requirements and to include the following language in all subcontracts executed under this Agreement: "The work to be performed under this Agreement is a project assisted under a program providing direct federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701). Section 3 requires that to the greatest extent feasible opportunities for training and employment be given to low and very low-income residents of the project area, and that contracts for work in connection with the project be awarded to business concerns that provide economic opportunities for low- and very low-income persons residing in the metropolitan area in which the project is located."

The Sub recipient further agrees to ensure that opportunities for training and employment arising in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to low- and very low-income persons residing within the metropolitan area in which the CDBG funded project is located; where feasible, priority should be given to low- and very low-income persons within the service area of the project or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs; and award contracts for work undertaken in connection with a housing rehabilitation (including reduction and abatement of lead based paint hazards), housing construction, or other public construction project to business concerns that provide economic opportunities for low- and very low-income persons residing within the metropolitan area in which the CDBG funded project is located; where feasible, priority should be given to business concerns that provide economic opportunities to low- and very low income residents within the

service area or the neighborhood in which the project is located and to low-and very low-income participants in other HUD programs. The Sub recipient certifies and agrees that no contractual or other legal incapacity exists that would prevent compliance with these requirements.

b. Subcontracts

The Sub recipient will include this Section 3 clause in every subcontract and will take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the grantor agency. The Sub recipient will not subcontract with any entity where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Part 135 and will not let any subcontract unless the entity has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

D. Conduct

1. Assignability

This Agreement shall not be assigned or transferred by the Sub recipient without the prior written consent of the City/Grantee; provided however, that claims for money due or to become due to the Sub recipient from the City/Grantee under this contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be promptly furnished in writing to the City/Grantee.

2. Subcontracts

a. Approvals

The Sub recipient shall not enter into any subcontracts with any agency or individual in the performance of this Agreement without the prior written consent of the City/Grantee prior to the execution of the agreement.

b. Monitoring

The Sub recipient will monitor all subcontracted services on a regular basis to assure contract compliance. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of noncompliance.

c. Content

The Sub recipient shall cause all of the provisions of this Agreement in its entirety to be included in and made a part of any subcontract executed in the performance of this Agreement.

d. Selection Process

The Sub recipient shall undertake to insure that all subcontracts let in the performance of this Agreement shall be awarded on a fair and open

competition basis in accordance with applicable procurement requirements. Executed copies of all subcontracts shall be forwarded to the City/Grantee along with documentation concerning the selection process.

### 3. Hatch Act

The Sub recipient hereby agrees that no funds provided, nor personnel employed under this Agreement, shall in any way or to any extent engage in the conduct of political activities in violation of Chapter 15 of Title V of the U.S.C.

### 4. Conflict of Interest

The Sub recipient hereby agrees to abide by the provisions of 2 CFR 200, as now in effect and as may be amended from time to time and 24 CFR 570.611, which include (but are not limited to) the following:

- a. The Sub recipient shall maintain a written code or standards of conduct that shall govern the performance of its officers, employees or agents engaged in the award and administration of contracts supported by federal funds;
- b. No employee, officer or agent of the Sub recipient shall participate in the selection, or in the award, or administration of, a contract supported by federal funds if a conflict of interest, real or apparent, would be involved;
- c. No covered persons who exercise or have exercised any functions or responsibilities with respect to CDBG-assisted activities, or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest in any contract, or have a financial interest in any contract, subcontract, or agreement with respect to the CDBG-assisted activity, or with respect to the proceeds from the CDBG-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for a period of one (1) year thereafter. For purposes of this paragraph, a "covered person" includes but is not limited to any person who is an employee, agent, consultant, officer, or elected or appointed official of the City/Grantee, the Sub recipient, or any designated public agency; and
- d. The Sub recipient covenants that neither it nor any member of its Board of Directors, officers, or employees presently have any interest in any project to be financed under the Scope of Service, and shall not acquire any interest therein which would conflict with the performance of the Scope of Service required under this Agreement or applicable statute, rule or regulation. Such a conflict would arise when: the employee, officer or agent; any member of their immediate family; their partner; or an organization which employs, or is about to employ, any of the above, has



a financial or other interest in the firm/household selected for award. The Sub recipients officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to sub-agreements during office tenure or for one year after the closeout of the grant. This stipulation must be included in all other contracts and subcontracts to this grant.

