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# City of Grand Island



**Tuesday, March 22, 2005**

## **Council Session Packet**

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### **City Council:**

**Carole Cornelius**  
**Peg Gilbert**  
**Joyce Haase**  
**Margaret Hornady**  
**Robert Meyer**  
**Mitchell Nickerson**  
**Don Pauly**  
**Jackie Pielstick**  
**Scott Walker**  
**Fred Whitesides**

### **Mayor:**

**Jay Vavricek**

### **City Administrator:**

**Gary Greer**

### **City Clerk:**

**RaNae Edwards**

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

**Call to Order**

**Pledge of Allegiance /Invocation - Pastor Gary Schulte, Evangelical Free Church,  
2609 South Blaine Street**

**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.

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## **MAYOR COMMUNICATION**

This is an opportunity for the Mayor to comment on current events, activities, and issues of interest to the community.



# City of Grand Island

Tuesday, March 22, 2005

Council Session

## Item C1

### **Recognition of Robert Holmes, Computer Programmer, Finance Department for 35 Years of Service with the City**

*The Mayor and City Council will recognize Robert Holmes, Computer Programmer in the Data Processing Division of the Finance Department for his 35 years of service with the City of Grand Island. Mr. Holmes was hired on March 9, 1970 as an Accountant and was promoted on December 1, 1972 to Business Manager. On July 14, 1980 Mr. Holmes moved to Operations Manager of Data Processing and became Director of Data Processing on August 1, 1990, with a title change to Data Processing Manager on February 7, 1994. He then moved to Computer Programmer on October 6, 2003. We congratulate Mr. Holmes for his dedicated service to the City.*

Staff Contact: RaNae Edwards

# Thirty Five Year Service Award

WE HEREBY EXPRESS OUR SINCERE APPRECIATION TO

**ROBERT HOLMES**

For your Loyalty, Diligence, and Outstanding Performance During Your Tenure With

City of  
**GRAND**



**ISLAND**

Department Director

*David Johnson*  
\_\_\_\_\_  
Mayor

Date

*2-25-05*

Date



# City of Grand Island

Tuesday, March 22, 2005

Council Session

## Item C2

### Proclamation "Child Abuse Prevention Month" April 2005

*Because all children deserve love, comfortable homes, and tender care from parents and adults who make them feel safe, happy and loved and because many children were involved in substantiated cases of abuse and neglect in 2004, and because the effects of child abuse are felt by whole communities and need to be addressed by the entire community, the Mayor has proclaimed the month of April, 2005 as "Child Abuse Prevention Month". See attached PROCLAMATION.*

Staff Contact: RaNae Edwards

THE OFFICE OF THE MAYOR  
City of Grand Island  
State of Nebraska

PROCLAMATION

WHEREAS, a total of 1,434 child abuse and neglect cases were investigated and a total of 251 cases were substantiated through the Grand Island Regional Nebraska Health and Human Services System and law enforcement in Hall, Hamilton, Merrick and Howard Counties in 2004; and

WHEREAS, the effects of child abuse are felt by whole communities and must be addressed by the entire community; and

WHEREAS, effective child abuse prevention programs succeed because of partnerships created among social service agencies, schools, religious organizations, law enforcement agencies and the business community; and

WHEREAS, all citizens should become more aware of child abuse and its prevention within the community and become involved in supporting parents to ensure their children are valued, safe and healthy.

NOW, THEREFORE, I, Jay Vavricek, Mayor of Grand Island, Nebraska, do hereby proclaim the month of April, 2005 as

***“Child Abuse Prevention Month”***

in the City of Grand Island and call upon all citizens to accept their responsibility for reporting and preventing child abuse and to wear a Blue Ribbon to show that it shouldn't hurt to be a child. Remembering that, every child should be valued, safe and healthy and deserves a Blue Ribbon.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the City of Grand Island to be affixed this 22nd day of March in the year of our Lord Two Thousand and Five.

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Mayor of Grand Island, Nebraska

Attest:

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RaNae Edwards, City Clerk



# City of Grand Island

Tuesday, March 22, 2005

Council Session

## Item C3

### Proclamation "Community Development Week" March 28-April 3, 2005

*The Community Development Block Grant (CDBG) program provides Nebraskans with safe, affordable and accessible housing and infrastructure; and quality jobs and investment, through financing new and expanding business. The CDBG program was established in 1974 as a part of the Housing and Community Development Act, and in 1981, the Nebraska Department of Economic Development (DED) instituted a CDBG program. In 1986, the National Community Development Association initiated National Community Development Week to remind Congress of the importance of the Community Development Block Grant (CDBG) program. This reminder is no less important today than it was almost 20 years ago.*

*As the CDBG program manager for HUD, the Nebraska Department of Economic Development encourages Nebraska communities to celebrate Community Development Week through a variety of activities to increase public awareness and educate residents about services and facilities provided in each community. In conjunction with other activities throughout the state, the City is proclaiming March 28 – April 3 as Community Development Week in Grand Island.*

*In recognition of the benefit the CDBG program provides to the City of Grand Island, this proclamation represents acknowledgement of the programs value. For example, in 2004 program income reuse funds were used to provide down payment assistance to three (3) first-time, low-income homebuyers. The program income reuse fund is comprised of loan pay-offs from past down payment assistance and owner-occupied rehabilitation loans.*

*These three down payment assistance loans totaled \$29,740. The average loan was \$14,896.67. The taxable value for these three homes totals \$146,642. Current statistics regarding the CDBG program shows that it is an economically proven program in Nebraska, with evidence that \$6.85 is spent privately for every \$1 of CDBG money spent. Grand Island is fortunate to have continued Block Grant investment.*

*The contribution of Community Development programs to the community far exceeds the above figures. The Senior Center expansion and renovation, combined with a maximum of \$25,000 of improvements to ten (10) homes in Grand Island between 2003-2005, will make a significant economic contribution to Grand Island.*

Staff Contact: Joni Kuzma

THE OFFICE OF THE MAYOR  
City of Grand Island  
State of Nebraska

PROCLAMATION

- WHEREAS, Nebraska's communities are the foundation for providing a high quality of life for its residents; and
- WHEREAS, the City of Grand Island has demonstrated a dedication to the economic, social, and cultural growth in this community; and
- WHEREAS, the City of Grand Island has actively supported community development activities, including a first-time homebuyer down payment assistance program; owner-occupied rehabilitation program; public works projects, including the Grand Generation Center expansion and renovation; and acquisition and demolition in Grand Island.

NOW, THEREFORE, I, Jay Vavricek, Mayor of the City of Grand Island, Nebraska, do hereby proclaim the week of March 28 – April 3, 2005 as

***“COMMUNITY DEVELOPMENT WEEK”***

in the City of Grand Island, and encourage all citizens OF Grand Island to support community development activities this week and throughout the year.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the City of Grand Island to be affixed this twenty-second day of March in the year of our Lord Two Thousand and Five.

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

Attest:

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





# City of Grand Island

Tuesday, March 22, 2005

Council Session

## Item E1

**Public Hearing on Acquisition of Utility Easement - 3604 South  
Blaine Street, South of Hwy. 34 - H & J Investments**

Staff Contact: Gary R. Mader

# **Council Agenda Memo**

**From:** Robert H. Smith, Asst. Utilities Director

**Meeting:** March 22, 2005

**Subject:** Acquisition of Utility Easement – H & J Investments –  
South Blaine Street, South of Hwy. 34

**Item #'s:** E-1 & G-5

**Presenter(s):** Gary R. Mader, Utilities Director

## **Background**

Nebraska State Law requires that acquisition of property must be approved by City Council. The Utilities Department needs to acquire an easement relative to the property of H & J Investments, LLC, located along the south line of Meadowlark Estates Subdivision (3604 S. Blaine Street) in the City Of Grand Island, Hall County, in order to have access to install, upgrade, maintain, and repair power appurtenances, including lines and transformers.

## **Discussion**

This easement will be used to place underground cable and a junction box along the south side of Meadowlark Estates. The cable will create a two-way feed for most of the transformers in Meadowlark Estates. The existing electrical cable in this area is nearing the end of its useful life and needs to be replaced prior to total failure. By creating a two-way feed, individual sections of cable can be replaced without causing long outages to all of the customers in the subdivision.

## **Alternatives**

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

1. Approve the acquisition of the easement
2. Disapprove or /Deny the easement
3. Modify the request to meet the wishes of the Council
4. Table the issue

## **Recommendation**

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

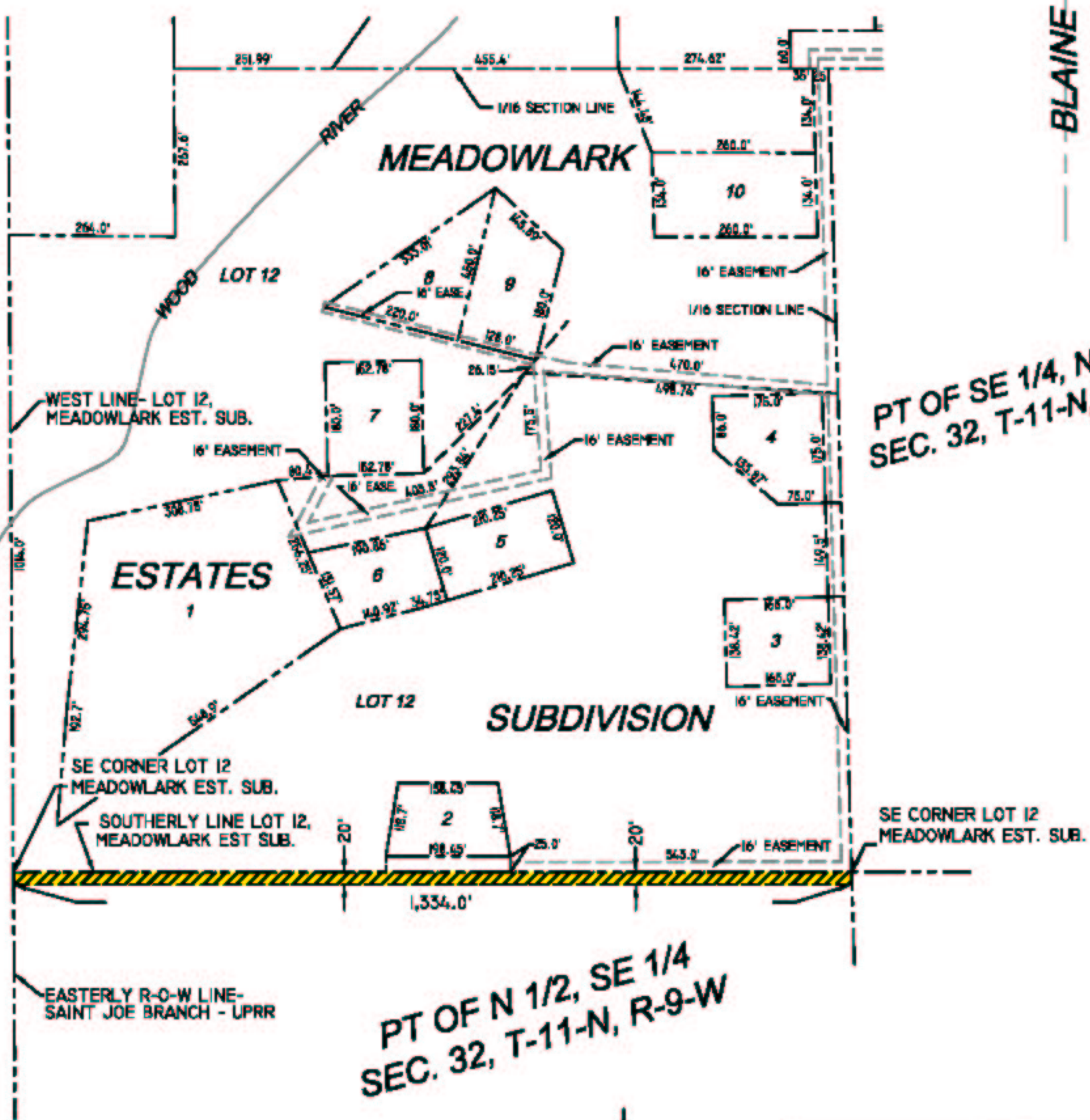
## **Sample Motion**

Approve the acquisition of the Utility Easement.

U.S. HWY 34

BLAINE STREET


U.P.R.R. SPUR LINE



PT OF SE 1/4, NE 1/4, SEC. 32, T-11-N, R-9-W

PT OF N 1/2, SE 1/4 SEC. 32, T-11-N, R-9-W

LEGEND

 INDICATES 20' WIDE UTILITY EASEMENT



CITY OF GRAND ISLAND UTILITIES DEPARTMENT	
<b>EXHIBIT "A"</b>	
DRN BY: K.J.M.	SCALE: 1"= 300'
DATE: 3/2/2005	FILE: 32-11-9



# City of Grand Island

Tuesday, March 22, 2005

Council Session

## Item F1

**#8953 - Consideration of Annexation of Land Proposed for  
Platting as Preisendorf Subdivision Located North of Oklahoma  
Avenue and East of Washington Street (Final Reading)**

Staff Contact: Chad Nabity

# Council Agenda Memo

**From:** Regional Planning Commission  
**Meeting:** March 22, 2005  
**Subject:** Annexation (Final Reading)  
**Item #'s:** F-1  
**Presenter(s):** Chad Nabity AICP, Regional Planning Director

## Background

This application proposes to annex property located in the NW ¼ NE ¼ 21-11-9 into the City of Grand Island. This land is directly adjacent to the current City limit lines, and is proposed for platting as Preisendorf Subdivision.

## Discussion

The owner of this property is proposing to subdivide the property into two lots as an addition to the City of Grand Island. The property is contiguous with the Grand Island Corporate Limits and was part of the county industrial tract. This property may not be annexed by the City as long as it is part of the County Industrial Tract, however the Hall County Board is processing an application to remove this property from that tract. This should be completed prior to council action on this property and must be done prior to final action on the property. City water and sewer are available to the property. The subdivider will extend the water line along the front of the property between Lincoln Street and across the Washington Street Right-Of-Way as part of the subdivision agreement.

## Alternatives

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

1. Approve the annexation as presented
2. Modify the annexation to meet the wishes of the Council
3. Deny the request for annexation
4. Table the issue

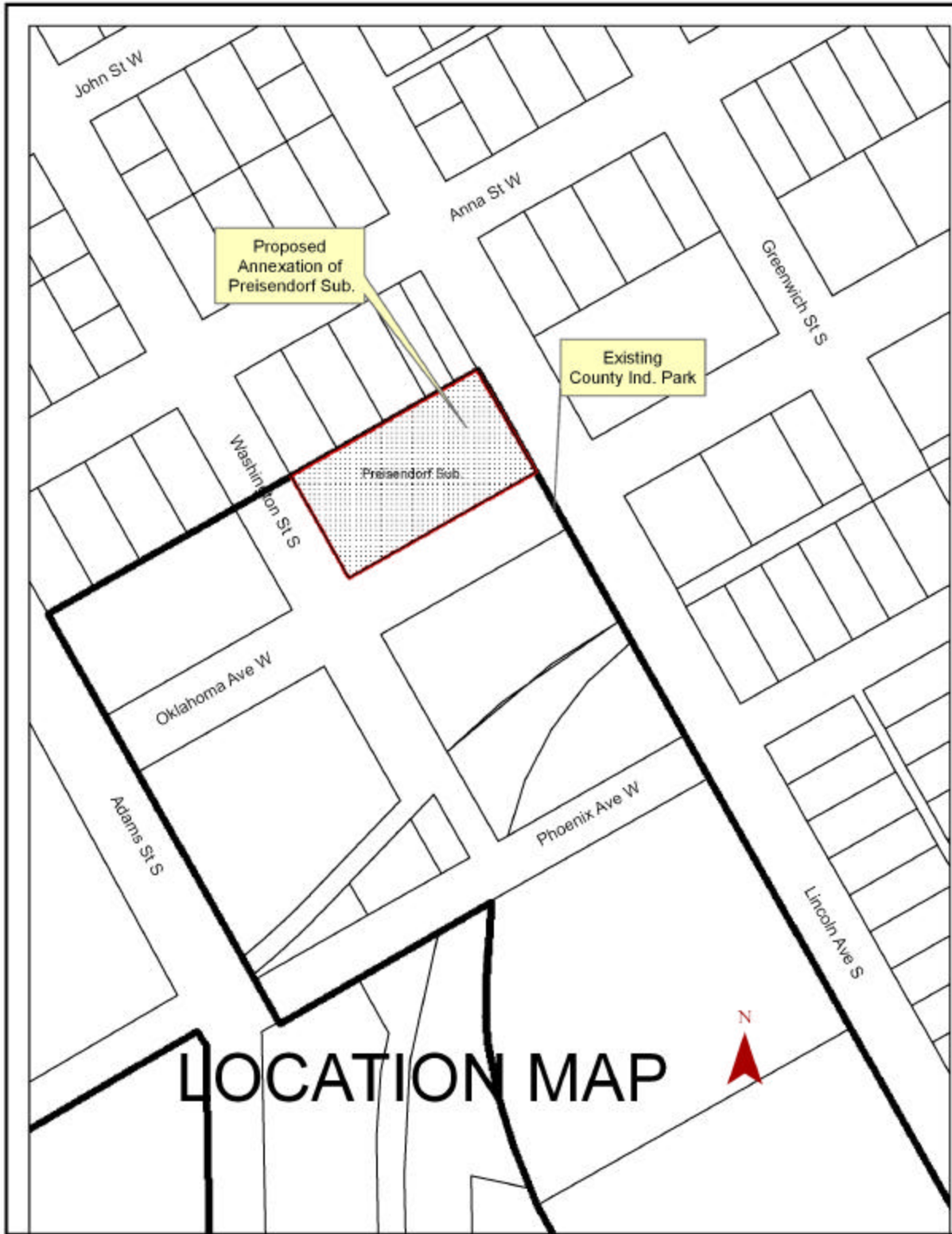
## **Recommendation**

A motion was made by Miller and seconded by Amick to **approve** and recommend that the Grand Island City Council **approve** the annexation of this land into the City of Grand Island.

A roll call vote was taken and the motion passed with 10 members present (Amick, Haskins, Lechner, O'Neill, Brown, Niemann, Miller, Eriksen, Ruge, Monter, Hayes, Wagoner) voting in favor.

## **Sample Motion**

Approve this annexation as presented.





\* This Space Reserved for Register of Deeds \*

ORDINANCE NO. 8953

An ordinance to annex Preisendorf Subdivision into the City of Grand Island; to repeal any ordinance or parts of ordinances in conflict herewith; and to provide for publication and the effective date of this ordinance.

WHEREAS, Preisendorf Plumbing & Heating, Inc., a Nebraska corporation, as owner, has caused to be laid out into lots, a tract of land comprising a part of the Northwest Quarter of the Northeast Quarter (NW1/4, NE1/4) of Section Twenty One (21), Township Eleven (11) North, Range Nine (9) West of the 6<sup>th</sup> P.M. in Hall County, Nebraska, under the name of PREISENDORF SUBDIVISION, which is proposed to be an addition to the City of Grand Island; and

WHEREAS, after public hearing on February 2, 2005, the Regional Planning Commission recommended the approval of annexing such addition into the City of Grand Island; and

WHEREAS, on February 22, 2005, the City Council found and determined that such annexation be approved on first reading; and

Approved as to Form    ☐ \_\_\_\_\_  
March 17, 2005            ☐ City Attorney

ORDINANCE NO. 8953 (Cont.)

WHEREAS, on March 8, 2005, the City Council found and determined that such annexation be approved on second reading; and

WHEREAS, on March 22, 2005, the City Council found and determined that such annexation be approved on third and final reading.

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

SECTION 1. That Preisendorf Subdivision is hereby annexed into the City of Grand Island, and shall be entitled to all the rights and privileges, and shall be subject to all the laws, ordinances, rules, and regulations of the City of Grand Island

SECTION 2. Any ordinances or parts of ordinances in conflict herewith be, and hereby are, repealed.

SECTION 3. 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: March 22, 2005.

