



# City of Grand Island

Tuesday, April 22, 2014

Council Session

## Item G-7

**#2014-86 - Approving Temporary Construction Occupancy Agreement - the 1st 1/4 Mile West of St. Paul Road on the South Side of Airport Road - Bredthauer**

Staff Contact: Tim Luchsinger, Stacy Nonhof

# Council Agenda Memo

**From:** Tim Luchsinger, Utilities Director

**Meeting:** April 22, 2014

**Subject:** Agreement for Temporary Construction Occupancy – the first ¼ mile west of St. Paul Road on the south side of Airport Road - Bredthauer

**Item #'s:** G-7

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

## Background

Nebraska State Law requires that acquisition of property must be approved by City Council. An Agreement for Temporary Construction Occupancy is needed relative to the property of Oscar and Rose Ann Bredthauer, 50 feet wide, south of the permanent easement that is located at the first ¼ mile west of St. Paul Road, on the south side of Airport Road.

## Discussion

Water Main District 466T has been designed to construct a 16" water main along the south side of Airport Road. An Agreement for Temporary Construction Occupancy is needed for:

- 1) Temporary construction use and rights to the above described real estate \$2,960.00
- 2) Abandonment of the existing well and installation of a new well - \$17,373.55
- 3) Re-leveling, re-grading and filling any settling after restoration has occurred - \$3,000.00
- 4) Electrical - \$1,200.00

The property owners have agreed to the Agreement for Temporary Construction Occupancy in the amount of \$24,533.55, the total cost of 1-4 listed above.

## 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 Agreement for Temporary Construction Occupancy in the amount of Twenty Four Thousand Five Hundred Thirty Three Dollars and Fifty Five cents (\$24,533.55).

## **Sample Motion**

Move to approve the Temporary Construction Occupancy Agreement.

## AGREEMENT FOR TEMPORARY CONSTRUCTION OCCUPANCY

Agreement made and entered into by and between the City of Grand Island, a municipal corporation of the State of Nebraska, herein referred to as "City", and OSCAR E. BREDTHAUER JR. and ROSE ANN BREDTHAUER, Husband and Wife, herein referred to as "Owner", whether one or more.

### Recitals

WHEREAS, the City intends to construct WATER MAIN DISTRICT 466T, on or adjacent to property owned by Owner; and

WHEREAS, it may be necessary for the City, its officers, agents, employees, contractors, subcontractors, and authorized representatives to enter upon, travel over, excavate, clear, backfill, store materials upon, and otherwise use the lands herein described which are owned by Owner during the afore mentioned construction project.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained within this agreement, the parties agree as follows:

### Section One Right of Entry

Owner hereby grants to the City, its officers, agents, employees, contractors, subcontractors, and authorized representatives the right to enter upon the following described real estate:

The southerly fifty (50.0) feet of the northerly one hundred ten (110.0) feet of the Northeast Quarter of the Northwest Quarter of the Northeast Quarter (NE1/4, NW1/4, NE1/4), and the southerly fifty (50.0) feet of the northerly one hundred ten (110.0) feet of the Northeast Quarter of the Northeast Quarter (NE1/4, NE1/4), all of Section Four (4), Township Eleven (11) North, Range Nine (9) West, in Hall County, Nebraska, except the easterly thirty three (33.0) feet dedicated as St. Paul Road right-of-way, said described real estate containing a total of 2.22 acres more or less.

to do such work as may be necessary or appropriate for the construction of WATER MAIN DISTRICT 466T and related facilities on or adjacent to such property. Such right of entry shall include, but not be limited to the right to enter upon, travel over, excavate, clear fences, drives, trees, bushes, and other improvements, backfill, store materials upon, and otherwise use the above described premises.

### Section Two Term of Agreement

The premises may be occupied and used by the City for the purposes related hereto during the period beginning upon execution of this agreement and continuing until the construction work for WATER MAIN DISTRICT 466T and related facilities has been completed.

Section Three  
**Restoration**

The City agrees to: (a) restoration of the property as reasonably practical to its grade and condition prior to construction and prior to the termination of the Agreement; (b) salvaging topsoil from areas requiring excavations and replace the topsoil after construction, (c) remove and replace driveways in conflict with the project as per the standard specifications for the City of Grand Island.