#### 5. Lobbying

The Sub recipient certifies, to the best of its knowledge and belief, that:

a. No federal appropriated funds have been paid or will be paid, by or on behalf of the Sub recipient, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, or the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan or cooperative agreement.

b. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

c. The Sub recipient shall require that the language of paragraph (d) of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and co-operative agreements) and that all Sub recipients shall certify and disclose accordingly.

d. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S.C. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

#### 6. Copyright

If this Agreement results in any copyrightable material or inventions, the Grantee and/or City/Grantee reserves the right to a royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize

others to use, the work or materials for governmental purposes.

#### 7. Religious Activities

The Sub recipient hereby agrees that funds provided under this Agreement will not be utilized for inherently religious activities prohibited by 24 CFR 570.200(j), such as worship, religious instruction, or proselytization.

### SECTION XII.

#### ENVIRONMENTAL CONDITIONS

##### A. Air and Water

The Sub recipient hereby agrees to comply with the following requirements insofar as they apply to the performance of this Agreement:

1. Clean Air Act, 42 U.S.C., 7401, *et seq.*;
2. Federal Water Pollution Control Act, as amended, 33 U.S.C., 1251, *et seq.*, as amended, 1318 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 308, and all regulations and guidelines issued thereunder; and
3. Environmental Protection Agency (EPA) regulations pursuant to 40 CFR Part 50, as amended.

##### B. Flood Disaster Protection

In accordance with the requirements of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001), the Sub recipient shall assure that the activities located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation).

##### C. Lead-Based Paint

The Sub recipient agrees that any construction or rehabilitation of residential structures with assistance provided under this Agreement shall be subject to HUD Lead-Based Paint Regulations at 24 CFR 570.608, and 24 CFR 35.100 *et seq.* Such regulations pertain to all CDBG-assisted housing and require that all owners, prospective owners, and tenants of properties constructed prior to 1978 be properly notified that such properties may include lead-based paint. Such notification shall point out the hazards of lead-based paint and explain the symptoms, treatment and precautions that should be taken when dealing with lead-based paint poisoning and the advisability and availability of blood lead level screening for children under seven. The notice should also point out that if lead-based paint is found on the property, abatement measures may be undertaken. The regulations further require that, depending on the amount of federal funds applied to a property, paint testing,

risk assessment, treatment and/or abatement may be conducted.

#### D. Historic Preservation

The Sub recipient agrees to comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470) and the procedures set forth in 36 CFR Part 800, Advisory Council on Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the performance of this Agreement. In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty years old or older or that are included on a federal, state, or local historic property list.

### SECTION XII.

#### SEVERABILITY

If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby and all other parts of this Agreement shall nevertheless be in full force and effect.

### SECTION XIV.

#### SECTION HEADINGS AND SUBHEADINGS

The section headings and subheadings contained in this Agreement are included for convenience only and shall not limit or otherwise affect the terms of this Agreement.

### SECTION XV.

#### WAIVER

The City/Grantee's failure to act with respect to a breach by the Sub recipient shall not result in a waiver of its right to act with respect to subsequent or similar breaches. The failure of the City/Grantee to exercise or enforce any right or provision shall not constitute a waiver of such right or provision.

### SECTION XVI.

#### ENTIRE AGREEMENT

The provisions set forth in Sections I-XVI, and all attachments of this Agreement constitute, the entire agreement between the parties hereto and no statement, promise, conditions, understanding, inducement or representation, oral or written, express or implied, which is not contained herein shall not be binding or valid.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date of the most recent signatory.

Grantee: City of Grand Island, Nebraska

Date \_\_\_\_\_ By \_\_\_\_\_

Roger G. Steele,  
Mayor, City of Grand Island

Attest:

\_\_\_\_\_  
CITY CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

\_\_\_\_\_  
Stacy R. Nonhof, Assistant City Attorney

Sub-Recipient: Young Women's Christian Association of Grand Island

Date \_\_\_\_\_ By \_\_\_\_\_  
Amy Bennett, Executive Director

Date \_\_\_\_\_ By \_\_\_\_\_  
Board President

RESOLUTION 2021-167

WHEREAS, the City of Grand Island, Nebraska was awarded a \$427,392 as part of the United States Department of Housing and Urban Development's Community Development Block Grant (CDBG) Program; and

WHEREAS, City Council approved the 2020-2021 Annual Action Plan which included The Young Women's Christian Association of Grand Island as an approved program to utilize CDBG Funds; and

WHEREAS, the City must enter into a Sub-Recipient Agreement with each organization identified in the 2020-2021 Annual Action Plan; and

WHEREAS, The Young Women's Christian Association of Grand Island was awarded \$25,000 to implement the Empowerment Program.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the City of Grand Island, Nebraska is hereby authorized to enter into a Sub-Recipient Agreement with The Young Women's Christian Association of Grand Island and the Mayor is hereby authorized and directed to execute such contracts.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, July 13, 2021.