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Jay Vavricek, Mayor

Attest:

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RaNae Edwards, City Clerk



# City of Grand Island

Tuesday, March 22, 2005

Council Session

## Item F2

**#8963 - Consideration of Creation of Water Main District 449T -  
North Road and Faidley Avenue**

Staff Contact: Gary R. Mader

# **Council Agenda Memo**

**From:** Gary R. Mader, Utilities Director

**Meeting:** March 22, 2005

**Subject:** Creation of Water Main District 449T – North Road and Faidley Avenue

**Item #'s:** F2

**Presenter(s):** Gary R. Mader, Utilities Director

## **Background**

The west and northwest areas of Grand Island continue to see extensive growth, with resulting increased demand for water service. In accordance with the Water Department's long range master plan, system improvements are scheduled to meet that growth. The '04-'05 budget includes funding to expand the pumping capacity at the west reservoir (at the intersection of Old Potash and North Road) that serves the area. The pumping station expansion project is under contract and construction is underway.

Also included in the '04-'05 Water Department budget is the construction of water trunk lines needed to utilize the additional pumping station capacity. The proposed Water Main District 449T would route water from the pump station, north along North Road and east along the future Faidley Avenue right-of-way. The project will provide increased flows and pressure to existing and developing areas in the west and northwest portions of the City. Please see the attached plat indicating the district's boundary.

## **Discussion**

The trunk line construction is proposed to be done as a Connection District, which has been the department's standard method for completing needed system expansions through undeveloped areas. The connection fees associated with the district would not be collected until the water main is actually "tapped" to provide direct service to an adjacent property when it develops.

The proposed District's construction would provide for the installation of 24" and 12" water mains and appurtenances. Attached are copies of the plat, legal description, and name of the property owner in the District's boundary.

## **Alternatives**

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

1. Move to approve Ordinance 8963 creating Water Main District 449T
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 creation of Water Main District 449T along North Road and east along the future Faidley Avenue right-of-way.

## **Sample Motion**

Motion to approve Ordinance 8963 to create Water Main District 449T.

NW 1/4,  
SEC. 13-T11N-R10W

30' EASEMENT

NORTHEAST CORNER-  
SW1/4, SECTION 13-11-10

NORTHERLY LINE-  
SW1/4, SECTION 13-11-10

16' EASEMENT

2,442.89'

184.0'

OUTFALL DITCH

OUTFALL DITCH

POINT OF BEGINNING  
NORTHWEST CORNER-  
SW1/4, SECTION 13-11-10

60'

60'

213.53'

359.79'

100'

184.0'

SOUTHERLY RIGHT-OF-WAY LINE-  
FAIDLEY AVENUE

FAIDLEY AVENUE

685.53'

742.66'

2,313.25'

100'

EASTERLY LINE-  
SW1/4, SECTION 13-11-10

246.0'

113'

1,102.80'

1,101.48'

WATER MAIN  
DISTRICT 449T  
BOUNDARY

SW 1/4,  
SEC. 13-T11N-R10W

1,609.38'

OUTFALL DITCH

WESTERLY R-O-W LINE-  
NORTH ROAD

WESTERLY LINE-  
SW1/4, SECTION 13-11-10

NORTH

SOUTHERLY LINE-  
SW1/4, SECTION 13-11-10

OLD POTASH HWY

SOUTHWEST CORNER-  
SW1/4, SECTION 13-11-10

433.0'

400'

400'

400'

33'

33'

CITY OF  
**GRAND ISLAND**  
UTILITIES DEPARTMENT

PLAT TO ACCOMPANY  
ORDINANCE NO. 8963

DRN BY: K.J.M.	SCALE: 1" = 400'
DATE: 3/7/2005	FILE: W M 449T

## WATER MAIN DISTRICT 449T BOUNDARY

### ORDINANCE NO. 8963

Beginning at the northwest corner of the Southwest Quarter (SW1/4) Section Thirteen (13), Township Eleven (11) North, Range Ten (10) West of the 6TH PM, Grand Island, Hall County, Nebraska; thence easterly along the northerly line of the said Southwest Quarter (SW 1/4), a distance of two thousand four hundred forty two and eighty nine hundredths (2,442.89) feet to a point one hundred eighty four (184.0) feet west of the northeast corner of the said Southwest Quarter (SW 1/4); thence southerly and parallel with the easterly line of said Southwest Quarter (SW 1/4), a distance of one hundred (100.0) feet; thence westerly on a line that is parallel with and offset southerly one hundred (100.0) feet from the southerly right-of-way line of Faidley Avenue, a distance of two thousand three hundred thirteen and twenty five hundredths (2,313.25) feet, to a point two hundred forty six (246.0) feet easterly of the westerly line of the said Southwest Quarter (SW 1/4); thence southerly and parallel with the westerly line of said Southwest Quarter (SW 1/4), a distance of one thousand six hundred nine and thirty eight (1,609.38) feet, to a point four hundred thirty three (433.0) feet north of the southerly line of the said Southwest Quarter (SW 1/4); thence westerly and parallel with the southerly line of said Southwest Quarter (SW 1/4), a distance of two hundred eighty six (286.0) feet, to a point on the westerly right-of-way line of North Road; thence northerly along the westerly right-of-way line of said North Road, a distance of two thousand two hundred twenty two and three hundredths (2,222.03) feet; thence easterly a distance of forty (40.0) feet to the said Point of Beginning.





? This Space Reserved for Register of Deeds ?

ORDINANCE NO. 8963

An ordinance creating Water Main District No. 449T in the City of Grand Island, Hall County, Nebraska; defining the boundaries of the district; providing for the laying of water mains in said district; approving plans and specifications and securing bids; providing for the connection fee for connecting to such water main; providing for certification to the Register of Deeds; and providing the effective date hereof.

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

SECTION 1. Water Main District No. 449T in the City of Grand Island, Nebraska, is hereby created for the laying of twenty four (24.0) and twelve (12.0) inch water mains with its appurtenances in Faidley Avenue, eastward from North Road in the City of Grand Island, Hall County, Nebraska.

SECTION 2. The boundaries of such water main district shall be more particularly described as follows:

Beginning at the northwest corner of the Southwest Quarter (SW1/4) Section Thirteen (13), Township Eleven (11) North, Range Ten (10) West of the 6TH PM,

Approved as to Form    ☐ \_\_\_\_\_  
March 17, 2005         ☐ City Attorney

ORDINANCE NO. 8963 (Cont.)

Grand Island, Hall County, Nebraska; thence easterly along the northerly line of the said Southwest Quarter (SW 1/4), a distance of two thousand four hundred forty two and eighty nine hundredths (2,442.89) feet to a point one hundred eighty four (184.0) feet west of the northeast corner of the said Southwest Quarter (SW 1/4); thence southerly and parallel with the easterly line of said Southwest Quarter (SW 1/4), a distance of one hundred (100.0) feet; thence westerly on a line that is parallel with and offset southerly one hundred (100.0) feet from the southerly right-of-way line of Faidley Avenue, a distance of two thousand three hundred thirteen and twenty five hundredths (2,313.25) feet, to a point two hundred forty six (246.0) feet easterly of the westerly line of the said Southwest Quarter (SW 1/4); thence southerly and parallel with the westerly line of said Southwest Quarter (SW 1/4), a distance of one thousand six hundred nine and thirty eight (1,609.38) feet, to a point four hundred thirty three (433.0) feet north of the southerly line of the said Southwest Quarter (SW 1/4); thence westerly and parallel with the southerly line of said Southwest Quarter (SW 1/4), a distance of two hundred eighty six (286.0) feet, to a point on the westerly right-of-way line of North Road; thence northerly along the westerly right-of-way line of said North Road, a distance of two thousand two hundred twenty two and three hundredths (2,222.03) feet; thence easterly a distance of forty (40.0) feet to the said Point of Beginning, as shown on the plat dated March 7, 2005, attached hereto and incorporated herein by this reference.

SECTION 3. Said improvement shall be made in accordance with plans and specifications approved by the Engineer for the City, who shall estimate the cost thereof. Bids for the construction of said water main shall be taken and contracts entered into in the manner provided by law.

SECTION 4. The cost of construction of such water main connection district shall be reported to the City Council, and the Council, sitting as a Board of Equalization, shall determine benefits to abutting property by reason of such improvement pursuant to Section 16-6,103, R.R.S. 1943. The special benefits shall not be levied as special assessments but shall be certified by resolution of the City Council to the Hall County Register of Deeds. A connection fee in the amount of the special benefit accruing to each property in the district shall be paid to the City of Grand Island at such time as such property becomes connected to the water main in

ORDINANCE NO. 8963 (Cont.)

such district. No property thus benefited by water main improvements shall be connected to the water main until the connection fee is paid.

SECTION 5. This ordinance shall be in force and take effect from and after its passage, approval, and publication, without the plat, within fifteen days in one issue of the Grand Island Independent.

SECTION 6. This ordinance, with the plat, is hereby directed to be filed in the office of the Register of Deeds of Hall County, Nebraska.

SECTION 7. After passage, approval and publication of this ordinance, notice of the creation of said district shall be published in the Grand Island Independent, without the plat, as provided by law.

Enacted March 22, 2005.

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Jay Vavricek, Mayor

Attest:

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RaNae Edwards, City Clerk



# City of Grand Island

Tuesday, March 22, 2005

Council Session

## Item F3

**#8968 - Consideration of Creation of Sanitary Sewer No. 517;  
Deadwood Subdivision, Near Johnstown Road and Arch Avenue**

Staff Contact: Steven P. Riehle, Public Works Director

# **Council Agenda Memo**

**From:** Steven P. Riehle, Public Works Director

**Meeting:** March 22, 2005

**Subject:** Consideration of Creation of Sanitary Sewer No. 517;  
Deadwood Subdivision

**Item #'s:** F3

**Presenter(s):** Steven P. Riehle, Public Works Director

## **Background**

Council action is needed to create a sanitary sewer district. If created, a notice will be mailed to all effected property owners and a 30-day protest period allowed.

## **Discussion**

A petition was submitted by residents in the area requesting the creation of a sanitary sewer district. Public Works staff has been working on design of this District, and has established a boundary for the District that makes sense for the area. If created, a notice will be mailed to all effected property owners and a 30-day protest period allowed.

## **Alternatives**

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

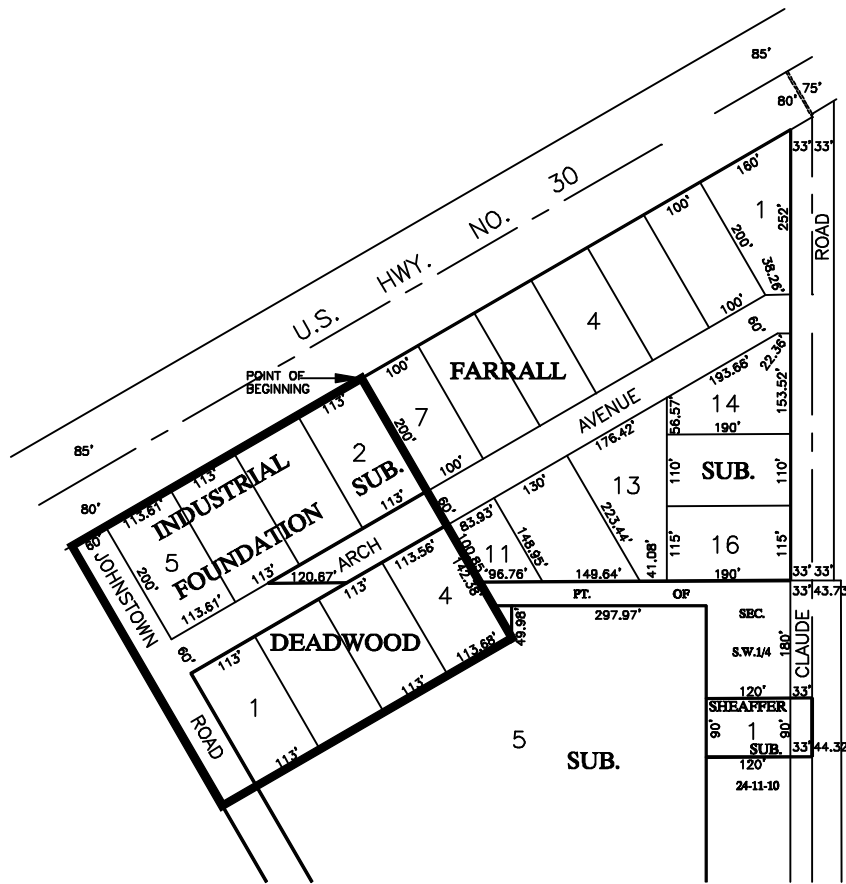
1. Approve the recommendation to create Sanitary Sewer District 517.
2. Refer the issue to a Committee.
3. Postpone the issue to a future date.
4. Take no action on the issue.

## **Recommendation**

City Administration recommends that the Council approve the creation of Sanitary Sewer District 517. A ten (10) year assessment period is recommended.

## **Sample Motion**

Move to approve the creation of Sanitary Sewer District # 517.



SANITARY SEWER DIST. 517

**CITY OF GRAND ISLAND**  
PUBLIC WORKS DEPARTMENT

DATE: 3-4-05  
DRN BY: L.D.C.  
SCALE: 1"=200'

PLAT TO ACCOMPANY  
ORDINANCE NO. 8968

\* This Space Reserved for Register of Deeds \*

ORDINANCE NO. 8968

An ordinance creating Sanitary Sewer District No. 517 of the City of Grand Island, Nebraska; defining the boundaries thereof; providing for the laying of sanitary sewer mains in said district; providing for plans and specifications and securing bids; providing for the assessment of special taxes for constructing such sewer and collection thereof; and providing 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. Sanitary Sewer District No. 517 is hereby created for the construction of a ten (10) inch sanitary sewer main and appurtenances thereto in Industrial Foundation Subdivision and in Deadwood Subdivision in the City of Grand Island, Hall County, Nebraska.

SECTION 2. The boundaries of such sanitary sewer district shall be as follows:

Beginning at the northeast corner of Lot Two (2) Industrial Foundation Subdivision; thence south on the easterly line of Lot Two (2) Industrial Foundation Subdivision and Lot Four (4) Deadwood Subdivision to the south line of Lot Four (4) Deadwood Subdivision; thence southwesterly on the south line of Lots One (1), Two (2), Three (3), and Four (4) Deadwood Subdivision and a

Approved as to Form	☐ _____
March 17, 2005	☐ City Attorney



ORDINANCE NO. 8968 (Cont.)

prolongation thereof to the west line of Johnstown Road; thence northwesterly on the west line of Johnstown Road to the south line of U.S. Highway 30; thence northeasterly on the south line of U.S. Highway 30 also being the north line of Lots Two (2), Three (3), Four (4), and Five (5) Industrial Foundation Subdivision to the point of beginning, all as shown on the plat dated March 4, 2005, attached hereto as Exhibit "A" and incorporated herein by reference.

SECTION 3. Said improvement shall be made in accordance with plans and specifications prepared by the Engineer for the City who shall estimate the cost thereof, and submit the same to the City Council, and thereafter, bids for the construction of such sanitary sewer shall be taken and contracts entered into in the manner provided by law.

SECTION 4. The cost of construction of such sanitary sewer district shall be assessed against the property within the district abutting upon the easement or other right-of-way within which such sanitary sewer main has been constructed, to the extent of benefits to such property by reason of such improvement, and a special tax shall be levied at one time to pay for such cost of construction as soon as can be ascertained as provided by law; and such special tax and assessments shall constitute a sinking fund for the payment of any warrants or bonds with interest, issued for the purpose of paying the cost of such sewer in such district; and such special assessments shall be paid and collected in a fund to be designated and known as the Sewer and Water Extension Fund and out of which all warrants issued for the purpose of paying the cost of sanitary sewer shall be paid.

SECTION 5. This ordinance shall be in force and take effect from and after its passage, approval and publication, without the plat, as provided by law.

SECTION 6. This ordinance, with the plat, is hereby directed to be filed in the office of the Register of Deeds of Hall County, Nebraska.

ORDINANCE NO. 8968 (Cont.)

SECTION 7. After passage, approval and publication of this ordinance, notice of the creation of said district shall be published in the Grand Island Independent, a legal newspaper published and of general circulation in said City, as provided by law.

Enacted: March 22, 2005.

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Jay Vavricek, Mayor

Attest:

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RaNae Edwards, City Clerk



# City of Grand Island

Tuesday, March 22, 2005

Council Session

## Item G1

### **Approving Minutes of March 5, 2005 City Council Special Study Session (Retreat)**

*The Minutes of March 5, 2005 City Council Special Study Session (Retreat) are submitted for approval. See attached MINUTES.*

Staff Contact: RaNae Edwards

## OFFICIAL PROCEEDINGS

### CITY OF GRAND ISLAND, NEBRASKA

#### MINUTES OF CITY COUNCIL SPECIAL STUDY SESSION (RETREAT)

March 5, 2005

Pursuant to due call and notice thereof, a Study Session (Retreat) of the City Council of the City of Grand Island, Nebraska was conducted at Home Federal Bank, 3311 West Stolley Park Road on March 5, 2005. Notice of the meeting was given in the *Grand Island Independent* on February 26, 2005.

Mayor Jay Vavricek called the meeting to order at 8:05 a.m. The following members were present: Councilmembers Meyer, Whitesides, Pielstick, Gilbert, Nickerson, Cornelius, Pauly, Hornady, Walker, and Haase. The following City Officials were present: City Administrator Gary Greer, City Clerk RaNae Edwards, Public Works Director Steve Riehle, City Attorney Doug Walker, Finance Director David Springer, Police Chief Kyle Hetrick, Utilities Director Gary Mader, Human Resources Director Brenda Sutherland, Building Department Director Craig Lewis, Fire Chief Jim Rowell, Library Director Steve Fosselman, Parks & Recreation Director Steve Paustian, and Regional Planning Director Chad Nabity.

#### INTRODUCTION:

Mayor Vavricek commented on last years Council Retreat at Crane Meadows and the number of accomplishments that had happened over the last two years. The Mayor mentioned the new leadership with new councilmember's, Mayor, and City Administrator over the last few years. Changes within the City that have happened over the years had become more effective and efficient. The Mayor introduced Sandy Olson, Professional Registered Parliamentarian.

ROBERTS RULES OF ORDER: Sandy Olson, Professional Registered Parliamentarian presented a map to a successful meeting. Presented were the rights of members, the Order of Business, and the eight steps of handling a motion in a meeting. Discussion and council participation was had with regards to subsidiary and privilege motions.