Section Four  
**Compensation**

The compensation for the temporary construction occupancy shall be Twenty Four Thousand Five Hundred Thirty-three and Fifty Five Cents (\$24,533.55). Such compensation includes:

- \$ 2,960.00 – Temporary construction use and rights to previously described real estate.
- \$17,373.55 – Abandonment of existing well and installation of new well.
- \$ 3,000.00 – Re-leveling, regarding and filling any settling after restoration has occurred.
- \$ 1,200.00 - Electrical

Section Five  
**Assignment**

It is understood that the rights of the Owner do not automatically transfer upon sale or lease of the real estate. The City agrees to permit assignment of the rights and obligations of the Owner to a sub-sequential buyer or tenant, provided the Owner obtains the City's prior written consent, which the City shall not unreasonably withhold.

Dated \_\_\_\_\_, 201~~3~~4

**CITY OF GRAND ISLAND, NEBRASKA**  
a Municipal Corporation

By \_\_\_\_\_

Title \_\_\_\_\_

Owner:

By Oscar E. Bredthauer  
Oscar E. Bredthauer, husband

Owner:

Rose Ann Bredthauer  
Rose Ann Bredthauer, wife

WATER MAIN DISTRICT  
CITY OF GRAND ISLAND

Tr. 2-Bredthauer, Jr., Oscar E. and Rose Ann

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

On the above date, before me a General Notary Public duly  
commissioned and qualified, personally came

\_\_\_\_\_  
\_\_\_\_\_

to me known to be the identical person \_\_\_\_\_

whose name \_\_\_\_\_ affixed to the

foregoing instrument as grantor \_\_\_\_\_

and acknowledged the same to be a voluntary act and deed.

WITNESS my hand and Notarial Seal the day and year above written.

Notary \_\_\_\_\_

STATE OF \_\_\_\_\_

\_\_\_\_\_ County

SEAL

Dated this 3 day of April, 2014

On the above date, before me a General Notary Public duly  
commissioned and qualified, personally came

OSCAR JR & ROSE ANN BREDTHAUER

\_\_\_\_\_

to me know to be the identical person S

whose name S affixed to the

foregoing instrument as grantor S

and acknowledged the same to be a voluntary act and deed.

WITNESS my hand and Notarial Seal the day and year above written.

Notary Steven Shaw

STATE OF Nebraska  
Hall

SEAL



Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

On the above date, before me a General Notary Public duly  
commissioned and qualified, personally came

\_\_\_\_\_  
\_\_\_\_\_

to me know to be the identical person \_\_\_\_\_

whose name \_\_\_\_\_ affixed to the

foregoing instrument as grantor \_\_\_\_\_

and acknowledged the same to be a voluntary act and deed.