\_\_\_\_\_  
Roger G. Steele, Mayor

Attest:

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

Approved as to Form	☐ _____
July 9, 2021	☐ City Attorney



# City of Grand Island

Tuesday, July 13, 2021

Council Session

## Item G-15

### **#2021-168 - Approving Authorized Signatures for Police and Fire Pension Plans**

Staff Contact: Patrick Brown

# **Council Agenda Memo**

**From:** Patrick Brown, Finance Director

**Meeting:** July 13, 2021

**Subject:** Approving Authorization for the Finance Director and Assistant Finance Director to be the City's Representatives for the D.A. Davidson Fire and Police Pension Reserve Fund – Fund 825

**Presenter(s):** Patrick Brown, Finance Director

## **Background**

By resolution adopted August 15, 2013, the City Council of the City of Grand Island established Fund Account 825 - Fire and Police Pension Reserve Fund and subsequently transferred all funds held in Account 805 – Police Pension Reserve Fund, Account 810 – Fire Pension Reserve Fund, and Account 800 – Fire and Police Pension Reserve Fund into Fund Account 825 – Fire and Police Pension Reserve Fund. The 825 Funds are invested with D.A. Davidson & Co., a Montana Corporation authorized to do business in the State of Nebraska.

## **Discussion**

Due to changes in City officials and employees, the City is required to designate such officers and/or employees who are authorized to act on behalf of the City with respect to Account 825 - Fire and Police Pension Reserve Fund invested with D.A. Davidson & Co., designated as Account #4276-2427, Branch #1802.

## **Alternatives**

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

1. Move to approve the Resolution as presented.
2. Postpone the issue to future meeting.
3. Take no action.

### **Recommendation**

City Administration recommends Council approve authorization for the Finance Director and Assistant Finance Director to be the City's representatives for the D.A. Davidson Fire and Police Pension Reserve Fund – Fund 825.

### **Sample Motion**

Move to approve the authorization for the Finance Director and Assistant Finance Director to be the City's representatives for the D.A. Davidson & Co. - Fire and Police Pension Reserve Fund – Fund 825.



## RESOLUTION 2021-168

WHEREAS, by resolution adopted July 13, 2021, the City Council of the City of Grand Island established Fund Account 825 - Fire and Police Pension Reserve Fund and transferred to said account all funds held in Account 805 – Police Pension Reserve Fund, Account 810 – Fire Pension Reserve Fund, and Account 800 – Fire and Police Pension Reserve Fund; and

WHEREAS, pursuant to the authority of Neb.Rev.Stat. §§ 16-1016 and 16-1036, police pension funds and firefighter pension funds of a city of the first class may be invested with investment managers registered under the federal Investment Advisers Act of 1940, to invest, reinvest, and otherwise manage such portion of the assets of the retirement system as may be assigned by the city or retirement committee and shall be invested pursuant to policies adopted by the Nebraska Investment Council; and

WHEREAS, funds in Account 825 – Fire and Police Pension Reserve Fund are invested with D.A. Davidson & Co., a Montana Corporation authorized to do business in the State of Nebraska; and

WHEREAS, D.A. Davidson & Co. is registered under the federal Investment Advisers Act of 1940, as amended; and

WHEREAS, due to changes in City officials and employees, City is required to designate such officers and/or employees who are authorized to act on behalf of the City with respect to Account 825 - Fire and Police Pension Reserve Fund invested with D.A. Davidson & Co., designated as Account #4276-2427, Branch #1802.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, as follows:

1. Funds of the City of Grand Island held or designated in Account 825 – Fire and Police Pension Reserve Fund, as now owned or hereafter acquired by the City of Grand Island in its own right or in a fiduciary capacity, shall be invested with D.A. Davidson & Co. and shall be invested pursuant to policies adopted by the Nebraska Investment Council.
2. City Finance Director Patrick J. Brown and Assistant City Finance Director Brian Schultz, and each of them, be, and hereby are, authorized and empowered, solely with respect to City of Grand Island Account 825 – Fire and Police Pension Reserve Fund, to enter orders for the purchases of securities, stocks and bonds as such are authorized pursuant to policies of the Nebraska Investment Council and as now owned or hereafter acquired, and to enter orders for the sales, assignments, and transfers of such securities, stocks and bonds, and said individuals, and each of them, is authorized and empowered to give instructions in every respect concerning said account with D.A. Davidson & Co., and said D.A. Davidson & Co. is authorized and empowered to make payment of monies to the City of Grand Island or on its account as they and each of them may order and direct, and they and each of them is authorized and empowered to execute any and all