#### REVIEW OF LAST YEARS GOALS:

City Administrator Gary Greer reviewed the following 2004-2005 Council Goals and their progress:

##### Public Safety:

- Develop a Fire Training Facility – Site and needs recommendation to Council on March 1, 2005
- Replace Fire Station #1 – Site and needs recommendation on March 1, 2005
- Work on legislation to improve law enforcement effectiveness – Sought support from LE professional organizations (POAN, PCAN, NSA) for redlight camera legislation ; Passed a more enforceable noise ordinance

- Continue to develop and implement Community Policing Programs – Think Ba4U Wink; Alcohol Compliance Checks at Bars; DUI Selective Enforcement; Click-it or Ticket; U Drink U Drive U Lose; Saturation Patrols; Loud Stereo Selective Enforcement
- Address Problems with Domestic Violence/Abuse through programs – Safe Haven Grant allowed for hiring of new coordinator & program development; 2-week training at NLETC for Victim Assistance Coordinator
- Address issues with illegal Drugs through programs – Project Safe Neighborhoods 7 federal indictments on drug gun violence; Received \$100,000 grant through HIDTA for drug enforcement; SICA funding

#### Economic Development:

- Assist in creating and retaining quality jobs – Mayor/City Administrator involved in recruitment efforts with Economic Development Corporation
- Become a “Training Center” for various groups – Consultants reviewing and studying potential sites for Fire Training Facility
- Help develop Downtown programs – Coordinated improvements, upkeep and maintenance; Cooperated in various downtown events
- 50,000 + population before April 2010 – Metropolitan statistical areas as defined by US Census include urbanized area outside of city limits; 1% annual growth will put GI over 50,000 by 2010; Initiation of 2010 study September 2004

#### Infrastructure:

- Create better, more accessible entryways to Grand Island – South Locust Interchange open; Widening of Hwy 30 East 60% complete – Project continues past Capital and Gunbarrel into Merrick County
- Find funding for the upgrade of Grand Island’s Infrastructure – Meeting scheduled with DEQ staff to discuss Brownfields, funding for water/sewer extensions & other proactive methods; City Representation on Community Transportation Committee-working to obtain federal funding
- Finalize the Comprehensive Plan, assure for the long term planning of the City – Adopted and effective August 1, 2004
- Annexation and development of new subdivisions – Presentation at March 5<sup>th</sup> City Council Retreat

#### Government Efficiency:

- Enhance communication by reinventing GITV and webpage – Phase I & II of website underway-new look & feel and additional features & services. New PSA’S & programming on GITV including high school sports from Grand Island Senior High, Grand Island Central Catholic, Heartland Lutheran and Grand Island Northwest
- Seek inter local partnerships that eliminate duplication and promote efficiency – Reviewing State Records Board grant for website development/Various agreements with Hall County
- Reduce costs by streamlining city services – Systems and program enhancements have allowed a reduction of 1.5 FTE’s over the last two years; Code Compliance restructuring
- Shift tax burden from property tax – Successful passage of half percent sales tax includes a \$3,875,000 increase in sales tax and a 32.7% drop in the property tax levy

- Implement a streamlined system through Information Technology – New Information technology technician hired

Quality of Life:

- Expand Library services – RFP for design/build team scheduled to be issued 3-9-05; Building Program document under development; Acquisition of property west of library progressing; Grand Island Facilities Corporation established; Study Session 2-1-05 to discuss project progress and RFP issuance
- Support ethnic diversity programs – Library obtained federal grant to work with a multicultural consultant in 10-04 to determine improvements needed in library services will be working with coordinator to make improvements 1-05 to 6-05. Councilmember representation on Multicultural Coalition
- Develop a Greenspace policy – Dead Project – Not legal to pursue per attorney
- Develop more recreational facilities – In process – Arboretum planning in works, CAAP Shooting facility open for business, Trails & Island Oasis expansion
- Develop a CAAP recreational vehicle park – Project has not started – Focus is on developing the rifle/pistol range this fiscal year
- Funding for Hike/Bike Trails – Received grant for Riverway Trail
- Find funds and implement programs to improve housing – Comprehensive Revitalization Action Plan and Needs Assessment due 4-15-05; \$300,000 to be awarded annually
- Conduct an Aquatics Study – Completed

Community:

- Youth Development – NCFE Grant received for 2005; continued youth programs, activities and collaborations between CYC, YLT, and MC; Continued programming at library for infancy to teens

Public Health:

- Regional Hazardous Waste Site – HHW presentation at 1-4-05 Study Session; Submit with councils approval DEQ grant and business plan 2-05
- Evaluate programs that enhance the quality of housing in the City – Continue Rehab and Down Payment Assistance Housing Programs; Homeless Housing Planning Grant announced in Jan
- Evaluate programs that minimize the usage of illegal drugs – D.A.R.E program; G.R.E.A.T. program
- Investigate the issue of banning smoking – Currently being reviewed by Health Department; Proposed ballot language is prepared along with a preliminary draft of ordinance

PRESENTATIONS:

Environmental Update:

Waste Water Treatment Plant: Steve Riehle, Public Works Director reported that the City had purchased properties in the area of the Waste Water Treatment Plan to serve as buffer properties surrounding the facility. The Arends, Yeager, and Miller Lakes were purchased in 2004. The

sites had been cleared and the properties were fenced. The city was working with consultants, CH2M Hill of Denver, Colorado to develop a plan to improve the quality of the Arends and Miller Lakes. Reviewed were maps of these areas.

City Wells Sites: Gary Mader, Utilities Director reviewed the history of the city well sites. A majority of the wells within the City had been relocated to the Well Field on the Platte River. Presented were maps of city wells that had been removed due to septic, nitrate PCE, and RDX contamination along with maps of the Central PCE, RDX, and Multiple VOC Plumes.

Annexation/Expansion of Services: Chad Nabity, Regional Planning Director reviewed the Annexation Policy and possible future properties that could be annexed into the City. Discussion was held with regards to water and sewer costs for these areas. Also reviewed were maps of developed and undeveloped areas and infrastructure availability within the City. Mr. Nabity stated the Council would need to decide if the City should infill or annex property into the City. Discussion was held concerning financing and rate structure for these infrastructures.

LUNCH WITH HALL COUNTY BOARD OF SUPERVISORS:

The following Hall County Board Supervisors were present for the Joint City/County Special Study Session: Jim Eriksen, Pamela Lancaster, Bud Jeffries, Bob Rye, Scott Arnold, and Marla Connelly County Clerk.

City/County Efficiency Committee: Mayor Vavricek commented on many of the Interlocal Agreements with the County to make government more efficient. Supervisor Pam Lancaster commented on the Informational Technology efforts between the City and County. It was decided to set up a committee with county, city and local citizen representatives to look at ways to become more efficient.

Law Enforcement Center Agreement: Police Chief Kyle Hetrick reported on the joint city/county public safety center. The following items were mentioned:

General Terms:

- Joint occupation of the facility with the Hall County Sheriff's Office and the Grand Island Police Department
- Joint regulation of facility by a combined Hall/Grand Island board

Specific Terms:

- Information management system for both agencies responsibility of Hall County as outlined in existing inter-local agreement of August 2001
- Evidence and property services for both agencies responsibility of Grand Island as outlined in an agreed upon memorandum of understanding delineating day-to-day responsibilities
- Vehicle impoundment responsibilities will be combined as outlined in the aforementioned memorandum of understanding

Facility Use:

- Grand Island and Hall County will agree to an annual use of space fee of twenty-five thousand (\$25,000) per agency for annual maintenance and future capital expenditures for the facility. Grand Island shall be responsible for the maintenance of the law enforcement center building

Duplication:

- There shall be no duplication of combined services as set forth by any party subject to this inter-local agreement and memorandum of understanding

Jail Update: Supervisor Pam Lancaster reported on the work being done on a new jail. The County is currently working on a new bond election in the near future and the changes that have been made from the previous bond election. Supervisor Lancaster thanked the Council for their support.

City's Future Annexation Plans: Gary Greer City Administrator commented that the City's future annexation plan was included in the Comprehensive Plan. County Supervisor Erickson commented that annexation had caused problems between the school districts and wanted to see the City and County work together to facilitate communication to try to avoid those situations.

PRESENTATIONS:

Major Project Financing: David Springer, Finance Director updated the Council on the Capital Projects brought about through the 1/2 cent sales tax. Mr. Springer stated the City was very fortunate to have approximately \$11 million in cash and felt that the Fire Station could be paid for and not bonded.

Modern Roundabouts: Steve Riehle, Public Works Director reported that roundabouts had been used in other countries for a number of years and more increasingly in the United States the past few years. A PowerPoint presentation was presented to show how roundabouts worked, their safety, and efficiency.

Discussed was a location at the intersection of Capital Avenue and North Road for the proposed first roundabout in Grand Island.

Gas Company Update: Doug Walker, City Attorney stated they were still working on the gas company purchase but at this time there was nothing new to report.

GOALS FOR 2005-2006:

City Administrator Gary Greer commented that at the Tuesday, March 8, 2005 Regular Meeting the agenda item for the Fire Station and Training Center would be continued for two weeks.

Mr. Greer commented on the 2004-2005 Goals and his recommendations of those goals for 2005-2006.



The following is a complete list of the 2005-2006 Goals:

Public Safety

1. Develop a Fire Training Facility
2. Start construction on Fire Station #1
3. Continue to develop and implement Community Policing Programs
4. Address problems with domestic violence/abuse through programs
5. Address issues with illegal drugs through programs

Economic Development

6. Assist in creating and retaining quality jobs
7. Develop opportunities concerning training
8. Help develop Downtown programs
9. 50,000+ population before April 2010

Infrastructure

10. Create better, more accessible entryways to Grand Island
11. Develop funding for the upgrade of Grand Island's Infrastructure
12. Rework Annexation Policies
13. Update Traffic Study
14. Complete Railroad Corridor Study
15. Pursue construction of a modern roundabout

Government Efficiency

16. Provide for efficient transition of the Community Redevelopment Authority
17. Seek Interlocal partnerships that eliminate duplication and promote efficiency
18. Reduce costs by streamlining city services
19. Create City/County Efficiency Committee

Quality of Life

20. Expand Library facility
21. Support ethnic diversity programs
22. Develop more recreational facilities
23. Develop a CAAP recreational vehicle park
24. Support the enhancement of housing

Community

25. Manage/Support youth development programs

Public Health

26. Pursue Household Hazardous Waste site
27. Continue to address environmental issues
28. Develop storm water plan/program
29. Decide course of action concerning smoking ban

Mayor Vavricek thanked City staff for their participation.

ADJOURNMENT: The meeting was adjourned at 3:35 p.m.

RaNae Edwards  
City Clerk



# City of Grand Island

Tuesday, March 22, 2005

Council Session

## Item G2

### Approving Minutes of March 8, 2005 City Council Regular Meeting

*The Minutes of March 8, 2005 City Council Regular Meeting are submitted for approval. See attached MINUTES.*

Staff Contact: RaNae Edwards

OFFICIAL PROCEEDINGS

CITY OF GRAND ISLAND, NEBRASKA

MINUTES OF CITY COUNCIL REGULAR MEETING

March 8, 2005

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 March 8, 2005. Notice of the meeting was given in the *Grand Island Independent* on March 2, 2005.

Council President Margaret Hornady called the meeting to order at 7:00 p.m. The following members were present: Councilmember's Meyer, Whitesides, Pielstick, Gilbert, Nickerson, Cornelius, Pauly, Hornady, Walker, and Haase. Mayor Vavricek was absent. The following City Officials were present: City Administrator Gary Greer, City Clerk RaNae Edwards, Finance Director David Springer, Public Works Director Steve Riehle, and City Attorney Doug Walker.

PLEDGE OF ALLEGIANCE was said followed by the INVOCATION given by Pastor William Voelker, Peace Lutheran Church, 4018 Zola Lane.

MAYOR COMMUNICATION: Council President Hornady mentioned the Sandhill Cranes were flying encouraged people to visit the Platte River Valley Bird Observatory at Crane Meadows. Also mentioned were that volunteers were needed.

PRESENTATIONS AND PROCLAMATIONS:

Proclamation "Abbott Sisters Day" March 20, 2005. Council President Hornady presented the "Abbott Sisters Day" Proclamation of March 20, 2005 to Library Board Member Jerry Bryant.

PUBLIC HEARINGS:

Public Hearing on Acquisition of Property Located at 1204 West 2<sup>nd</sup> Street. (James and Barbara Wiltgen) Doug Walker, City Attorney reported that acquisition of property located at 1204 West 2<sup>nd</sup> Street occupied by Taco John's restaurant was needed for the Abbott Memorial Library expansion. A purchase price of \$400,000 was recommended. No public testimony was heard.

Public Hearing on Acquisition of Property Located at 214 North Washington Street. (Grand Island Public Library Foundation, Inc. previously owned by Robert and Gail Mattke) Doug Walker, City Attorney reported that acquisition of property located at 214 North Washington Street was needed for the Abbott Memorial Library expansion. The Library Foundation had acquired this property and was donating it to the City. No public testimony was heard.

ORDINANCES:

Councilmember Pielstick moved to approve Ordinance #8953 on Second Reading. Second by Walker. Upon roll call vote, all voted aye. Motion adopted.

#8953 – Consideration of Annexation of Land Proposed for Platting as Preisendorf Subdivision Located North of Oklahoma Avenue and East of Washington Street (Second Reading)

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

#8964 - Consideration of Creation of Water Main District No. 450 – Stewart Place Subdivision - East Area of Circle Drive

#8965 – Consideration of Creation of Water Main District No. 451 – Stewart Place Subdivision – West Area of Circle Drive

#8966 – Consideration of Correction to Ordinance No. 8912 Relative to the Legal Description for Frauen Subdivision

#8967 – Consideration of Vacating Utilities Easements; Martin’s Second Subdivision (North of Old Potash Highway between U.S. Highway 281 and Webb Road)

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 first reading and then upon final passage and call for a roll call vote on each reading and then upon final passage.” Councilmember Haase seconded the motion. Upon roll call vote, all voted aye. Motion adopted.

A brief explanation was given on each Ordinance by Utilities Director Gary Mader, Regional Planning Director Chad Nabity, and Public Works Director Steve Riehle.

Motion by Cornelius, second by Pielstick to approve Ordinances #8964, #8965, #8966, and #8967.

City Clerk: Ordinances #8964, #8965, #8966, and #8967 on first reading. All those in favor of the passage of these ordinances on first reading, answer roll call vote. Upon roll call vote, all voted aye. Motion adopted.

City Clerk: Ordinances #8964, #8965, #8966, and #8967 on final passage. All those in favor of the passage of these ordinances on final passage, answer roll call vote. Upon roll call vote, all voted aye. Motion adopted.

President Hornady: By reason of the roll call votes on first reading and then upon final passage, Ordinances #8964, #8965, #8966, and #8967 are declared to be lawfully adopted upon publication as required by law.

CONSENT AGENDA: Item G-14 was pulled for further discussion. Motion by Gilbert, second by Cornelius to approve the Consent Agenda excluding Item G-14. Upon roll call vote, all voted aye. Motion adopted.

Approving Minutes of February 22, 2005 City Council Regular Meeting.

Approving Minutes of March 1, 2005 City Council Study Session.

Approving Minutes of March 1, 2005 City Council Special Meeting.

#2005-59 – Approving Final Plat and Subdivision Agreement for Martin’s Third Subdivision. It was noted that 281 & Old Potash L.L.C. had submitted the final plat for Martin’s Third Subdivision, located on land comprising of the SE1/4, SE1/4 of Section 13-11-10 proposing to resubdivide Lots 6 & 7 of Martin’s Second Subdivision into 3 lots.

#2005-60 – Approving Safe Haven Grant/Crisis Center Memorandum of Understanding.

#2005-61 – Approving Bid Award for Sanitary Sewer Rehabilitation Project 2005-01-REHAB D1 with Midlands Contracting, Inc. of Kearney, Nebraska in an Amount of \$99,275.80.

#2005-62 – Approving Bid Award for Street Improvement District No. 1255 with A & R Construction Co. of Plainview, Nebraska in an Amount of \$415,354.66.

#2005-63 – Approving the Nebraska Department of Roads Right-of-Way Certificate Project No. STPAA-2235(4) for the Construction of the Northbound Bridges on South Locust Street.

#2005-64 – Approving Certificate of Final Completion for Street Improvement District No. 1221 with Diamond Engineering Company of Grand Island, Nebraska.

#2005-65 – Approving Bid Award for Burdick Roof Replacement with Weathercraft Co. of Grand Island, Nebraska in an Amount of \$168,587.00.

#2005-66 – Approving Bid Award for Two (2) 2,500 kVA Pad-Mount Transformers with Pauwels Transformers, Inc. of Washington, Missouri in an Amount of \$53,208.00 excluding tax.

#2005-67 – Approving Acquisition of Property Located at 1204 West 2<sup>nd</sup> Street. (James and Barbara Wiltgen)

#2005-68 – Approving Acquisition of Property Located at 214 N. Washington Street. (Grand Island Public Library Foundation, Inc. Previously Owned by Robert and Gail Mattke)

#2005-70 – Approving 2005 CDBG Planning Grant Budget Revision.

#2005-71 – Approving Grand Island/Hall County 2005 Homeland Security Grant.

#2005-72 – Approving Funding of Economic Development Request for Heartland Events Center (NWPS Rate Agreement Funds) in the Amount of \$50,000.00.

#2005-69 – Approving the Request for Proposal Submitted by the Library Facility Committee and the Grand Island Facilities Corporation for the Library Expansion. City Attorney Doug

Walker reported that the Library Facilities Committee had been working with the Grand Island Facilities Corporation to develop a Request of Proposals for design/build services for an addition to the Edith Abbott Memorial Library. Councilmember Gilbert questioned if we should lower the amount in the proposal by \$400,000 since the City bought the Taco John's property for that amount at this meeting. City Attorney Doug Walker stated the over all project cost would be between \$4 - \$7 million. City Administrator Gary Greer stated the Council will have the final decision on which firm is hired.

Motion by Pielstick, second by Nickerson to approve Resolution #2005-69. Upon roll call vote, all voted aye. Motion adopted.

RESOLUTIONS:

#2005-73 – Approving Economic Development Incentive Agreement with CXT Incorporated in an Amount of \$200,000.00. This item was pulled from the Agenda at the Request of Economic Development Corporation.

#2005-74 – Approving Economic Development Incentive Agreement with Love Signs in an Amount of \$42,000.00. Doug Walker, City Attorney reported that Love Signs of Grand Island, L.L.C. had applied for a \$42,000.00 forgivable loan from the Grand Island Area Economic Development Corporation pursuant to the Economic Development Plan. The application had been approved by EDC and the Citizens Advisory Review Committee.

Motion by Pielstick, second by Cornelius to approve Resolution #2005-74. Upon roll call vote, all voted aye. Motion adopted.

#2005-75 – Approving Acceptance of the Site and Need Study and City Administration Recommendation for Fire Station #1 and Fire Training Center Facilities. This item was pulled to the March 22, 2005 City Council Meeting.

PAYMENT OF CLAIMS:

Motion by Cornelius, second by Haase to approve the Claims for the period of February 23, 2005 through March 8, 2005, for a total amount of \$2,127,076.17. Motion adopted unanimously. Councilmember Pielstick abstained from voting on Claim #93013 and voted no on Claims #93556, #93557, and #93558.

ADJOURNMENT: The meeting was adjourned at 7:30 p.m.

RaNae Edwards  
City Clerk



# City of Grand Island

Tuesday, March 22, 2005

Council Session

## Item G3

**#2005-76- Approving Final Plat and Subdivision Agreement for  
Preisendorf Subdivision**

Staff Contact: Chad Nabity



# Council Agenda Memo

**From:** Regional Planning Commission  
**Meeting:** March 22, 2005  
**Subject:** Preisendorf Subdivision - Final Plat  
**Item #'s:** G-3  
**Presenter(s):** Chad Nabity AICP, Regional Planning Director

## Background

This subdivision proposes to create 2 lots on a parcel of land in the NW ¼ NE 1/4 Section 21, Township 11, Range 9.

## Discussion

The owner of this property, Priesendorf Plumbing and Heating Inc., has requested to subdivide it into 2 lots. The property is zoned M2 Heavy Manufacturing. The proposed lots meet all of the requirements for a legal subdivision. Streets to serve the lots are adjacent to the property. Sewer is available to both lots. Water will be extended along Oklahoma Avenue from Lincoln Street across the Washington Street Right-of-Way by the subdivider.