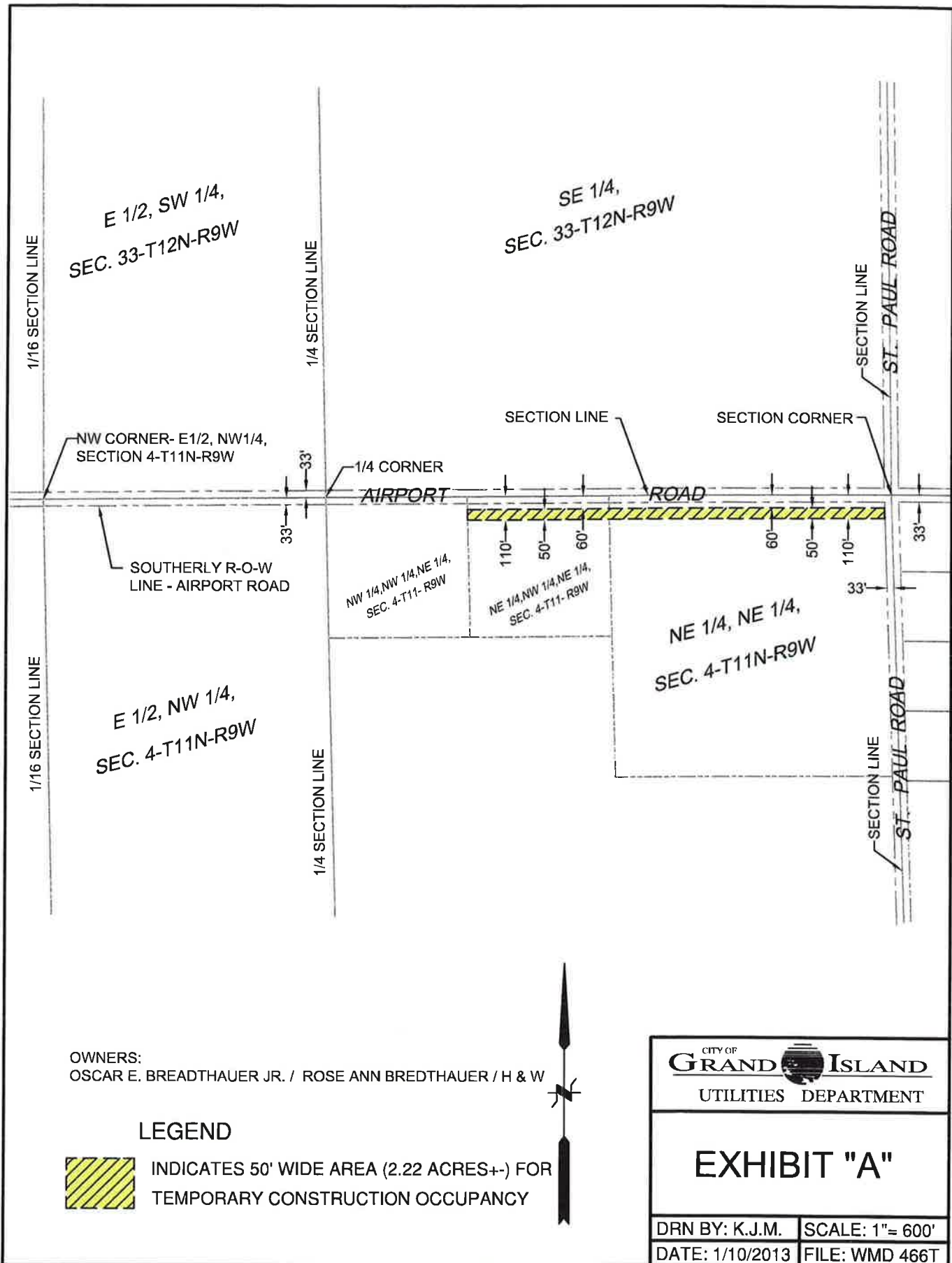
WITNESS my hand and Notarial Seal the day and year above written.

\_\_\_\_\_  
Notary

STATE OF \_\_\_\_\_

\_\_\_\_\_ County

SEAL



RESOLUTION 2014-86

WHEREAS, an Agreement for Temporary Construction Occupancy is required by the City of Grand Island from Oscar E. and Rose Ann Bredthauer, to enter upon, travel over, excavate, clear fences, drives, trees, bushes, and other improvements, backfill, store materials upon, and otherwise use the below described premises; and

WHEREAS, a public hearing was held on April 22, 2014, for the purpose of discussing the proposed 50 foot Temporary Construction Occupancy Agreement located in Hall County, Nebraska; and more particularly described as follows:

The southerly fifty (50.0) feet of the northerly one hundred ten (110.0) feet of the Northeast Quarter of the Northwest Quarter of the Northeast Quarter (NE1/4, NW1/4, NE1/4), and the southerly fifty (50.0) feet of the northerly one hundred ten (110.0) feet of the Northeast Quarter of the Northeast Quarter (NE1/4, NE1/4), all of Section Four (4), Township Eleven (11) North, Range Nine (9) West, in Hall County, Nebraska, except the easterly thirty three (33.0) feet dedicated as St. Paul Road right-of-way, said described real estate containing a total of 2.22 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 an Agreement for Temporary Construction Occupancy from Oscar E. and Rose Ann Bredthauer, in the amount of \$24,533.55, on the above described tract of land, and the Mayor is hereby authorized to sign the Agreement on behalf of the City of Grand Island.

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Adopted by the City Council of the City of Grand Island, Nebraska April 22, 2014.

\_\_\_\_\_  
Jay Vavricek, Mayor

Attest:

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

Approved as to Form	☐ _____
April 18, 2014	☐ City Attorney