



City of Grand Island

Tuesday, May 13, 2014

Council Session

Item G-8

#2014-105 - Approving Temporary Construction Occupancy Agreement - East of the UPRR Tracks and South of Airport Road - Darling National LLC

Staff Contact: Tim Luchsinger, Utilities Director

Council Agenda Memo

From: Tim Luchsinger, Utilities Director

Meeting: May 13, 2014

Subject: Agreement for Temporary Construction Occupancy – East of the Union Pacific Railroad Tracks and just South of Airport Road – Darling National LLC

Item #'s: G-8

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 Darling National, LLC, fifty (50.0) feet wide, south of the permanent easement on the east side of the Union Pacific Railroad, on the south side of Airport Road.

Discussion

Water Main District 466T has been designed to construct a 16-inch diameter water main along the south side of Airport Road. An Agreement for Temporary Construction Occupancy will be used by the City for the purposes related to the construction work for the Water Main District along the south side of Airport Road.

The property owners have agreed to the Agreement for Temporary Construction Occupancy in the amount of One Thousand Three Hundred Ten and No/100 Dollars (\$1,310.00).

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 One Thousand Three Hundred Ten and No/100 Dollars (\$1,310.00).

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 **DARLING NATIONAL LLC.**, a Delaware limited liability company f/n/a **NATIONAL BY-PRODUCTS, INC.**, herein referred to as "Owner", whether one or more.

Recitals

WHEREAS, the City intends to construct **WATER MAIN DISTRICT 467T**, 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 ~~twenty~~ fifty (50.0) feet of the northerly one hundred ten (110.0) feet of the westerly three hundred twenty six and one tenth (326.1) feet of Lot One (1), Wilson's Subdivision.

to do such work as may be necessary or appropriate for the construction of **WATER MAIN DISTRICT 467T** 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 467T** and related facilities has been completed.

Section Three Compensation

The compensation for the temporary construction occupancy shall be

One Thousand Three Hundred Ten and No/100 Dollars (\$1,310.00).

**Section Four
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 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 4/16/14, 2014

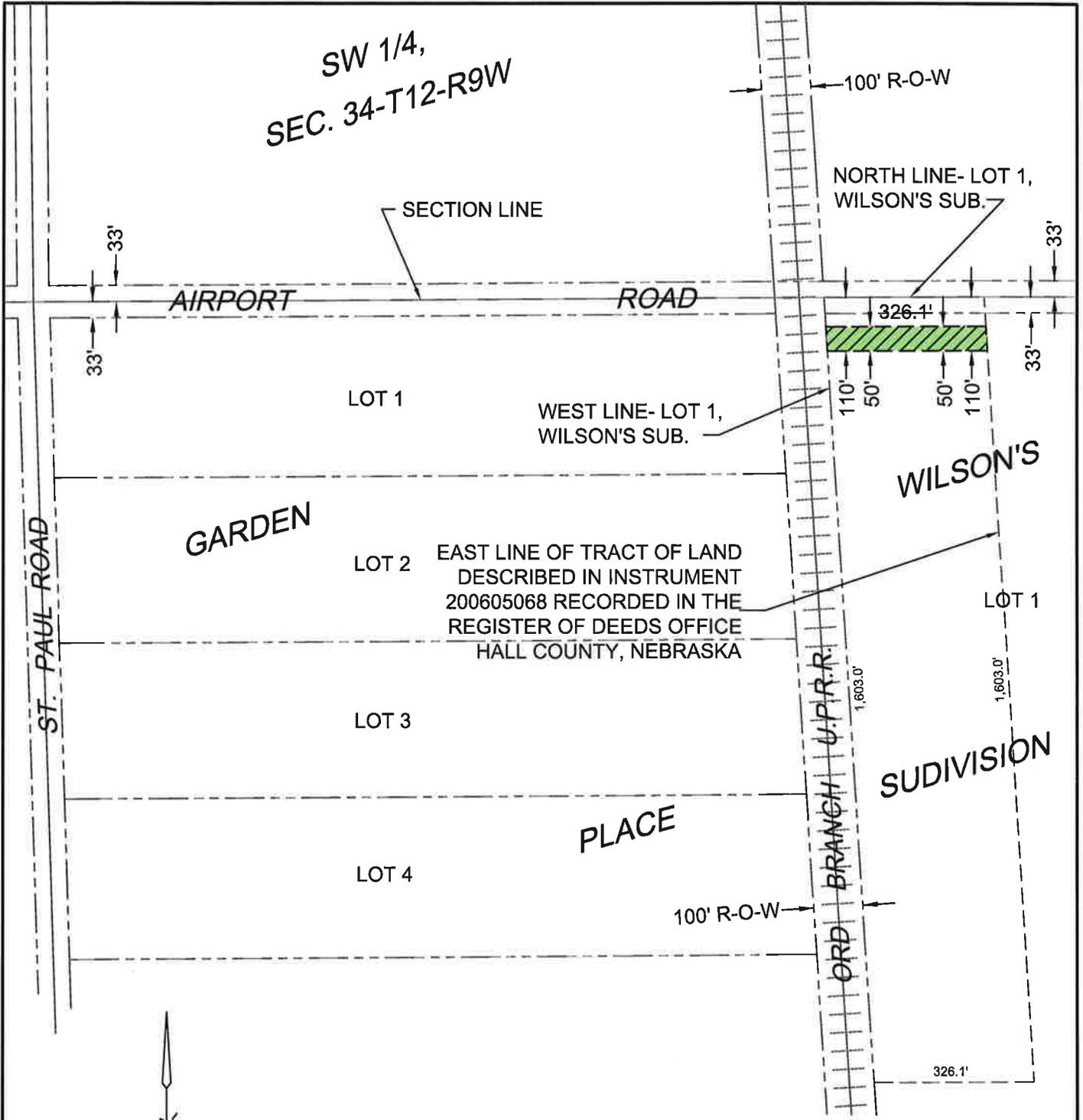
CITY OF GRAND ISLAND, NEBRASKA
a Municipal Corporation of the State of Nebraska

OWNER
DARLING NATIONAL LLC.
a Delaware limited liability company
f/n/a NATIONAL BY-PRODUCTS, INC

By: _____
(Name of signer)

By: 
(Name of signer)

Title: Treasurer



LEGEND



INDICATES 50' WIDE AREA FOR
TEMPORARY CONSTRUCTION OCCUPANCY

CITY OF GRAND ISLAND UTILITIES DEPARTMENT	
<h1>EXHIBIT "A"</h1>	
DRN BY: K.J.M.	SCALE: 1"= 300'
DATE: 1/15/2013	FILE: WMD 466T

RESOLUTION 2014-105

WHEREAS, an Agreement for Temporary Construction Occupancy is required by the City of Grand Island from Darling National LLC, 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 May 13, 2014, for the purpose of discussing the proposed fifty (50.0) 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 westerly three hundred twenty six and one tenth (326.1) feet of Lot One (1), Wilson's Subdivision.

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 Darling National LLC, in the amount of \$1,310.00, 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 May 13, 2014.

Jay Vavricek, Mayor

Attest:

RaNae Edwards, City Clerk

Approved as to Form	☒ _____
May 9, 2014	☒ City Attorney