## Alternatives

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

1. Approve the final plat as presented
2. Modify the final plat to meet the wishes of the Council
3. Table the issue

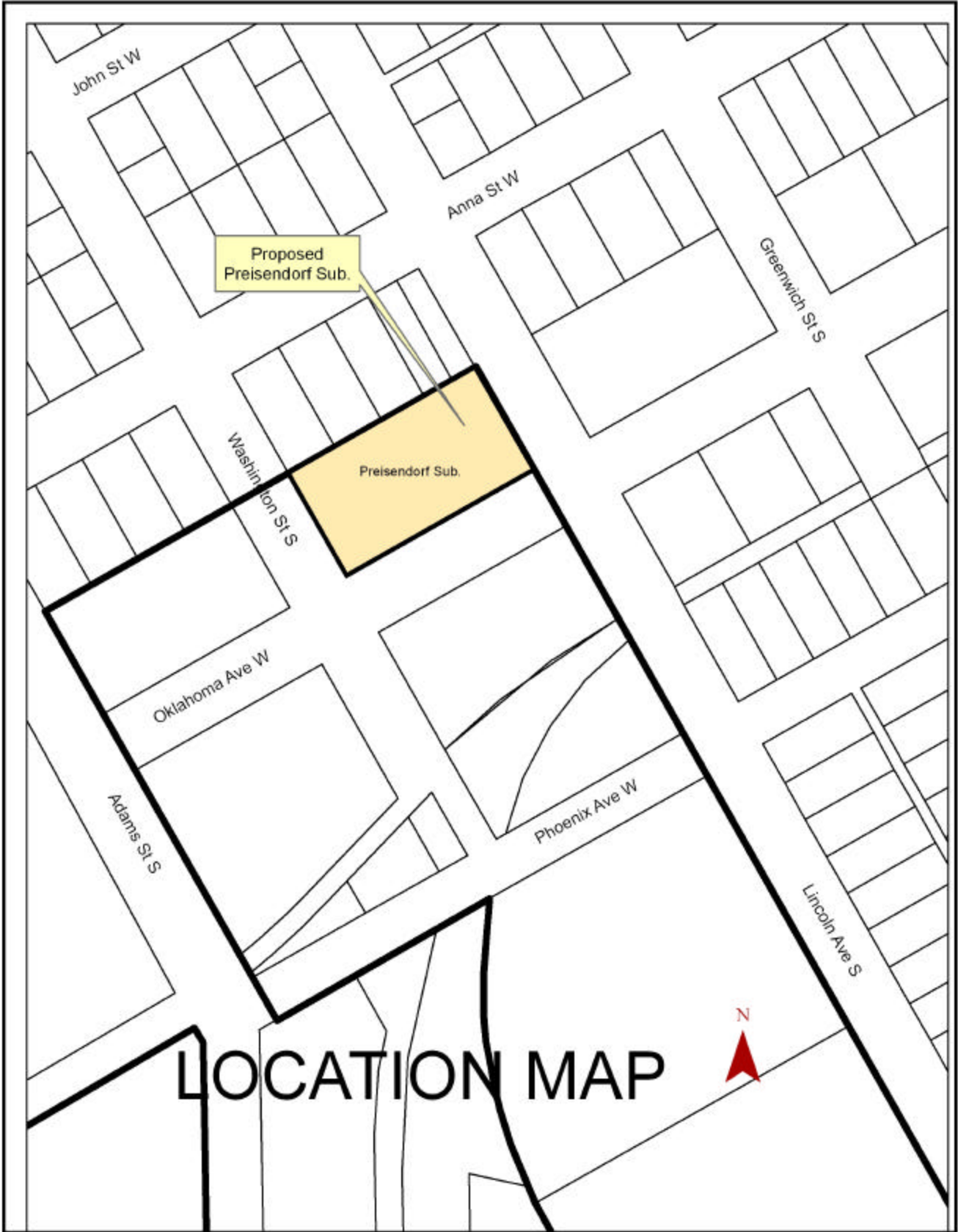
## Recommendation

A motion was made by Eriksen and seconded by Hayes to **approve** and recommend that the Grand Island City Council **approve** the final plat of Preisendorf Subdivision with the condition that the east property line of lot 1 be at least 10 feet from the existing building on that lot. The final plat as submitted to Council shows the adjusted property line as conditioned by the Planning Commission.

A roll call vote was taken and the motion passed with 10 members present (Amick, Haskins, Lechner, O'Neill, Brown, Niemann, Miller, Eriksen, Ruge, Monter, Hayes, Wagoner) voting in favor.

**Sample Motion**

Approve the Final Plat for Preisendorf Subdivision as presented.



# LOCATION MAP

RESOLUTION 2005-76

WHEREAS, Preisendorf Plumbing & Heating, Inc., a Nebraska corporation, as owner, has caused to be laid out into lots, a tract of land comprising a part of the Northwest Quarter of the Northeast Quarter (NW1/4, NE1/4) of Section Twenty One (21), Township Eleven (11) North, Range Nine (9) West of the 6<sup>th</sup> P.M. in Hall County, Nebraska, as an addition to the city of Grand Island, Nebraska, under the name of PREISENDORF SUBDIVISION, and has caused a plat thereof to be acknowledged by it; and

WHEREAS, a copy of the plat of such subdivision has been presented to the Boards of Education of the various school districts in Grand Island, Hall County, Nebraska, as required by Section 19-923, R.R.S. 1943; and

WHEREAS, a form of subdivision agreement has been agreed to between the owner of the property and the City of Grand Island.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the form of subdivision agreement hereinbefore described is hereby approved, and the Mayor is hereby authorized to execute such agreement on behalf of the City of Grand Island.

BE IT FURTHER RESOLVED that the final plat of PREISENDORF SUBDIVISION, as made out, acknowledged, and certified, is hereby approved by the City Council of the City of Grand Island, Nebraska, and the Mayor is hereby authorized to execute the approval and acceptance of such plat by the City of Grand Island, Nebraska.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, March 22, 2005.

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RaNae Edwards, City Clerk

Approved as to Form	☐ _____
March 17, 2005	☐ City Attorney



# City of Grand Island

Tuesday, March 22, 2005

Council Session

## Item G4

**#2005-77- Approving Contract for Property Room.Com**

Staff Contact: Kyle Hetrick

# Council Agenda Memo

**From:** Chief Kyle L. Hetrick  
**Meeting:** March 22, 2005  
**Subject:** Contract Approval for Property Room . Com  
**Item #'s:** G-4  
**Presenter(s):** Chief Kyle L. Hetrick

## Background

In looking for a better way to expedite the sale of unclaimed and stolen property, save storage space, and to receive better compensation for the value of these items, we are considering entering into an agreement with a property service.

## Discussion

With the advent of the Internet new and innovative ways to dispense property have become available to government agencies. Property Bureau, Inc. through its' website, Property Room .Com, is one such resource. Property Bureau will retrieve items to be sold at auction from the Police Department and list it for sale via the Internet through Property Room .Com. Though the agreement allows Property Bureau to receive 50% of the first \$1000 and 25% over that amount, agencies have seen a marked increase in their revenue using this service. Items that would be discarded or sold for a dollar at our local auctions sell for 30-40-50 dollars over the Internet. Instead of 100 bidders we have a worldwide bidding pool. Old bicycle parts cluttering up the property room that were heretofore discarded are placed on pallets and have been sold to China.

We are recommending trying this service for one year and then reevaluating its' effectiveness. This company will also allow any unused property that the city sells at auction to be included with this contract. The document has been reviewed and approved by the legal department.

## Alternatives

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

1. Approve the service agreement contract with Property Bureau.Inc .
2. Disapprove or /Deny the service agreement contract with Property Bureau Inc.
3. Modify the aforementioned contract to meet the wishes of the Council
4. Table the issue

### **Recommendation**

City Administration recommends that the Council approve the contract with Property Bureau Inc.

### **Sample Motion**

Approve the service agreement contract with Property Bureau Inc.

**PROPERTY DISPOSITION SERVICES AGREEMENT**

PropertyBureau.com, Inc., an Arizona corporation ("PropertyBureau"), enters into this agreement (the "Agreement"), with the customer identified below (the "Owner") for the auction and disposition of personal property (the "Disposition Services"), in accordance with the Terms and Conditions and Addenda, if any, attached hereto and listed below.

Beginning \_\_\_\_\_, (the "Start Date") Owner engages the Disposition Services of PropertyBureau. This Agreement will terminate on \_\_\_\_\_, (the "Termination Date"), or at such other time as provided herein.

<p><b>OWNER INFORMATION:</b></p> <p>City of Grand Island  <small>[Owner Name]</small></p> <p>Grand Island Police Department  <small>[Address]</small></p> <p>131 So. Locust.  <small>[Address]</small></p> <p>Grand Island, NE 68801  <small>[Address]</small></p> <p>308-385-5403  <small>[Phone]</small></p>	<p><b>SCHEDULES, SUPPLEMENTS AND OTHER ATTACHMENTS: (Mark only if included)</b></p> <p>Terms and Conditions <u>yes</u></p> <p>Addendum <u>----</u></p>
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**THIS AGREEMENT INCLUDING ALL OF THE TERMS AND CONDITIONS SET FORTH ON THE ATTACHED TERMS AND CONDITIONS, AND ALL OTHER ATTACHMENTS INDICATED IN THE BOX ABOVE, IS THE PARTIES' ENTIRE AGREEMENT AND CANNOT BE MODIFIED EXCEPT IN WRITING BY THE DULY AUTHORIZED REPRESENTATIVES OF BOTH PARTIES.**

**EXECUTED** on the date(s) indicated below:

City of Grand Island  
[Legal Name of Owner]

By: \_\_\_\_\_  
[Name and Title]

Date: \_\_\_\_\_

PropertyBureau.com, Inc.

By: *Steven Lupinacci*  
 Steven Lupinacci, President

Date: 2/15/05

**PropertyBureau.com, Inc.**  
 3551 Camino Mira Costa, Suite C  
 San Clemente California 92672  
 Phone: 800-799-2440

**Federal Tax ID 86-0962102**



## TERMS AND CONDITIONS

1. **Property to be Sold.** From time to time, Owner will designate items of personal property (the "Property") that it desires to provide to PropertyBureau for Disposition Services. PropertyBureau retains the right to accept or reject certain items in its sole discretion.

2. **Title.** Owner shall retain legal title to the Property until it is purchased by auction or otherwise disposed of in accordance with this Agreement at which time Owner will be deemed to have transferred title to the purchaser or other acquirer of the item of Property. Owner appoints PropertyBureau as its attorney-in-fact to sign any and all documents necessary to assign to purchasers of Property all of Owner's right, title and interest in and to Property sold or disposed. All cash receipts, accounts receivable, contract rights, notes, general intangibles, and other rights to payment of every kind, arising out of the sales and dispositions of Property (collectively the "Proceeds") belong to Owner, subject to PropertyBureau's right to PropertyBureau's Net Proceeds and funds attributable to Credit Card Costs and other transaction costs. Owner's Property shall, at all times before sale or disposition, be subject to the direction and control of Owner.

3. **Method of Selling Property.** PropertyBureau will, on Owner's behalf, list Property for sale by auction to the public on the World Wide Web of the Internet on one or more domain names selected by PropertyBureau. To the extent that any Property is not sold by auction, PropertyBureau may, in any commercially reasonable manner selected by PropertyBureau, dispose of Property. PropertyBureau will determine all aspects, terms and conditions of auctions of Property and dispositions of Property not purchased at auction, subject to the ultimate control of Owner. PropertyBureau will be responsible for all phases of submitting the Property for auction, including, but not limited to, determining when Property will be auctioned, setting the opening and reserve prices of Property, if any; determining the selling price, setting the length of time a Product will be auctioned; creating text and graphics to describe and depict Property submitted for auction; collecting all purchaser information (such as purchaser's name, billing address, shipping address, and credit card information); approving purchasers' credit card purchase transactions; and collecting auction proceeds for completed sales from purchasers. PropertyBureau shall use its best efforts in auctioning and selling the Property on the Internet and disposing of Property that does not sell at auction. PropertyBureau shall sell and dispose of all Property "as is" without any liability to the Owner. PropertyBureau is solely responsible for identifying and resolving sales and use tax collection issues arising from Property sales, including the necessity of charging and collecting such taxes.

#### 4. Allocation of Sales Proceeds.

a. The total amount paid by the purchaser shall be called the "Sales Price". The Sales Price shall include the winning bid amount (the "Winning Bid") and all costs, shipping and handling charges, taxes, and insurance costs associated with the transaction and paid by the purchaser.

b. For each item of Property, Owner will be credited with 50% of the first \$1,000 of the Winning Bid and 75% of the portion, if any, of the Winning Bid that exceeds \$1,000. From this amount, the owner's pro rata share of transaction fees, if any, assessed by the credit card processor ("Credit Card Costs") will be deducted.

c. Credit Card Costs will be borne by Owner and PropertyBureau in proportion to the percentage of the revenue credited to the parties for each underlying transaction.

d. Amounts received by the Owner will be called "Owner's Net Proceeds".

The following example illustrates how proceeds of a sale are to be allocated. Assume an item of Property sells at auction for a Winning Bid of \$100; the buyer pays shipping and handling of \$10, insurance of \$2, and sales tax of \$6. The buyer pays the Sales Price of \$118.00 by credit card, and the Credit Card Costs are 2% of the Sales Price. The Credit Card Cost is therefore \$2.36 ( $118 \times .02$ ). The Owner and PropertyBureau each share 50% of the underlying Winning Bid, therefore Credit Card Costs are also shared equally (\$1.18 each). The Owner's Net Proceeds are \$48.82 (\$50.00 less \$1.18).

5. **Payment Terms.** Not later than the 15<sup>th</sup> of each month, PropertyBureau will pay to Owner the amount of Owner's Net Proceeds payable for completed sales during the preceding month. Sales are deemed completed when all items comprising a line item on the original manifest or other list of Property are sold. With each monthly payment, PropertyBureau will deliver to Owner a detailed report of completed sales activity for the preceding month showing PropertyBureau's calculation of the amount of Owner's Net Proceeds for the month. With each payment of Owner's Net Proceeds, PropertyBureau will deliver to Owner a written report setting forth the following information for the immediately preceding month: (i) the completed sales during the prior month, including the total amount of related proceeds collected, the Owner's and PropertyBureau's share of Credit Card Costs, the Owner's Net Proceeds; (ii) other dispositions of Property during the month; (iii) the Property, if any, inventoried by PropertyBureau at the end of the month.

**6. PropertyBureau's Obligations Concerning Property in Its Possession.** With respect to Property in PropertyBureau's possession: (i) PropertyBureau will exercise due care in the handling and storage of any Property; (ii) PropertyBureau shall keep the Property free of liens, security interests, and encumbrances, and shall pay when due all fees and charges with respect to the Property; (iii) PropertyBureau shall sign and deliver to Owner any UCC-1 financing statements or other documents reasonably requested by Owner; (iv) PropertyBureau shall obtain and maintain insurance in an amount (determined by PropertyBureau) not less than the replacement value of Property in its possession. The insurance will cover the Property against fire, theft, and extended coverage risks ordinarily included in similar policies. PropertyBureau shall give Owner an insurance certificate upon Owner's request; and (v) If PropertyBureau returns any Property to Owner, PropertyBureau shall pay all freight charges, insurance and related costs to return the Property to Owner's nearest warehouse. PropertyBureau, at PropertyBureau's expense, shall insure Property during shipping in an amount not less than the replacement value of any item of Property returned to Owner.

**7. Owner's Obligations.** Owner will use its best efforts to provide to PropertyBureau such Property as becomes available for sale to the public. Owner will complete paperwork reasonably necessary to convey custodial possession of the item of property to PropertyBureau, including a written manifest or list that describes the item of Property in sufficient detail for identification.

**8. Restrictions on Bidding.** PropertyBureau and its employees and agents may not directly or indirectly bid for or purchase auctioned Property on the Property Bureau web site.

**9. Representations and Warranties of Owner.** Owner hereby represents, warrants and covenants as follows: (i) Property delivered to PropertyBureau is available for sale to the general public without any restrictions or conditions whatever; (ii) Owner will not knowingly deliver to PropertyBureau any Property of a counterfeit or illegal nature; and (iii) Owner has taken all required actions under applicable law that are conditions precedent to Owner's right to transfer title to the Property to purchasers (the "Conditions Precedent").

**10. Books and Records.** PropertyBureau will keep complete and accurate books of account, records, and other documents with respect to this Agreement (the "Books and Records") for at least three years following expiration or termination of this Agreement. Upon reasonable notice, the Books and Records will be available for inspection by Owner, at Owner's expense, at the location where the Books and Records are regularly maintained, during normal business hours.

**11. Term and Termination.** Unless terminated earlier, the term of this Agreement will begin on the Start Date and terminate on the Termination Date. This Agreement may be terminated if there is a breach by either party of any obligation, representation or warranty contained in this Agreement, upon thirty days prior written notice to the other party unless the breach is cured within the thirty day period, provided, however, if the breach is not capable of being cured within thirty days, the breaching party will have a reasonable amount of time to cure the breach if it begins to cure during the thirty day period and proceeds diligently thereafter. The written notice will specify the precise nature of the breach. The rights of the parties to terminate this Agreement are not exclusive of any other rights and remedies available at law or in equity, and such rights will be cumulative. The exercise of any such right or remedy will not preclude the exercise of any other rights and remedies. Notwithstanding any termination by either party of this Agreement, PropertyBureau will continue to remit amounts due to Owner under this Agreement in connection with any sales made before the effective date of the termination. At the time of termination, any unsold inventory shall continue to be auctioned by Property Bureau or returned to Owner, at owner's election and cost.

**12. Indemnification.** Subject to the limitations specified in this Section 12, each party will indemnify, hold harmless and defend the other party and its agents and employees from and against any and all losses, claims, damages, liabilities, whether joint or several, expenses (including reasonable legal fees and expenses), judgments, fines and other amounts paid in settlement, incurred or suffered by any such person or entity arising out of or in connection with (i) the inaccuracy of any representation or warranty made by the party hereunder, (ii) any breach of this Agreement by the party, or (iii) any negligent act or omission by the party or its employees or agents in connection with the performance by the party or its employees or agents of obligations hereunder, provided the negligent act or omission was not done or omitted at the direction of the other party.

**13. Limitations on Liability.** UNDER NO CIRCUMSTANCES WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL OR EXEMPLARY DAMAGES (EVEN IF THAT PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), ARISING FROM BREACH OF THE AGREEMENT, THE SALE OF PROPERTY, OR ARISING FROM ANY OTHER PROVISION OF THIS AGREEMENT, SUCH AS, BUT NOT LIMITED TO, LOSS OF REVENUE OR ANTICIPATED PROFITS OR LOST BUSINESS (COLLECTIVELY, "DISCLAIMED DAMAGES"); PROVIDED THAT EACH PARTY WILL REMAIN LIABLE TO THE OTHER PARTY TO THE EXTENT ANY DISCLAIMED DAMAGES ARE CLAIMED BY A THIRD PARTY AND ARE SUBJECT TO INDEMNIFICATION PURSUANT TO SECTION 12. LIABILITY ARISING UNDER THIS AGREEMENT WILL BE LIMITED TO DIRECT, OBJECTIVELY MEASURABLE DAMAGES. THE MAXIMUM LIABILITY OF ONE

PARTY TO THE OTHER PARTY FOR ANY CLAIMS ARISING IN CONNECTION WITH THIS AGREEMENT WILL NOT EXCEED THE AGGREGATE AMOUNT OF PAYMENT OBLIGATIONS OWED TO THE OTHER PARTY HEREUNDER IN THE YEAR IN WHICH LIABILITY ACCRUES; PROVIDED THAT EACH PARTY WILL REMAIN LIABLE FOR THE AGGREGATE AMOUNT OF ANY PAYMENT OBLIGATIONS OWED TO THE OTHER PARTY PURSUANT TO THE AGREEMENT. NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, OWNER'S LIABILITY IS NOT LIMITED UNDER THIS AGREEMENT WITH RESPECT TO LIABILITY ARISING FROM OWNER'S FAILURE TO SATISFY TIMELY ALL CONDITIONS PRECEDENT.

**14. Notices.** Any notice under this Agreement must be in writing. Initially the addresses of the parties will be as follows: (i) If to PropertyBureau: PropertyBureau, Attn: Tom Lane, President, 3551 Camino Mira Costa, Suite C, San Clemente California 92672; and (ii) If to Owner: At the address stated below Owner's Signature block on the first page of this Agreement. The parties may, from time to time and at any time, change their respective addresses and each will have the right to specify as its address any other address by at least ten days' written notice to the other party.

**15. Severability.** Whenever possible, each provision of this Agreement will be interpreted in such a manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be prohibited by or invalid under applicable law, such provision will be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement.

**16. Complete Agreement.** This Agreement and any related documents delivered concurrently herewith, contain the complete agreement between the parties relating to the subject of this Agreement and supersede any prior understandings, agreements or representations by or between the parties, written or oral, which may be related to the subject matter hereof in any way.