Approved as to Form July 9, 2021	<input checked="" type="checkbox"/> City Attorney
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agreements with said D.A. Davidson & Co. on behalf of the City of Grand Island in connection with said account in order to conform with the rules and regulations of D.A. Davidson & Co. concerning any of the aforesaid transactions, and in all matters and things before mentioned said officer and individual, and each of them alone, is authorized to act for the City of Grand Island and on its behalf.

3. The authority vested above will be a continuing one and will remain in full force and effect until D.A. Davidson & Co. shall receive from the City of Grand Island a written notice of the revocation of such authority; and the persons named (and their successors) shall be presumed to be continuously the holders of such offices and authority until D.A. Davidson & Co. receives from the City of Grand Island a written notice of the designation of their successors, properly certified by the City Clerk.
4. The City Clerk be, and hereby is authorized to certify to D.A. Davidson & Co. the foregoing resolution.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, July 13, 2021.

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Roger G Steele, Mayor

Attest:

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RaNae Edwards, City Clerk



# City of Grand Island

Tuesday, July 13, 2021

Council Session

## Item G-16

**#2021-169 - Approving Contract with US Cellular for Cellular Services**

Staff Contact: Patrick Brown

# **Council Agenda Memo**

**From:** Patrick Brown, Finance Director

**Meeting:** July 13, 2021

**Subject:** Approving Contract with US Cellular for Cellular Services

**Presenter(s):** Patrick Brown, Finance Director

## **Background**

City cell phones and other devices have been on a state contract with Verizon since 2015.

## **Discussion**

A request for purchase for cellular services was sent out in April of 2021. The City received back three bids. Please see below.

<b>Bidder</b>	<b>Monthly Cost</b>
AT&T	\$5,792.25
Verizon	\$5,758.56
US Cellular	\$4,193.64

The City will realize a savings of approximately \$37,558.08 by going with US Cellular during the two year contract.

## **Alternatives**

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

1. Consent to the US Cellular contract.
2. Postpone the issue to a future meeting.
3. Take no action.

## **Recommendation**

City Administration recommends Council consent to approving a two year contract with US Cellular for cellular services.

## **Sample Motion**

Move to approve a two year contract with US Cellular for cellular services.



Stacy Nonhof, Purchasing Agent

*Working Together for a  
Better Tomorrow, Today*

**REQUEST FOR PROPOSAL  
FOR  
CELLULAR SERVICES AND EQUIPMENT**

**RFP DUE DATE:** May 18, 2021 at 4:15 p.m.

**DEPARTMENT:** Finance

**PUBLICATION DATE:** April 24, 2021

**NO. POTENTIAL BIDDERS:** 2

**PROPOSALS RECEIVED**

**AT & T**  
Sioux Falls, SD

**UScellular**  
Chicago, IL

**Verizon**  
La Vista, NE

cc: Patrick Brown, Finance Director  
Jerry Janulewicz, City Administrator

Brian Schultz, Deputy Finance Director  
Stacy Nonhof, Purchasing Agent

**P2275**

RESOLUTION 2021-169

WHEREAS, the City of Grand Island invited sealed bids for Cellular Services;  
and

WHEREAS, on May 18, 2021, bids were received, opened and reviewed; and

WHEREAS, US Cellular submitted a bid in accordance with the terms of the advertisement of bids and specifications and all other requirements contained therein, such bid being in the amount of \$4,193.64 monthly; and

WHEREAS, the cost for cellular services is included in the annual operating budget and within the annual budget for services of this type.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the bid of US Cellular in the amount of \$4,193.64 monthly for 24 months, is hereby approved as the lowest responsible bid.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, July 13, 2021.

\_\_\_\_\_  
Roger G Steele, Mayor

Attest:

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

Approved as to Form	▣ _____
July 9, 2021	▣ City Attorney



# City of Grand Island

Tuesday, July 13, 2021

Council Session

## Item J-1

### **Approving Payment of Claims for the Period of June 23, 2021 through July 13, 2021**

*The Claims for the period of June 23, 2021 through July 13, 2021 for a total amount of \$15,492,780.24.  
A MOTION is in order.*

Staff Contact: Patrick Brown