**17. Attorneys' Fees and Legal Expenses.** If any proceeding or action is brought to recover any amount under this Agreement, or for or on account of any breach of, or to enforce or interpret any of the terms, covenants, or conditions of this Agreement, the prevailing party will be entitled to recover from the other party, as part of the prevailing party's costs, reasonable attorneys' fees, the amount of which will be fixed by the court, and will be made a part of any judgment rendered.

**18. Further Assurances.** PropertyBureau and Owner will each sign such other documents and take such actions as the other may reasonably request in order to effect the relationships, services and activities contemplated by this Agreement and to account for and document those activities.

**19. Governing Law.** The internal law, and not the law of conflicts, of the state in which the Owner is located will govern all questions concerning the construction, validity and interpretation of this Agreement and the performance of the obligations imposed by this Agreement. The proper venue for any proceeding at law or in equity will be the state and county in which the Owner is located, and the parties waive any right to object to the venue.

**20. Relationship of the Parties.** The relationship created hereunder between Owner and PropertyBureau will be solely that of independent contractors entering into an agreement. No representations or assertions will be made or actions taken by either party that could imply or establish any agency, joint venture, partnership, employment or trust relationship between the parties with respect to the subject matter of this Agreement. Except as expressly provided in this Agreement, neither party will have any authority or power whatsoever to enter into any agreement, contract or commitment on behalf of the other, or to create any liability or obligation whatsoever on behalf of the other, to any person or entity. Whenever PropertyBureau is given discretion in this Agreement, PropertyBureau may exercise that discretion solely in any manner PropertyBureau deems appropriate.

**21. Force Majeure.** Neither party will be liable for any failure of or delay in the performance of this Agreement for the period that such failure or delay is due to acts of God, public enemy, war, strikes or labor disputes, or any other cause beyond the parties' reasonable control (each a "Force Majeure"), it being understood that lack of financial resources will not be deemed a cause beyond a party's control. Each party will notify the other party promptly of the occurrence of any Force Majeure and carry out this Agreement as promptly as practicable after such Force Majeure is terminated. The existence of any Force Majeure will not extend the term of this Agreement.

**22. Counterparts.** This Agreement may be signed in any number of counterparts.

RESOLUTION 2005-77

WHEREAS, the Grand Island Police Department is responsible for the sale of unclaimed and/or stolen property; and

WHEREAS, the Police Department periodically schedules auctions to dispense of such items; and

WHEREAS, Property Bureau, Inc. provides a service to allow such items to be listed on its website and sold at public auction on the internet; and

WHEREAS, selling such items on the internet has the potential for a larger bidding pool and a higher sale price than can be obtained selling it locally; and

WHEREAS, Property Bureau, Inc. would receive 50% of the first \$1,000 and 25% over that amount to provide this service; and

WHEREAS, it is recommended that the City authorize a one-year contract with Property Bureau, Inc. to sell the City's unclaimed and/or stolen property according to the terms of the contract.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the Police Department is hereby authorized to enter into a contract with Property Bureau, Inc. to facilitate the sale of the City's unclaimed and stolen property on the website, PropertyRoom.com, in accordance with the terms of the contract.

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

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, March 22, 2005.

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RaNae Edwards, City Clerk

Approved as to Form	☐ _____
March 17, 2005	☐ City Attorney



# City of Grand Island

Tuesday, March 22, 2005

Council Session

## Item G5

**#2005-78- Approving Acquisition of Utility Easement - 3604 South Blaine Street, South of Hwy. 34 - H & J Investments**

*This item refers to in the aforementioned Public Hearing Item E-1.*

Staff Contact: Gary R. Mader

RESOLUTION 2005-78

WHEREAS, a public utility easement is required by the City of Grand Island, from H & J Investments, LLC, a limited liability company, to install, upgrade, maintain, and repair public utilities and appurtenances; and

WHEREAS, a public hearing was held on March 22, 2005, for the purpose of discussing the proposed acquisition of an easement and right-of-way through a part of the North Half of the Southeast Quarter (N1/2, SE1/4) of Section Thirty Two (32), Township Eleven (11) North, Range Nine (9) West of the 6<sup>th</sup> P.M. in Hall County, Nebraska, the northerly line of the twenty (20.0) foot wide easement and right-of-way being more particularly described as follows:

Beginning at the southeasterly corner of Lot Twelve (12) Meadowlark Estates Subdivision; thence westerly along the southerly line of said Lot Twelve (12), a distance of One Thousand Three Hundred Thirty Four (1,334.0) feet to the southwesterly corner of said Lot Twelve (12).

The above-described easement and right-of-way containing 0.61 acres, more or less, as shown on the plat dated March 2, 2005, 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 H & J Investments, LLC, a limited liability company, on the above-described tract of land.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, March 22, 2005.

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

Approved as to Form	☐ _____
March 17, 2005	☐ City Attorney



# City of Grand Island

Tuesday, March 22, 2005

Council Session

## Item G6

**#2005-79- Approving Interlocal Cooperative Agreement for High Resolution Orthophotos Project**

Staff Contact: Chad Nabity

# Council Agenda Memo

**From:** Chad Nabity, AICP Hall County Regional Planning Director

**Meeting:** March 22, 2005

**Subject:** Approving Interlocal Cooperative Agreement for High Resolution Orthophoto Project

**Item #'s:** G-6

**Presenter(s):** Chad Nabity, AICP Hall County Regional Planning Director

## Background

The Nebraska Department of Health and Human Services along with the Central Platte Natural Resources District, Grand Island, Kearney Hastings Scottsbluff, Gering, Norfolk, Lancaster County and Scotts Bluff County are working together to provide high resolution aerial photography for their respective jurisdictions. This project involves cooperation on many levels and will result in a significant cost savings to all entities involved in this project.

## Discussion

The City of Grand Island along with Hall County purchased aerial photography in 2002. At that time approximately \$120,000 was spent on the photography and processing. The City of Grand Island has the opportunity to update photos for Grand Island and surrounding areas for a maximum cost to the City of \$20,000. These funds are available within the current Public Works Engineering and Utilities budgets.

The attached map shows the areas that were photographed in 2002 and those areas that would be included in the current project. The 2005 area is almost 50% larger than the area photographed in 2002.

## Alternatives

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



1. Approve the interlocal agreement.
2. Disapprove or /Deny the interlocal agreement
3. Table the issue

### **Recommendation**

City Administration recommends that the Council approve participation in the interlocal agreement as presented.

### **Sample Motion**

Approve the interlocal agreement as presented.

**Company Profile: Introduction and Strategy***Bidding Source*

Cornerstone Mapping, Inc.  
Attn: Aaron Schepers  
3131 Merrill St.  
Lincoln, NE 68503

*Revised: 01 February 2005*

*Introduction*

Cornerstone Mapping, Inc. provides high-quality aerial photography for a wide array of applications such as monitoring construction progress, urban and regional planning, natural resources, and agriculture. Our mission is to deliver high-quality imagery that exceeds client expectations, in a responsive and professional manner that will lead to project success.

Cornerstone Mapping operates a light aircraft equipped with a medium-format digital imaging system. The aircrew consists of a seasoned pilot and experienced aerial photographer. They apply rigorous standards to capture high-quality airborne imagery.

We are committed to total client satisfaction through delivery of complete photogrammetric solutions. Cornerstone Mapping pledges to work closely with Nebraska HHS and municipality staff to develop and implement aerial photography for GIS applications.

*Proposed Strategy*

Cornerstone Mapping uses a medium-format digital camera system that is well suited for city and county level projects. The Digital Sensor System (DSS) is optimized for small block/irregular areas/corridor/rapid response surveys. The directly georeferenced imagery streamlines the production workflow with a corresponding cost advantage.

**MAPPING GRADE SYSTEM AS CHARACTERIZED BY NASA STENNIS**

- ✦ Meets USGS and NASA image geometry and radiometry standards for mapping applications

**QUICK DATA TURNAROUND**

- ✦ Totally digital process from data acquisition through product delivery

**BENEFITS OF DIRECT GEOREFERENCING**

- ✦ Limited ground control required for quality control checkpoint purposes
- ✦ No need for full ground survey, further reducing image production cost

**VALUE-ADDED PRODUCTS**

- ✦ The image extent of the final product is always greater than the project boundary provided by the client. In effect, more imagery is delivered than quoted.

***Recommendation***

Cornerstone Mapping recommends choosing us to provide digital aerial photography services to maximize project resources. The imagery products will be delivered on time with quality that meets or exceeds expectations.

**Proposed Equipment*****Aircraft***

Cornerstone Mapping operates a Cessna 182 located in Lincoln, NE. The aircraft is maintained and operated in accordance with regulations of the Federal Aviation Administration.

***Camera System***

The DSS Digital Sensor System is a direct georeferencing solution based on a medium-format, airborne digital camera. It is the digital imaging answer for aerial survey and remote sensing applications requiring a rapid, cost-effective solution. As a mapping-quality alternative to large-format sensors, the DSS offers a complete solution and a competitive advantage.

***Flight Management System***

The sophisticated flight management system (FMS) is coupled with a GPS and connected to the camera system. The FMS provides navigation guidance for the pilot and triggers the camera for accurate image overlap and sidelap.

***Direct Georeferencing***

The camera system is tightly integrated with an airborne GPS coupled with an Inertial Measurement Unit (IMU). The GPS/IMU provide exterior orientation (EO) parameters required for direct georeferencing. In addition, the camera mount is equipped with a rotating azimuth mount that removes the crab angle during image acquisition.

***Software*****ORTHOPHOTO PRODUCTION**

Cornerstone Mapping utilizes Leica Photogrammetry Suite image processing software with Erdas Imagine, Image Equalizer and image dodging tools to minimize scene differences during digital orthophoto production.

**GIS**

ArcGIS software is integrated into our workflow. The ArcGIS framework allows us to manage many aspects of our imagery services.

## Scope of Work

### *Areas to be Photographed*

The areas to be photographed include the cities Norfolk, Grand Island, Hastings, Kearney, Lincoln, and Scottsbluff, Nebraska. In addition, Lancaster and Scotts Bluff Counties in Nebraska will be photographed as part of this project.

### *Flight Planning*

The aerial photography will cover the areas identified in the shapefiles provided by Nebraska HHS. The specifics of the photo acquisition are:

Urban areas will be imaged at 1"=100' photo scale, which corresponds to 6-inch ground sample distance (GSD). The images will be acquired with the DSS Digital Sensor System. The flight lines will be designed with 30% forward lap and 30% sidelap covering adjacent flight lines.

Rural areas (Lancaster and Scotts Bluff Counties) will be imaged at 1"=200' photo scale, which corresponds to 1-foot GSD. The images will be acquired with the DSS Digital Sensor System. The flight lines will be designed with 30% forward lap and 30% sidelap covering adjacent flight lines.

### *Photographic Acquisition*

The aerial photo mission plan will be downloaded to the aircraft's computer and used to manage the acquisition of the aerial photography. The imagery will be acquired during March through April, 2005.

### *Conditions During Photography*

The photography will be taken when the sky is clear of clouds and the ground is free of excessive haze, dust, smoke, and cloud shadows. The photos will be taken when the solar angle is 30 degrees or more above the horizon at the time of exposure.

### *Permits and Clearances*

Cornerstone Mapping will obtain the necessary clearances to conduct photo work in the respective FAA designated airspace.

### *Services and Materials*

Cornerstone Mapping will furnish all personnel, equipment, materials, transportation, and quality control to ensure the capture and production of high-quality digital color imagery and subsequent products.

## Deliverables and Proposed Cost

### *Proposed Cost of Image Acquisition*

Nebraska Cities	Square Miles	GSD	Cost of Orthophotos
1. Norfolk	82	6 inch	\$ 20,419
2. Hastings	127	6 inch	\$ 31,624
3. Grand Island	152	6 inch	\$ 37,848
4. Kearney	68	6 inch	\$ 16,932
5. Lincoln	248	6 inch	\$ 61,753
6. Scottsbluff/Gering	86	6 inch	\$ <u>21,414</u>
<b>CITY TOTAL</b>			<b>\$ 189,990</b>

### **Additional Nebraska Counties requested for quotation**

1. Lancaster County <i>(except city of Lincoln)</i>	598	1 foot	\$ 49,365
2. Scotts Bluff County <i>(except cities Scottsbluff and Gering)</i>	659	1 foot	\$ <u>54,400</u>

**COUNTY TOTAL \$ 103,765**

**GRAND TOTAL \$ 293,755**

### *Progressive Product Delivery*

The aerial photography will likely be acquired during a relatively short period of time. The production of orthophotos requires time to generate. For this reason, Cornerstone Mapping will offer progressive delivery of each city, as the orthophotos are ready for delivery.

### *Image Accuracy*

The orthophotos will meet National Map Accuracy Standards.

1":100'      3.3 feet with CE90%

1":200'      6.7 feet with CE90%

### *Digital Elevation Model (DEM)*

Vertical control for the ortho-rectification process will be obtained from USGS 10-meter DEM's. If higher resolution DEM's are available they will be used.

### *Map Projection*

Orthophotos will be referenced to the desired map projection for each individual city.

***Data Format***

The Orthophotos will be delivered in GeoTiff image format. The imagery will be diced up using United States National Grid standards.

**Responsibilities of each respective city*****Ground Control***

It is the responsibility of each municipality to provide existing ground control points (GCP) for orthophoto production. If existing ground control is not available, then the municipality shall coordinate data collection efforts. In the event the GCP's are not provided, the imagery will be orthorectified using direct georeferencing techniques. The resulting spatial accuracy may be slightly lower.

***Digital Elevation Model***

USGS 10-meter DEM's will be used for vertical control. If higher resolution DEM's are available it is the responsibility of the municipality to make the alternative DEM's available to Cornerstone Mapping.

**Disclaimer**

This is a preliminary bid. Pricing is subject to change as project parameters may be revised.

February 24, 2005

RE: Follow up questions for Cornerstone Mapping

1. Information regarding other contracts or commitments that might impact Cornerstone's ability to meet the aggressive timeline of this project.

**During March through June 2005 there is one primary contract that will be fulfilled parallel to the city/county imagery. The project is for the Rain Water Basin Joint Venture. This project only requires Cornerstone Mapping to acquire the imagery (no processing). The expected flight time for the project is approximately 65 hours.**

**Cornerstone will fly the RWB primarily early March. A few cities will be flown during this time. Flying some cities early will allow image processing to take place while the RWB contract is being fulfilled. There are no expected time conflicts with the two projects.**

2. Information regarding the subcontractor who will process the imagery -- project history and capabilities

**A subcontractor will be used to help process the imagery. The contractor (Kingwood Forestry) is located in Monticello, Arkansas. They have extensive experience with high-resolution orthophotography. They provide imagery for forestry applications as well as disaster relief, cities and municipalities. Kingwood Forestry operates two(2) camera systems identical to Cornerstone Mapping. They have a computer lab capable of processing large amounts of data in a timely fashion.**

3. Information regarding the subcontractor who will process the imagery -- other commitment they may have that will impact the project

**During the summers, flying conditions in the South are not optimal due to haze/humidity. The flying workload for Kingwood will taper off in March. As a result, they will have resources available to aid in this project.**

**Kingwood has three dedicated personnel that are available "as-needed" for this project. Cornerstone Mapping plans to subcontract approximately 50% of the image processing.**

4. An approximate schedule of flights and data processing, with milestones

**The flying will likely begin approximately second or third week of March. Depending on the total number of "quality" flying days, all of the imagery should be acquired before the end of April. April imagery will lend itself to higher quality imagery. The grass will be turning green, but the trees will still be leaf-off conditions.**

While the imagery is being flown, image processing will be taking place. Some of the cities will be ready for delivery while other cities are being processed.

5. Information on the camera to be used.

The camera system is built by Applanix. It is called the Digital Sensor System (DSS). Details can be read on the Applanix website [www.applanix.com](http://www.applanix.com).

6. Information on the data collection parameters (flight height, overlap, solar angle, databit size, etc.) (some of this is already available but it would be nice to have it all together somewhere so that it could be incorporated into a contract)

<b>Flying Height</b>	<b>3,050 feet AGL (6-inch)</b> <b>6,100 feet AGL (1-foot)</b>
<b>Overlap</b>	<b>30% sidelap, 30% forwardlap</b>
<b>Solar Angle</b>	<b>30 degrees or higher above the horizon</b>
<b>Databit</b>	<b>Imagery will be collected in 12-bit, delivered in 8-bit for file size considerations</b>
<b>Tone matching</b>	<b>The imagery will be tone matched to eliminate the “checker board” appearance</b>
<b>Mosaic</b>	<b>Mosaicked, but tiled for delivery in GeoTiff format</b>
<b>Map Accuracy</b>	<b>NMAS 1:100 scale      3.3ft</b> <b>NMAS 1:200 scale      6.6ft</b>
<b>Image Acquisition</b>	<b>March/April</b>
<b>Image Delivery</b>	<b>June 30</b>

7. Information on how the imagery quality and accuracy will be tested, who will do this, what is needed? What is the recourse if quality is not up to National Map Accuracy Standards?

The cities will provide a dataset of ground control points. Most of the points will be used in the orthorectification process. The remaining points will be used as “check” points. The check points will serve as QA/QC during the orthorectification process.

If the final product does not meet NMAS standards, the imagery will be checked for errors and reprocessed using additional ground control if necessary. There will be no additional cost to the cities. However, Cornerstone may ask the city(ies) to collect additional ground control be collected if necessary.





8. Bonding and/or Insurance.

**Cornerstone Mapping is fully insured for aerial photography operations. We comply with all FAA regulations and maintenance requirements. In addition, we carry personal liability umbrella insurance.**

**Aircraft Insurance:      Bodily Injury \$100,000 per Person  
   Property Liability \$1,000,000 per occurrence**

**Umbrella Insurance:      Liability \$1,000,000 per occurrence**

Let me know if there are additional questions that should be addressed.

Regards,

*Aaron Schepers*  
Aaron Schepers

**INTERLOCAL COOPERATIVE AGREEMENT FOR**  
**HIGH RESOLUTION ORTHOPHOTOS PROJECT**

THIS INTERLOCAL COOPERATIVE AGREEMENT (Agreement) is made on March 7, 2005, by and between the CENTRAL PLATTE NATURAL RESOURCES DISTRICT, a Political Subdivision (CPNRD), the CITY OF GRAND ISLAND, NEBRASKA, a Municipal Corporation (City), the CITY OF KEARNEY, NEBRASKA, a Municipal Corporation (City), the CITY OF HASTINGS, NEBRASKA, a Municipal Corporation (City), the CITY OF SCOTTSBLUFF, NEBRASKA, a Municipal Corporation (City), the CITY OF GERING, NEBRASKA, a Municipal Corporation (City), the CITY OF NORFOLK, NEBRASKA, a Municipal Corporation (City), LANCASTER COUNTY, a Political Subdivision, SCOTTS BLUFF COUNTY, a Political Subdivision, and the NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS), a State Department , collectively referred to as "local sponsors". This Interlocal Cooperative Agreement was developed with the understanding that all of the above public entities were inclined to participate in this Agreement. If however, in the course of securing final approval of this Agreement by the governing bodies of each public entity, a decision is made by one or more to not participate, this Agreement will still be valid and binding on all signers unless a determination is made by CPNRD, in consultation with the other signers, that the intended purpose of the Agreement is no longer financially viable.

1. DURATION: The term of this Agreement shall commence upon approval and execution by all parties and shall continue until December 31, 2005, or until termination as provided in paragraph 5 below

2. **AGREEMENT ADMINISTRATION:** No new legal or administrative entity is created by this Agreement. This Agreement shall be administered by CPNRD with advice and recommendations from a joint board composed of one designated representative from each party. Each designated representative shall be that party's Public Works Director or equivalent or such other representative as is selected by the party and shall serve for the term specified by the designating party.

3. **STATEMENT OF PURPOSE:** The purpose of this Agreement is to set forth the terms and conditions under which the parties will participate as the local sponsors in the planning, and acquisition of High Resolution Ortho-photos. Further, it is the purpose of this Agreement to define responsibilities for the performance of this Agreement among the parties.

4. **MANNER OF FINANCING AND MAINTAINING OF BUDGET:** Each party shall adopt and maintain appropriations as required by law to fund its obligations under this Agreement. A separate budget shall not be required of any party by this Agreement.

5. **TERMINATION:** This Agreement shall terminate upon any of the following conditions:

- a. Unanimous consent and agreement of all parties having members on the joint board.
- b. Expiration of the term of this Agreement

6. **ORTHO-PHOTOGRAPHY ACQUISITION:** CPNRD shall purchase aerial photography services and digital orthophoto products for the local sponsors from Cornerstone Mapping Inc. under it's existing agreement. The scope of work, cost,

accuracy, and delivery of the ortho-photography to be acquired is based on the February 1, 2005 Cornerstone proposal and the February 24, 2005 addendum.

7. **COST SHARE:** The local sponsors' agree to share in the cost of purchasing the aerial photography services and digital orthophoto products and will provide funding to the CPNRD for that purpose. The U.S. Geological Survey (USGS) has indicated its intent to support this project by providing \$25,000 in funding to support this intergovernmental orthophoto acquisition. In exchange for its support, the USGS will receive copies of the orthophoto products, which it will make publicly available through its various data distribution mechanisms, such as the online National Map. If this USGS support is ultimately forthcoming, the costs to the participating local government subdivisions will be proportionally reduced from the original Cornerstone Mapping proposal. The following is a list of the funding amount by the local sponsors. These local sponsors shall not be required to pay any further sums than those set forth hereafter:

<b>Nebraska Cities</b>	<b>Funding</b>
1. Norfolk	\$11,100
2. Hastings	\$16,800
3. Grand Island	\$20,000
4. Kearney	\$9,200
5. Lincoln (Lancaster County)	\$32,000
6. Scottsbluff	\$5,350
7. Gering	\$5,350
<b>Nebraska Counties</b>	<b>Funding</b>
1. Lancaster	\$26,000
2. Scotts Bluff	\$27,200

State	Funding
1. HHSS	<u>\$150,000</u>
Total funding	\$303,000

8. COMMUNICATIONS: Routine communications between local sponsors of this agreement shall be made through each party's designated representative to the joint board. For purposes of this Agreement, the following are the telephone numbers and street and post office addresses of the respective parties:

	<u>Street Address</u>	<u>Post Office Address</u>	<u>Telephone No.</u>
Central Platte Natural Resources District	Duane Woodward 215 N. Kaufman Ave. Grand Island, NE 68803	Duane Woodward 215 N. Kaufman Ave. Grand Island, NE 68803	(308) 385-6282
City of Grand Island	Chad Nabity 100 E. First Street Grand Island, NE 68801	Chad Nabity P.O. Box 1968 Grand Island, NE 68802	(308) 385-5240
City of Kearney	Mike Klaus 18 East 22nd Street Kearney, NE 68848-1180	Mike Klaus P.O. Box 1180 Kearney, NE 68848-1180	308-224-9015
City of Hastings	Jane Morris 220 N Hastings Ave Hastings NE 68901	Jane Morris P.O. Box 1085 Hastings NE 68902	402-461-2332
City of Scottsbluff	Jim Gasper 1818 Avenue A Scottsbluff, NE 69361	Jim Gasper 1818 Avenue A Scottsbluff, NE 69361	308-632-2177
City of Gering	Brian Sweeney 1025 "P" Street Gering, NE 69341	Brian Sweeney 1025 "P" Street Gering, NE 69341	308-436-5096
City of Norfolk	Dennis J Smith 127 North 1st Street Norfolk, NE 68701	Dennis J Smith 127 North 1st Street Norfolk, NE 68701	402-844-2020
Lancaster County	James Langtry 444Cherrycreek Road, Bldg. C Lincoln, NE	James Langtry 444Cherrycreek Road, Bldg. C Lincoln, NE	402-441-8337
Scotts Bluff County	Duane Stott Adm. Bldg., 1825 10 <sup>th</sup> St. Gering, NE 69341	Duane Stott Adm. Bldg., 1825 10 <sup>th</sup> St. Gering, NE 69341	308-436-6654
Nebraska Department Of Health and Human Services System	Chris Chalmers 301 Centennial Mall South Lincoln, NE 68509-5007	Chris Chalmers P.O. 95007 Lincoln, NE 68509-5007	402-471-4598

9. CHOICES OF LAWS: This Agreement shall be construed in accordance with the laws of the United States of America and the State of Nebraska.

10. AMENDMENTS: Amendments to this Agreement shall be made in writing, duly approved and executed by all parties hereto and made a part of this Agreement by reference.

11. ENTIRE AGREEMENT: This Agreement and any subsequent amendments shall constitute the entire agreement among the parties. Each party to this agreement shall execute duplicate copies of this agreement and provide one executed copy to the CPNRD. The parties agree that the separately executed copies of this agreement which shall constitute the Interlocal Cooperative Agreement for the High Resolution Orthophotos Project shall be given full force and effect.

Signature Page for

**INTERLOCAL COOPERATIVE AGREEMENT FOR**  
**HIGH RESOLUTION ORTHOPHOTOS PROJECT**

Attest:

CITY OF GRAND ISLAND, NEBRASKA  
a Municipal Corporation

\_\_\_\_\_  
RaNae Edwards, Grand Island City Clerk

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Jay Vavricek, Mayor

RESOLUTION 2005-79

WHEREAS, in 2002, the City of Grand Island and the County of Hall spent approximately \$120,000 on photography and processing for aerial photographs to be taken of the area; and

WHEREAS, it is has been recommended that a group of government entities unite to update the aerial photographs in their respective regions at a more cost effective rate; and

WHEREAS, the Nebraska Department of Health and Human Services along with the Central Platte Natural Resources District, the cities of Grand Island, Kearney, Hastings, Scottsbluff, Gering and Norfolk, and the counties of Lancaster and Scotts Bluff have indicated an interest in working together to provide high resolution aerial photography for their respective jurisdictions; and

WHEREAS, this project involves cooperation on many levels and will result in a significant cost savings to all entities involved in this project; and

WHEREAS, the City's cost share of the project will be no more than \$20,000; and

WHEREAS, the City Attorney has reviewed and approved the proposed Interlocal Cooperative Agreement; and

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the Interlocal Cooperative Agreement by and between the City, the Central Platte Natural Resources District, the City of Kearney, the City of Hastings, the City of Scottsbluff, the City of Gering, the City of Norfolk, the County of Lancaster, the County of Scotts Bluff, and the Nebraska Department of Health and Human Services for the High Resolution Orthophotos Project is hereby approved according to the terms set out in the agreement.

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

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, March 22, 2005.

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RaNae Edwards, City Clerk

Approved as to Form	☐ _____
March 17, 2005	☐ City Attorney





# City of Grand Island

Tuesday, March 22, 2005

Council Session

## Item G7

**#2005-80- Approving Agreement with Trojan Technologies Inc. to  
Furnish the Ultraviolet Disinfection Equipment**

Staff Contact: Steven P. Riehle, Public Works Director

# Council Agenda Memo

**From:** Steven P. Riehle, Public Works Director

**Meeting:** March 22, 2005

**Subject:** Approving Agreement with Trojan Technologies Inc. to Furnish the Ultraviolet Disinfection Equipment for the Wastewater Treatment Plant

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

**Presenter(s):** Steven P. Riehle, P.E., Director of Public Works

## Background

On September 30, 2003, the Nebraska Department of Environmental Quality (NDEQ) issued a new National Pollutant Discharge Elimination System (NPDES) permit to the City of Grand Island's Wastewater Treatment Facility. The permit contained a compliance schedule to have disinfection in place by October 1, 2006.

On November 18, 2003 a workshop was held with CH2M Hill to develop and evaluate alternative design and equipment concepts. Two manufacturers responded to a request for proposals on February 10, 2004 to supply the ultraviolet disinfection equipment. Detailed presentations were made on March 2, 2004 by WEDECO UV Technologies and Trojan Technologies to city staff and CH2M Hill engineers. Site visits were made to Lincoln, Fremont, and Norfolk on April 24, 2004 to assess WEDECO and Trojan equipment installations. The preliminary selection of Trojan Technologies, Inc. for supply of the UV Disinfection system was made at a schematic design workshop on May 27, 2004. On September 16, 2004 a request for a firm cost and purchase agreement was made to Trojan Technologies.

## Discussion

A firm cost and agreement of understanding for \$634,110.00 has been negotiated with Trojan Technologies, Inc. This agreement establishes the terms and conditions that will be executed between Trojan Technologies, Inc. the UV system supplier, and the installation contractor regarding the supply of the UV system and associated services. Furnishing of the Trojan Technologies UV equipment will be part of the bid documents, plans, and specifications that will be sent out in April 2005.

## **Alternatives**

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

1. Approve a resolution authorizing the Mayor to sign an agreement with Trojan Technologies, Inc. as the Ultraviolet Disinfection Supplier.
2. Refer the issue to a Committee.
3. Postpone the issue to a future date.
4. Take no action on the issue.

## **Recommendation**

City Administration recommends that the Council approve a resolution authorizing the Mayor to sign an agreement with Trojan Technologies, Inc. as the Ultraviolet Disinfection Supplier.

## **Sample Motion**

Move to approve entering into an agreement with Trojan Technologies, Inc.

**SECTION 01015**  
**UV SYSTEM SUPPLIER AGREEMENT**

THIS AGREEMENT is between the City of Grand Island (Owner) and Trojan Technologies, Inc. (UV System Supplier). The Owner and UV System Supplier, in consideration of the mutual covenants set forth herein, agree as follows:

1. **WORK**

UV System Supplier shall complete the Work as specified or indicated. The Work is described as follows:

The complete Work will provide the Owner with improvements to the existing City of Grand Island Wastewater Treatment Plant (WWTP). The WWTP is owned and operated by the Owner and is located at 3013 East Swift Road, Grand Island, Nebraska. Improvements at the WWTP include the provision of ultraviolet (UV) disinfection equipment and services to an installation contractor who will construct a new facility, install the equipment, and contract with the UV System Supplier to provide the Work.

Additional services will include certificate of proper installation, startup services, operations and maintenance manuals, and assistance to the installation contractor for installation of the equipment.

The installation contractor will enter into a separate agreement with the Owner, following a competitive bidding process. The UV System Supplier shall serve as a supplier to the installation contractor, and through contract with the installation contractor, shall be subject to the various requirements of the Contract Documents for that project. The Contract Documents will include a reproduction of this Agreement, which will serve to establish the scope of supply and price to the installation contractor. If the UV System Supplier fails to honor the scope of supply and price as stated in this Agreement, he will be in breach of this Agreement.

The following Specification sections are attached to this Agreement and are part of the Work:

- Section 01430, OPERATIONS AND MAINTENANCE DATA, pages 1 to 7, inclusive.
- Section 01430 SUPPLEMENT, MAINTENANCE SUMMARY FORM, pages 1 to 2, inclusive.
- Section 01640, MANUFACTURER'S SERVICES, pages 1 to 4, inclusive.
- Section 01640 SUPPLEMENT, FORMS: MANUFACTURER'S CERTIFICATE OF PROPER INSTALLATION, one page.

- Section 11737, ULTRAVIOLET (UV) LIGHT DISINFECTION EQUIPMENT, pages 1 to 23. Excludes Part 3.1, INSTALLATION.
- Section 11737 SUPPLEMENT, WARRANTY BOND, pages 1 to 2, inclusive.
- Section 11737 SUPPLEMENT, O&M COST GUARANTEE, pages 1 to 2, inclusive.

In addition, a document entitled "Scope of Supply", developed by the UV System Supplier, is attached to this Agreement. This document reflects the UV System Supplier's understanding of the work covered under this Agreement, and establishes the terms and conditions for the agreement that will be executed between the UV System Supplier and the installation contractor regarding the supply of the UV system and associated services. This "Scope of Supply" document does not constitute an official part of the Agreement with the Owner. It instead serves solely as information for the bidding contractors on the installation project, to be reproduced along with the rest of the Agreement in the Contract Documents for that project. In any disagreement between the Scope of Supply and either this Agreement or the Contract Documents for the installation project, the latter two documents shall take precedence.

## 2. CONTRACT TIMES

The Work, including delivery of the equipment, must accommodate the following anticipated schedule for the installation contractor.

### CONTRACT SCHEDULE

Grand Island UV Disinfection Project

Milestone	Duration	Required Work by UV System Supplier
Installation contractor bid opening.	Varies between March 2005 and July 2005.	Accept a signed purchase order from the installation contractor for the Work as described herein. The installation contractor will coordinate the Work by the UV System Supplier.
Construction of the UV Disinfection Facility (by installation contractor).	Start may vary between May 2005 and September 2005. End date will occur no later than September 30, 2006.	Complete the Work as described. Supply equipment and Work as required under the direction of the installation contractor.
System warranty	Begins at Substantial Completion and continues for a period of 2 calendar years.	Warranty service as necessary and as defined in the Specifications attached to this Agreement.
Operations and maintenance cost guarantees.	Ends October 31, 2008.	Provide equipment and replacement parts when requested by the City. Bill in accordance with the fixed prices.

**CONTRACT SCHEDULE**  
Grand Island UV Disinfection Project

<b>Milestone</b>	<b>Duration</b>	<b>Required Work by UV System Supplier</b>
Operations and maintenance cost guarantees extended term.	Ends October 31, 2011.	Provide equipment and replacement parts when requested by the City. Bill in accordance with the extended term prices.

3. **COST OF THE WORK**

The UV System Supplier agrees to supply the Work to the installation contractor in the amount as follows:

**UNIT PRICES FOR PARTS**

UV System Supplier agrees to provide replacement parts at the unit prices listed below for the period from the beginning of the warranty period through October 31, 2008. For the period from October 31, 2008 through October 31, 2011, the UV System Supplier agrees to provide parts at the unit prices listed below, as inflated by the increase in U.S. Consumer Price Index from October 31, 2008 to the time at which the parts order is received by the UV System Supplier. It is expressly understood that the unit prices are independent of the exact quantities involved at the time of purchase.

<b>UNIT PRICES FOR OPERATIONS AND MAINTENANCE COST GUARANTEE</b>		
Grand Island UV Disinfection Project		
<b>Item</b>	<b>Unit</b>	<b>Unit Price</b>
Lamp, upon returned of used lamps	Each	\$150.00
Ballast	Each	\$390.00
Intensity Sensor (Calibrated Replacement)	Each	\$1,590.00
Recalibration of Intensity Sensor	Each	<b>Not Required</b>
Quartz Sleeve	Each	\$60.00
Wiper Seal	Each	\$18.00

**LUMP SUM FOR WORK INCLUDED**

UV System Supplier will furnish the Work in accordance with the Agreement for the following price:

**Six hundred thirty-four thousand, one hundred and ten Dollars**

*(in Words)*

and **zero** Cents **\$ 634,110.00**

*(in Words)*

*(Figures)*

**4. UV SYSTEM SUPPLIER'S REPRESENTATIONS**

In order to induce the Owner to enter into this Agreement, UV System Supplier's representations are set forth as follows:

The UV System Supplier has examined and carefully studied the Agreement and other related data identified herein.

If, in the UV System Supplier's judgment, any local condition may affect cost or schedule, the UV System Supplier shall visit the project site and become satisfied that the total cost can accommodate the local conditions.

UV System Supplier is familiar and satisfied as to all federal, state and local laws and regulations that may affect cost, progress, and furnishing of the Work.

UV System Supplier has given written notice of all conflicts, errors, ambiguities, or discrepancies that UV System Supplier has discovered in the Agreement, and written resolution thereof by the Owner is acceptable to the UV System Supplier.

The Agreement and related data are generally sufficient to indicate and convey understanding of all terms and conditions for furnishing the Work.

**5. MISCELLANEOUS**

This Agreement is to be governed by the law of the State of Nebraska, United States of America.

No assignment by a party hereto of any rights under or interests in the Agreement will be binding on another party hereto without the written consent of the parties sought to be bound. Specifically, but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law). Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge assignor from any duty or responsibility under the Agreement.

Successors and Assigns: Owner and UV System Supplier each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Agreement.

Severability: Any provision or part of the Agreement held to be void or unenforceable under any law or regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon the Owner and UV System Supplier. The Agreement shall be reformed to replace such stricken provision or part thereof and a valid enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

Except as may be otherwise specifically stated in the Agreement, the provisions of the Agreement shall take precedence in resolving any conflict, error, ambiguity or discrepancy between the provisions of the Agreement and any purchase order, standard specification, code or instruction. It shall also have precedence for any laws or regulations applicable, unless such an interpretation would result in a violation of such law or regulation.

There are no agreements other than this Agreement and those attachments listed above. This Agreement may only be amended or supplemented with a written document signed by both the UV System Supplier and the Owner.

IN WITNESS WHEREOF, Owner and UV System Supplier have signed this Agreement in triplicate. One counterpoint each has been delivered to the Owner, UV System Supplier, and Engineer. All portions of the Agreement have been signed or identified by the Owner and UV System Supplier.

This Agreement will be effective on February 9, 2005  
(date)

City of Grand Island (Owner):

By:

\_\_\_\_\_  
(Jay Vavricek, Mayor)

UV System Supplier:

Trojan Technologies Inc.

By:

  
\_\_\_\_\_  
Jan van der Woerd, VP-- Sales & Service

(Corporate Seal)

Date:

Attest:

\_\_\_\_\_  
(RaNae Edwards, City Clerk)

Date:

Attest:

FEBRUARY 9, 2005

  
\_\_\_\_\_



Approved as to form:

Date: 3-8-05

  
(City Attorney)

Address for giving notices:

100 East First Street

P.O. Box 1968

Grand Island, NE 68802

Address for giving notices:

3020 Gore Road

London, Ontario Canada

N5V 4T7

License No. \_\_\_\_\_

Agent for service of process:

\_\_\_\_\_  
*(If UV System Supplier is a corporation,  
attach evidence of authority to sign.)*

**END OF AGREEMENT**

**SECTION 01015**  
**UV SYSTEM SUPPLIER AGREEMENT**

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Additional services will include certificate of proper installation, startup services, operations and maintenance manuals, and assistance to the installation contractor for installation of the equipment.

The installation contractor will enter into a separate agreement with the Owner, following a competitive bidding process. The UV System Supplier shall serve as a supplier to the installation contractor, and through contract with the installation contractor, shall be subject to the various requirements of the Contract Documents for that project. The Contract Documents will include a reproduction of this Agreement, which will serve to establish the scope of supply and price to the installation contractor. If the UV System Supplier fails to honor the scope of supply and price as stated in this Agreement, he will be in breach of this Agreement.

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In addition, a document entitled “Scope of Supply”, developed by the UV System Supplier, is attached to this Agreement. This document reflects the UV System Supplier’s understanding of the work covered under this Agreement, and establishes the terms and conditions for the agreement that will be executed between the UV System Supplier and the installation contractor regarding the supply of the UV system and associated services. This “Scope of Supply” document does not constitute an official part of the Agreement with the Owner. It instead serves solely as information for the bidding contractors on the installation project, to be reproduced along with the rest of the Agreement in the Contract Documents for that project. In any disagreement between the Scope of Supply and either this Agreement or the Contract Documents for the installation project, the latter two documents shall take precedence.

2. **CONTRACT TIMES**

The Work, including delivery of the equipment, must accommodate the following anticipated schedule for the installation contractor.

**CONTRACT SCHEDULE**  
Grand Island UV Disinfection Project

<b>Milestone</b>	<b>Duration</b>	<b>Required Work by UV System Supplier</b>
Installation contractor bid opening.	Varies between March 2005 and July 2005.	Accept a signed purchase order from the installation contractor for the Work as described herein. The installation contractor will coordinate the Work by the UV System Supplier.
Construction of the UV Disinfection Facility (by installation contractor).	Start may vary between May 2005 and September 2005. End date will occur no later than September 30, 2006.	Complete the Work as described. Supply equipment and Work as required under the direction of the installation contractor.
System warranty	Begins at Substantial Completion and continues for a period of 2 calendar years.	Warranty service as necessary and as defined in the Specifications attached to this Agreement.
Operations and maintenance cost guarantees.	Ends October 31, 2008.	Provide equipment and replacement parts when requested by the City. Bill in accordance with the fixed prices.

**CONTRACT SCHEDULE**  
Grand Island UV Disinfection Project

<b>Milestone</b>	<b>Duration</b>	<b>Required Work by UV System Supplier</b>
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<b>UNIT PRICES FOR OPERATIONS AND MAINTENANCE COST GUARANTEE</b>		
Grand Island UV Disinfection Project		
<b>Item</b>	<b>Unit</b>	<b>Unit Price</b>
Lamp, upon returned of used lamps	Each	\$150.00
Ballast	Each	\$390.00
Intensity Sensor (Calibrated Replacement)	Each	\$1,590.00
Recalibration of Intensity Sensor	Each	Not Required
Quartz Sleeve	Each	\$60.00
Wiper Seal	Each	\$18.00

LUMP SUMP FOR WORK INCLUDED

UV System Supplier will furnish the Work in accordance with the Agreement for the following price:

Six hundred thirty-four thousand, one hundred and ten Dollars

*(in Words)*

and zero Cents \$ 634,110.00

*(in Words)*

*(Figures)*

4. UV SYSTEM SUPPLIER’S REPRESENTATIONS

In order to induce the Owner to enter into this Agreement, UV System Supplier’s representations are set forth as follows:

The UV System Supplier has examined and carefully studied the Agreement and other related data identified herein.

If, in the UV System Supplier’s judgment, any local condition may affect cost or schedule, the UV System Supplier shall visit the project site and become satisfied that the total cost can accommodate the local conditions.

UV System Supplier is familiar and satisfied as to all federal, state and local laws and regulations that may affect cost, progress, and furnishing of the Work.

UV System Supplier has given written notice of all conflicts, errors, ambiguities, or discrepancies that UV System Supplier has discovered in the Agreement, and written resolution thereof by the Owner is acceptable to the UV System Supplier.

The Agreement and related data are generally sufficient to indicate and convey understanding of all terms and conditions for furnishing the Work.

5. MISCELLANEOUS

This Agreement is to be governed by the law of the State of Nebraska, United States of America.

No assignment by a party hereto of any rights under or interests in the Agreement will be binding on another party hereto without the written consent of the parties sought to be bound. Specifically, but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law). Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge assignor from any duty or responsibility under the Agreement.

Successors and Assigns: Owner and UV System Supplier each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Agreement.

Severability: Any provision or part of the Agreement held to be void or unenforceable under any law or regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon the Owner and UV System Supplier. The Agreement shall be reformed to replace such stricken provision or part thereof and a valid enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

Except as may be otherwise specifically stated in the Agreement, the provisions of the Agreement shall take precedence in resolving any conflict, error, ambiguity or discrepancy between the provisions of the Agreement and any purchase order, standard specification, code or instruction. It shall also have precedence for any laws or regulations applicable, unless such an interpretation would result in a violation of such law or regulation.

There are no agreements other than this Agreement and those attachments listed above. This Agreement may only be amended or supplemented with a written document signed by both the UV System Supplier and the Owner.

IN WITNESS WHEREOF, Owner and UV System Supplier have signed this Agreement in triplicate. One counterpoint each has been delivered to the Owner, UV System Supplier, and Engineer. All portions of the Agreement have been signed or identified by the Owner and UV System Supplier.

This Agreement will be effective on February 9, 2005.  
(date)

City of Grand Island (Owner):

UV System Supplier:

Trojan Technologies inc.

By:

By: (original signed by Jan van der  
Woerd, VP – Sales and Service)

\_\_\_\_\_  
(Jay Vavricek, Mayor)

\_\_\_\_\_  
(Corporate Seal)

Date:

Date: February 9, 2005

Attest: \_\_\_\_\_

Attest: \_\_\_\_\_

(RaNae Edwards, City Clerk)

Approved as to form:

Date: \_\_\_\_\_

\_\_\_\_\_  
(City Attorney)

Address for giving notices:

100 East First Street

P.O. Box 1968

Grand Island, NE 68802

Address for giving notices:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

License No.

\_\_\_\_\_

Agent for service of process:

\_\_\_\_\_  
*(If UV System Supplier is a corporation,  
attach evidence of authority to sign.)*

**END OF AGREEMENT**

**UV SYSTEM SUPPLIER'S SCOPE OF SUPPLY**

**[to be included later]**



RESOLUTION 2005-80

WHEREAS, on September 30, 2003 the Nebraska Department of Environmental Quality issues a new National Pollutant Discharge Elimination System permit for the City's Wastewater Treatment Plant; and

WHEREAS, on February 10, 2004, proposals were received from two manufacturers to supply the ultraviolet disinfection equipment; and

WHEREAS, site visits were made to assess the equipment installations of both companies providing proposals; and

WHEREAS, it is recommended that Trojan Technologies, Inc. of London, Ontario, Canada, provide the ultraviolet disinfection system at a cost of \$634,111.00; and

WHEREAS, a proposed agreement between the City and Trojan Technologies, Inc. for such ultraviolet disinfection system has been reviewed and approved by the City Attorney's office; and

WHEREAS, a separate contractor will be sought to install the ultraviolet disinfection system according to terms and conditions set out in such agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the City is hereby authorized to enter into an agreement with Trojan Technologies, Inc. in the amount of \$634,110.00 to supply an ultraviolet disinfection system for use at the Wastewater Treatment Plant.

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

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, March 22, 2005.

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RaNae Edwards, City Clerk

Approved as to Form	☐ _____
March 17, 2005	☐ City Attorney



# City of Grand Island

Tuesday, March 22, 2005

Council Session

## Item G8

**#2005-81- Approving Bid Award for One Tandem Articulating Vibratory Roller for the Street & Transportation Division of the Public Works Department**

Staff Contact: Steven P. Riehle, Public Works Director

# Council Agenda Memo

**From:** Steven P. Riehle, Public Works Director  
Dale Shotkoski, Assistant City Attorney

**Meeting:** March 22, 2005

**Subject:** Approving Bid Award for One Tandem Articulating Vibratory Roller

**Item #'s:** G-8

**Presenter(s):** Steven P. Riehle, Public Works Director

## Background

On March 7, 2005 the Street & Transportation Division of the Public Works Department advertised for bids for the purchase of a Tandem Articulating Vibratory Roller. Funds for the roller were in the approved 2004/2005 budget. The City currently has two older units, one of which will be used for asphalt work and one will be used for parts.

## Discussion

Four bids were received and opened on March 15, 2005. The Street & Transportation Division of the Public Works Department and the Purchasing Division of the City Attorney's Office have reviewed the bids that were received. A summary of the bids is shown below.

<i>Bidder</i>	<i>Exceptions</i>	<i>Total Bid</i>
NSC Equipment, Grand Island, NE	None	\$25,806.00
Logan Contractors Supply, Inc., Omaha, NE	Noted	\$26,100.00
Nebraska Machinery Co., Doniphan, NE	None	\$31,962.00
Nebraska Rents, Doniphan, NE	None	\$29,495.00

There are sufficient funds for this purchase in Account No. 10033501-85615.

## **Alternatives**

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

1. Make a motion to approve the purchase of the tandem articulating vibratory roller from NSC Equipment of Grand Island, NE in the amount of \$25,806.00.
2. Refer the issue to a committee.
3. Postpone the issue to a future date.
4. Take no action on the issue.

## **Recommendation**

City Administration recommends that the Council approve the purchase of the tandem articulating vibratory roller in the amount of \$25,806.00 from NSC Equipment of Grand Island, NE.

## **Sample Motion**

Approve the purchase of the tandem articulating vibratory roller.



Dale M. Shotkoski, Assistant City Attorney

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**BID OPENING**

**BID OPENING DATE:** March 15, 2005 at 11:00 a.m.  
**FOR:** (1) Tandem Articulating Vibratory Roller  
**DEPARTMENT:** Public Works  
**ESTIMATE:** \$32,000.00  
**FUND/ACCOUNT:** 10033501-85615  
**PUBLICATION DATE:** March 7, 2005  
**NO. POTENTIAL BIDDERS:** 8

**SUMMARY**

<b>Bidder:</b>	<u>NSC Equipment</u> Grand Island, NE	<u>Logan Contractors Supply, Inc.</u> Omaha, NE
<b>Exceptions:</b>	None	Noted
<b>Bid Price:</b>	\$25,806.00	\$26,100.00

<b>Bidder:</b>	<u>Nebraska Machinery Co.</u> Doniphan, NE	<u>Nebraska Rents</u> Doniphan, NE
<b>Exceptions:</b>	None	None
<b>Bid Price:</b>	\$31,962.00	\$29,495.00

cc: Steve Riehle, Public Works Director  
Danelle Collins, Public Works Admin. Assist.  
Dale Shotkoski, Purchasing Agent

Scott Johnson, Street Superintendent  
Gary Greer, City Administrator  
Laura Berthelsen, Legal Assistant

RESOLUTION 2005-81

WHEREAS, the City of Grand Island invited sealed bids for One (1) Tandem Articulating Vibratory Roller for the Streets and Transportation Division of the Public Works Department, according to plans and specifications on file with the Street Division; and

WHEREAS, on March 15, 2005, bids were received, opened and reviewed; and

WHEREAS, NSC Equipment of Grand Island, 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 \$25,806.00; and

WHEREAS, such bid is below the estimate for such equipment.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the bid of NSC Equipment of Grand Island, NE, in the amount of \$25,806.00 for one tandem articulating vibratory roller is hereby approved as the lowest responsible bid.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, March 22, 2005.

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RaNae Edwards, City Clerk

Approved as to Form	☐ _____
March 17, 2005	☐ City Attorney



# City of Grand Island

Tuesday, March 22, 2005

Council Session

## Item G9

**#2005-82- Approving Bid Award for Street Improvement Project  
2005-P-1; Concrete Paving on Claude Road for approximately 1/4  
mile north of Old Highway 30**

Staff Contact: Steven P. Riehle, Public Works Director

# Council Agenda Memo

**From:** Steven P. Riehle, Public Works Director  
Dale Shotkoski, Assistant City Attorney

**Meeting:** March 22, 2005

**Subject:** Approving Bid Award for Street Improvement  
Project 2005-P-1; Claude Road

**Item #'s:** G-9

**Presenter(s):** Steven P. Riehle, Public Works Director

## Background

On March 2, 2005 the Engineering Division of the Public Works Department advertised for bids for Street Improvement Project 2005-P-1, Claude Road.

## Discussion

Three bids were received and opened on March 17, 2005. The Engineering Division of the Public Works Department and the Purchasing Division of the City Attorney's Office reviewed the bids that were received. The bids were submitted in compliance with the contract, plans, and specifications with no exceptions. A summary of the bids is shown below.

<i>Bidder</i>	<i>Exceptions</i>	<i>Bid Security</i>	<i>Total Bid</i>
A & R Construction Company	None	Universal Surety Company	\$160,318.55
Diamond Engineering Company	None	Travelers Casualty	\$139,623.85
Castle Construction, Inc.	None	North American Specialty Insurance Company	\$154,529.58

The engineer's opinion of cost for this project is \$217,696.16. There are sufficient funds available in the Public Works account No. 40033525-90146.



## **Alternatives**

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

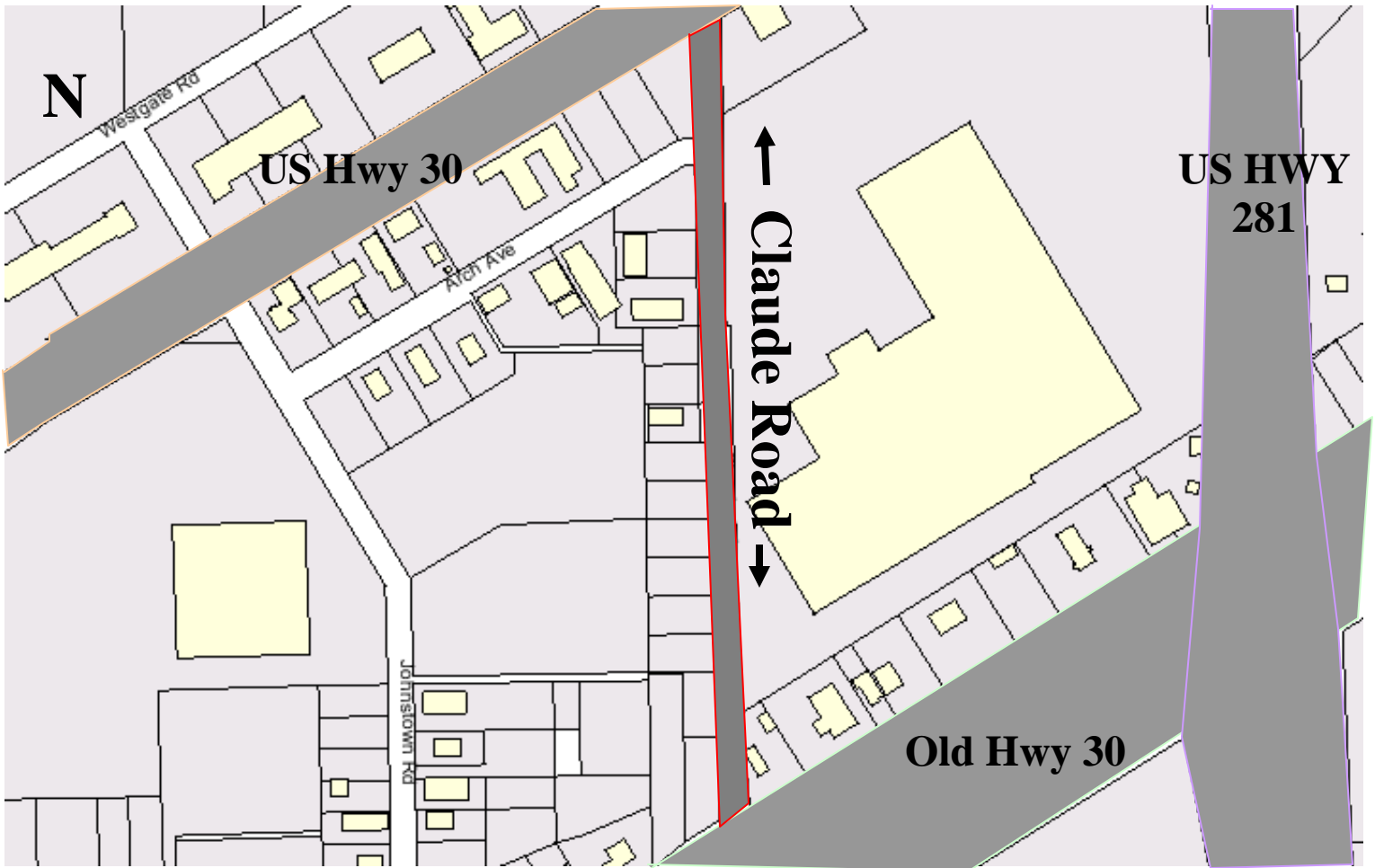
1. Approve awarding the contract for Street Improvement Project 2005-P-1 to Diamond Engineering Co.
2. Refer the issue to a Committee.
3. Postpone the issue to a future date.
4. Take no action on the issue.

## **Recommendation**

City Administration recommends that the Council approve awarding the contract for Street Improvement Project 2005-P-1 to Diamond Engineering Co., of Grand Island, Nebraska, for the amount of \$139,623.85.

## **Sample Motion**

Move to approve the award of the contract to Diamond Engineering Co., of Grand Island, Nebraska for Street Improvement Project 2005-P-1.



N

Westgate Rd

US Hwy 30

Ritch Ave

↑ Claude Road ↓

US HWY 281

JOHNSLOW RD

Old Hwy 30



Dale M. Shotkoski, Assistant City Attorney

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**BID OPENING**

**BID OPENING DATE:** March 17, 2005 at 11:00 a.m.  
**FOR:** Street Improvement Project No. 2005-P-1  
**DEPARTMENT:** Public Works  
**ESTIMATE:** \$217,696.16  
**FUND/ACCOUNT:** 40033525-90146  
**PUBLICATION DATE:** March 2, 2005  
**NO. POTENTIAL BIDDERS:** 14

**SUMMARY**

<b>Bidder:</b>	<b>Diamond Engineering Co. Grand Island, NE</b>	<b>Castle Construction Inc. Columbus, NE</b>
<b>Bid Security: Exceptions:</b>	<b>Travelers Casualty &amp; Surety None</b>	<b>North American Specialty Ins. Co. None</b>
<b>Bid Price:</b>	<b>\$139,623.85</b>	<b>\$154,529.58</b>

<b>Bidder:</b>	<b>A &amp; R Construction Plainview, NE</b>
<b>Bid Security: Exceptions:</b>	<b>Universal Surety Company None</b>
<b>Bid Price:</b>	<b>\$160,318.55</b>

cc: Steve Riehle, Public Works Director  
Danelle Collins, Admin. Assist. PW  
Dale Shotkoski, Purchasing Agent

Ron Underwood, Civil Eng. Manager  
Gary Greer, City Administrator  
Laura Berthelsen, Legal Assistant

RESOLUTION 2005-82

WHEREAS, the City of Grand Island invited sealed bids for Street Improvement Project No. 2005-P-1, according to plans and specifications on file with the City Engineer; and

WHEREAS, on March 17, 2005, bids were received, opened and reviewed; and

WHEREAS, The Diamond Engineering Company of Grand Island, 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 \$139,623.85; and

WHEREAS, such bid is below the engineer's estimate for such equipment.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the bid of The Diamond Engineering Company of Grand Island, Nebraska, in the amount of \$139,623.85 for Street Improvement Project No. 2005-P-1 is hereby approved as the lowest responsible bid.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, March 22, 2005.

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RaNae Edwards, City Clerk

Approved as to Form	☐ _____
March 17, 2005	☐ City Attorney



# City of Grand Island

Tuesday, March 22, 2005

Council Session

## Item G10

**#2005-83- Approving Agreement with CH2M Hill for On-Call  
Engineering Consulting Services for Waste Water Division**

Staff Contact: Steven P. Riehle, Public Works Director

# **Council Agenda Memo**

**From:** Steven P. Riehle, Public Works Director

**Meeting:** March 22, 2005

**Subject:** Approving Agreement with CH2M Hill for On-Call Engineering Consulting Services

**Item #'s:** G-10

**Presenter(s):** Steven P. Riehle, Public Works Director

## **Background**

On February 8, 2005 the Waste Water Division of the Public Works Department advertised to receive proposals for on-call engineering consulting services. The request for Proposals was mailed to four engineering consultants and also appeared in the Grand Island Independent. One proposal was received from CH2M Hill of Denver, Colorado on March 9, 2005.

## **Discussion**

CH2M Hill has performed the bulk of the engineering consulting services for the Waste Water Treatment Plant since 1992. The agreement will allow the city to enter into agreements with CH2M Hill on subsequent waste water projects without having to issue multiple Requests for Proposals. The selection of an on-call engineering consulting firm to provide service will expedite the process of procuring engineering services while still allowing us to hire other consultants.

## **Alternatives**

1. Approve a resolution authorizing the Mayor to sign an agreement with CH2M Hill for on-call engineering consulting services.
2. Postpone the issue to a future date.
3. Refer the issue to a Committee.
4. Take no action on the issue.

## **Recommendation**

City Administration recommends that the Council approve a resolution authorizing the Mayor to sign an agreement with CH2M Hill to perform on-call engineering consulting services for the City of Grand Island.

## **Sample Motion**

Move to approve entering into an agreement with CH2M Hill.



Dale M. Shotkoski, Assistant City Attorney

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**REQUEST FOR PROPOSAL  
FOR  
ENGINEERING CONSULTING SERVICES FOR  
PUBLIC WORKS DEPARTMENT**

**RFP DUE DATE:** March 9, 2005 at 4:00 p.m.

**DEPARTMENT:** Public Works

**PUBLICATION DATE:** February 8, 2005

**NO. POTENTIAL BIDDERS:** 3

**SUMMARY OF PROPOSALS RECEIVED**

**CH2M Hill**  
Englewood, CO

cc: Steve Riehle, Public Works Director  
Danelle Collins, Admin. Assist. PW  
David Springer, Finance Director  
Laura Berthelsen, Legal Assistant

Ben Thayer, WWTP Supt.  
Gary Greer, City Administrator  
Dale Shotkoski, Purchasing Agent

**P975**



# STANDARD AGREEMENT FOR PROFESSIONAL SERVICES

This AGREEMENT is between CH2M HILL INC., ("ENGINEER"), and

The City of Grand Island, Nebraska

("OWNER")

for a PROJECT generally described as:

"On-Call" Professional Engineering Consulting Services related to wastewater collection, treatment and regulatory compliance. It is understood that this is a one year contract with provisions for annual renewal for up to 4 additional years with a 90 day close-out clause.

## ARTICLE 1. SCOPE OF SERVICES

ENGINEER will perform the Scope of Services set forth in Attachment A.

## ARTICLE 2. COMPENSATION

OWNER will compensate ENGINEER as set forth in Attachment B. Work performed under this AGREEMENT may be performed using labor from affiliated companies of ENGINEER. Such labor will be billed to OWNER under the same billing terms applicable to ENGINEER's employees.

## ARTICLE 3. TERMS OF PAYMENT

OWNER will pay ENGINEER as follows:

### 3.1 Invoices and Time of Payment

ENGINEER will issue monthly invoices pursuant to Attachment B. Invoices are due and payable within 30 days of receipt.

### 3.2 Interest

3.2.1 OWNER will be charged interest at the rate of 1-1/2% per month, or that permitted by law if lesser, on all past-due amounts starting 30 days after receipt of invoice. Payments will first be credited to interest and then to principal.

3.2.2 In the event of a disputed billing, only the disputed portion will be withheld from payment, and OWNER shall pay the undisputed portion. OWNER will exercise reasonableness in disputing any bill or portion thereof. No interest will accrue on any disputed portion of the billing until mutually resolved.

3.2.3 If OWNER fails to make payment in full within 30 days of the date due for any undisputed billing, ENGINEER may, after giving 7 days' written notice to OWNER, suspend services under this AGREEMENT until paid in full, including interest. In the event of suspension of services, ENGINEER will have no liability to OWNER for delays or damages caused by OWNER because of such suspension.

## ARTICLE 4. OBLIGATIONS OF ENGINEER

### 4.1 Standard of Care

The standard of care applicable to ENGINEER's Services will be the degree of skill and diligence normally employed by professional engineers or consultants performing the same or similar Services at the time said services are performed. ENGINEER will reperform any services not meeting this standard without additional compensation.

### 4.2 Subsurface Investigations

In soils, foundation, groundwater, and other subsurface investigations, the actual characteristics may vary significantly between successive test points and sample intervals and at locations other than where observations, exploration, and investigations have been made. Because of the inherent uncertainties in subsurface evaluations, changed or unanticipated underground conditions may occur that could affect total PROJECT cost and/or execution. These conditions and cost/execution effects are not the responsibility of ENGINEER.

### 4.3 ENGINEER's Personnel at Construction Site

4.3.1 The presence or duties of ENGINEER's personnel at a construction site, whether as onsite representatives or otherwise, do not make ENGINEER or ENGINEER's personnel in any way responsible for those duties that belong to OWNER and/or the construction contractors or other entities, and do not relieve the construction contractors or any other entity of their obligations, duties, and responsibilities, including, but not limited to, all construction methods, means, techniques, sequences, and procedures necessary for coordinating and completing all portions of the construction work in accordance with the construction Contract Documents and any health or safety precautions required by such construction work.

4.3.2 ENGINEER and ENGINEER's personnel have no authority to exercise any control over any construction contractor or other entity or their employees in connection with their work or any health or safety precautions and have no duty for inspecting, noting, observing, correcting, or reporting on health or safety deficiencies of the construction contractor(s) or other entity or any other persons at the site except ENGINEER's own personnel.

4.3.3 The presence of ENGINEER's personnel at a construction site is for the purpose of providing to OWNER a greater degree of confidence that the completed construction work will conform generally to the construction documents and that the integrity of the design concept as reflected in the construction documents has been implemented and preserved by the construction contractor(s). ENGINEER neither guarantees the performance of the construction contractor(s) nor assumes responsibility for construction contractor's failure to perform work in accordance with the construction documents.

For this AGREEMENT only, construction sites include places of manufacture for materials incorporated into the construction work, and construction contractors include manufacturers of materials incorporated into the construction work.

#### **4.4 Opinions of Cost, Financial Considerations, and Schedules**

In providing opinions of cost, financial analyses, economic feasibility projections, and schedules for the PROJECT, ENGINEER has no control over cost or price of labor and materials; unknown or latent conditions of existing equipment or structures that may affect operation or maintenance costs; competitive bidding procedures and market conditions; time or quality of performance by operating personnel or third parties; and other economic and operational factors that may materially affect the ultimate PROJECT cost or schedule. Therefore, ENGINEER makes no warranty that OWNER's actual PROJECT costs, financial aspects, economic feasibility, or schedules will not vary from ENGINEER's opinions, analyses, projections, or estimates.

If OWNER wishes greater assurance as to any element of PROJECT cost, feasibility, or schedule, OWNER will employ an independent cost estimator, contractor, or other appropriate advisor.

#### **4.5 Construction Progress Payments**

Recommendations by ENGINEER to OWNER for periodic construction progress payments to the construction contractor(s) will be based on ENGINEER's knowledge, information, and belief from selective sampling that the work has progressed to the point indicated. Such recommendations do not represent that continuous or detailed examinations have been made by ENGINEER to ascertain that the construction contractor(s) have completed the work in exact accordance with the construction documents; that the final work will be acceptable in all respects; that ENGINEER has made an examination to ascertain how or for what purpose the construction contractor(s) have used the moneys paid; that title to any of the work, materials, or equipment has passed to OWNER free and clear of liens, claims, security interests, or encumbrances; or that there are not other matters at issue between OWNER and the construction contractors that affect the amount that should be paid.

#### **4.6 Record Drawings**

Record drawings, if required, will be prepared, in part, on the basis of information compiled and furnished by others, and may not always represent the exact location, type of various components, or exact manner in which the PROJECT was finally constructed. ENGINEER is not responsible for any errors or omissions in the information from others that is incorporated into the record drawings.

#### **4.7 Access to ENGINEER's Accounting Records**

ENGINEER will maintain accounting records, in accordance with generally accepted accounting principles. These records will be available to OWNER during ENGINEER's normal business hours for a period of 1 year after ENGINEER's final invoice for examination to the extent required to verify the direct costs (excluding established or standard allowances and rates) incurred hereunder. OWNER may only audit

accounting records applicable to a cost-reimbursable type compensation.

#### **4.8 ENGINEER's Insurance**

ENGINEER will maintain throughout this AGREEMENT the following insurance:

- (a) Worker's compensation and employer's liability insurance as required by the state where the work is performed.
- (b) Comprehensive automobile and vehicle liability insurance covering claims for injuries to members of the public and/or damages to property of others arising from use of motor vehicles, including onsite and offsite operations, and owned, nonowned, or hired vehicles, with \$1,000,000 combined single limits.
- (c) Commercial general liability insurance covering claims for injuries to members of the public or damage to property of others arising out of any covered negligent act or omission of ENGINEER or of any of its employees, agents, or subcontractors, with \$1,000,000 per occurrence and in the aggregate.
- (d) Professional liability insurance of \$1,000,000 per occurrence and in the aggregate.
- (e) OWNER will be named as an additional insured with respect to ENGINEER's liabilities hereunder in insurance coverages identified in items (b) and (c) and ENGINEER waives subrogation against OWNER as to said policies.

### **ARTICLE 5. OBLIGATIONS OF OWNER**

#### **5.1 OWNER-Furnished Data**

OWNER will provide to ENGINEER all data in OWNER's possession relating to ENGINEER's services on the PROJECT. ENGINEER will reasonably rely upon the accuracy, timeliness, and completeness of the information provided by OWNER.

#### **5.2 Access to Facilities and Property**

OWNER will make its facilities accessible to ENGINEER as required for ENGINEER's performance of its services and will provide labor and safety equipment as required by ENGINEER for such access. OWNER will perform, at no cost to ENGINEER, such tests of equipment, machinery, pipelines, and other components of OWNER's facilities as may be required in connection with ENGINEER's services.

#### **5.3 Advertisements, Permits, and Access**

Unless otherwise agreed to in the Scope of Services, OWNER will obtain, arrange, and pay for all advertisements for bids; permits and licenses required by local, state, or federal authorities; and land, easements, rights-of-way, and access necessary for ENGINEER's services or PROJECT construction.

#### **5.4 Timely Review**

OWNER will examine ENGINEER's studies, reports, sketches, drawings, specifications, proposals, and other documents; obtain advice of an attorney, insurance counselor, accountant, auditor, bond and financial advisors, and other consultants as OWNER deems appropriate; and render in writing decisions required by OWNER in a timely manner.

#### **5.5 Prompt Notice**

OWNER will give prompt written notice to ENGINEER whenever OWNER observes or becomes aware of any

development that affects the scope or timing of ENGINEER's Services, or of any defect in the work of ENGINEER or construction contractors.

#### **5.6 Asbestos or Hazardous Substances**

5.6.1 If asbestos or hazardous substances in any form are encountered or suspected, ENGINEER will stop its own work in the affected portions of the PROJECT to permit testing and evaluation.

5.6.2 If asbestos is suspected, ENGINEER will, if requested, manage the asbestos remediation activities using a qualified subcontractor at an additional fee and contract terms to be negotiated.

5.6.3 If hazardous substances other than asbestos are suspected, ENGINEER will, if requested, conduct tests to determine the extent of the problem and will perform the necessary studies and recommend the necessary remedial measures at an additional fee and contract terms to be negotiated.

5.6.4 Client recognizes that CH2M HILL assumes no risk and/or liability for a waste or hazardous waste site originated by other than CH2M HILL.

#### **5.7 Contractor Indemnification and Claims**

5.7.1 OWNER agrees to include in all construction contracts the provisions of Article 4.3, ENGINEER's Personnel at Construction Site, and provisions providing contractor indemnification of OWNER and ENGINEER for contractor's negligence.

5.7.2 OWNER shall require construction contractor(s) to name OWNER and ENGINEER as additional insureds on the contractor's general liability insurance policy.

5.7.3 OWNER agrees to include the following clause in all contracts with construction contractors, and equipment or materials suppliers:

"Contractors, subcontractors, and equipment and material suppliers on the PROJECT, or their sureties, shall maintain no direct action against ENGINEER, ENGINEER's officers, employees, affiliated corporations, and subcontractors for any claim arising out of, in connection with, or resulting from the engineering services performed. OWNER will be the only beneficiary of any undertaking by ENGINEER."

#### **5.8 OWNER's Insurance**

5.8.1 OWNER will maintain property insurance on all pre-existing physical facilities associated in any way with the PROJECT.

5.8.2 OWNER will provide for a waiver of subrogation as to all OWNER-carried property damage insurance, during construction and thereafter, in favor of ENGINEER, ENGINEER's officers, employees, affiliates, and subcontractors.

5.8.3 OWNER will provide (or have the construction contractor(s) provide) a Builders Risk All Risk insurance policy for the full replacement value of all PROJECT work including the value of all onsite OWNER-furnished equipment and/or materials associated with ENGINEER's services. Such policy will include coverage for loss due to defects in materials and workmanship and errors in design, and will provide a waiver of subrogation as to ENGINEER and the construction contractor(s) (or OWNER), and their respective officers, employees, agents, affiliates, and

subcontractors. OWNER will provide ENGINEER a copy of such policy.

#### **5.9 Litigation Assistance**

The Scope of Services does not include costs of ENGINEER for required or requested assistance to support, prepare, document, bring, defend, or assist in litigation undertaken or defended by OWNER. All such Services required or requested of ENGINEER by OWNER, except for suits or claims between the parties to this AGREEMENT, will be reimbursed as mutually agreed.

#### **5.10 Changes**

OWNER may make or approve changes within the general Scope of Services in this AGREEMENT. If such changes affect ENGINEER's cost of or time required for performance of the services, an equitable adjustment will be made through an amendment to this AGREEMENT.

### **ARTICLE 6. GENERAL LEGAL PROVISIONS**

#### **6.1 Authorization to Proceed**

Execution of this AGREEMENT by OWNER will be authorization for ENGINEER to proceed with the work, unless otherwise provided for in this AGREEMENT.

#### **6.2 Reuse of PROJECT Documents**

All reports, drawings, specifications, documents, and other deliverables of ENGINEER, whether in hard copy or in electronic form, are instruments of service for this PROJECT, whether the PROJECT is completed or not. OWNER agrees to indemnify ENGINEER and ENGINEER's officers, employees, subcontractors, and affiliated corporations from all claims, damages, losses, and costs, including, but not limited to, litigation expenses and attorney's fees arising out of or related to the unauthorized reuse, change or alteration of these PROJECT documents.

#### **6.3 Force Majeure**

ENGINEER is not responsible for damages or delay in performance caused by acts of God, strikes, lockouts, accidents, or other events beyond the control of ENGINEER. In any such event, ENGINEER'S contract price and schedule shall be equitably adjusted.

#### **6.4 Limitation of Liability**

6.4.1 To the maximum extent permitted by law, ENGINEER's liability for OWNER's damages will not, in the aggregate, exceed \$1,000,000.

6.4.2 This article takes precedence over any conflicting article of this AGREEMENT or any document incorporated into it or referenced by it.

6.4.3 This limitation of liability will apply whether ENGINEER's liability arises under breach of contract or warranty; tort; including negligence; strict liability; statutory liability; or any other cause of action, and shall include ENGINEER's officers, affiliated corporations, employees, and subcontractors.

#### **6.5 Termination**

6.5.1 This AGREEMENT may be terminated for convenience on 30 days' written notice, or for cause if either party fails substantially to perform through no fault of the other and does not commence correction of such nonperformance within 5 days of written notice and diligently complete the correction thereafter.

6.5.2 On termination, ENGINEER will be paid for all authorized services performed up to the termination date plus termination expenses, such as, but not limited to, reassignment of personnel, subcontract termination costs, and related closeout costs.

#### **6.6 Suspension, Delay, or Interruption of Work**

OWNER may suspend, delay, or interrupt the Services of ENGINEER for the convenience of OWNER. In such event, ENGINEER's contract price and schedule shall be equitably adjusted.

#### **6.7 No Third-Party Beneficiaries**

This AGREEMENT gives no rights or benefits to anyone other than OWNER and ENGINEER and has no third-party beneficiaries.

#### **6.8 Indemnification**

6.8.1 ENGINEER agrees to indemnify OWNER for any claims, damages, losses, and costs, including, but not limited to, attorney's fees and litigation costs, arising out of claims by third parties for property damage or bodily injury, including death, to the proportionate extent caused by the negligence or willful misconduct of ENGINEER, ENGINEER's employees, affiliated corporations, and subcontractors in connection with the PROJECT.

6.8.2 OWNER agrees to indemnify ENGINEER from any claims, damages, losses, and costs, including, but not limited to, attorney's fees and litigation costs, arising out of claims by third parties for property damage or bodily injury, including death, to the proportionate extent caused by the negligence or willful misconduct of OWNER, or its employees or contractors in connection with the PROJECT.

#### **6.9 Assignment**

This is a bilateral personal Services AGREEMENT. Neither party shall have the power to or will assign any of the duties or rights or any claim arising out of or related to this AGREEMENT, whether arising in tort, contract or otherwise, without the written consent of the other party. Any unauthorized assignment is void and unenforceable. These conditions and the entire AGREEMENT are binding on the heirs, successors, and assigns of the parties hereto.

#### **6.10 Consequential Damages**

To the maximum extent permitted by law, ENGINEER and ENGINEER's affiliated corporations, officers, employees, and subcontractors shall not be liable for OWNER's special, indirect, or consequential damages, whether such damages arise out of breach of contract or warranty, tort including negligence, strict or statutory liability, or any other cause of action. In order to protect ENGINEER against indirect liability or third-party proceedings, OWNER will indemnify ENGINEER for any such damages.

#### **6.11 Waiver**

OWNER waives all claims against ENGINEER, including those for latent defects, that are not brought within 2 years of substantial completion of the facility

designed or final payment to ENGINEER, whichever is earlier.

#### **6.12 Jurisdiction**

The substantive law of the state of the PROJECT site shall govern the validity of this AGREEMENT, its interpretation and performance, and any other claims related to it.

#### **6.13 Severability and Survival**

6.13.1 If any of the Provisions contained in this AGREEMENT are held for any reason to be invalid, illegal, or unenforceable, the enforceability of the remaining provisions shall not be impaired thereby.

6.13.2 Limitations of liability, indemnities, and other express representations shall survive termination of this AGREEMENT for any cause.

#### **6.14 Materials and Samples**

Any items, substances, materials, or samples removed from the PROJECT site for testing, analysis, or other evaluation will be returned to the PROJECT site within 60 days of PROJECT close-out unless agreed to otherwise. OWNER recognizes and agrees that ENGINEER is acting as a bailee and at no time assumes title to said items, substances, materials, or samples.

#### **6.15 Engineer's Deliverables**

Engineer's deliverables, including record drawings, are limited to the sealed and signed hard copies. Computer-generated drawing files furnished by ENGINEER are for OWNER or others' convenience. Any conclusions or information derived or obtained from these files will be at user's sole risk.

#### **6.16 Dispute Resolution**

The parties will use their best efforts to resolve amicably any dispute, including use of alternative dispute resolution options.

#### **6.17 Ownership of Work Product and Inventions**

All of the work product of the ENGINEER in executing this PROJECT shall remain the property of ENGINEER. OWNER shall receive a perpetual, royalty-free, non-transferable, non-exclusive license to use the deliverables for the purpose for which they were intended. Any inventions, patents, copyrights, computer software, or other intellectual property developed during the course of, or as a result of, the PROJECT shall remain the property of the ENGINEER.

### **ARTICLE 7. ATTACHMENTS, SCHEDULES, AND SIGNATURES**

This AGREEMENT, including its attachments and schedules, constitutes the entire AGREEMENT, supersedes all prior written or oral understandings, and may only be changed by a written amendment executed by both parties. The following attachments and schedules are hereby made a part of this AGREEMENT:

Attachment A--Scope of Services  
Attachment B--Compensation

IN WITNESS WHEREOF, the parties execute below:

For OWNER, \_\_\_\_\_

dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

Signature \_\_\_\_\_

Signature \_\_\_\_\_

Name (printed) \_\_\_\_\_

Name (printed) \_\_\_\_\_

Title \_\_\_\_\_

Title \_\_\_\_\_

For ENGINEER, CH2M HILL INC.,

dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

Signature \_\_\_\_\_

Signature \_\_\_\_\_

Name (printed) \_\_\_\_\_

Name (printed) \_\_\_\_\_

Title \_\_\_\_\_

Title \_\_\_\_\_

**ATTACHMENT B - COMPENSATION****ARTICLE 2. COMPENSATION**

Compensation by OWNER to ENGINEER will be as follows:

<b>Classification</b>	<b>Employee</b>	<b>Hourly Rate<sup>(1)</sup> (Year 2005)</b>
<b>Management (Program, Project, Design)</b>	Tom Heinemann	\$194.00
	Mary Gross	\$181.00
	Steve Polson	\$154.00
	Dave Durant	\$136.00
	Scott Higbee	\$133.00
	Doug Simon	\$120.00
<b>Senior Project Engineers</b>	Pat Nelson	\$149.00
	Gary Davis	\$142.00
	Chris Goz	\$141.00
	Bill Day	\$140.00
	Bob Lawson	\$136.00
	Doug Wagner	\$134.00
	Ron Mesure	\$131.00
<b>Project Engineers</b>	Jack Purdy	\$126.00
	Dave Parks	\$123.00
	Perrin Niemann	\$111.00
	Vani Kathula	\$99.00
	Ty Morton	\$90.00
<b>Junior Project Engineers</b>	Holly Werth	\$86.00
	Geoff Kirsten	\$82.00
<b>CADD</b>	Roy Marken	\$116.00
	Mike Monahan	\$87.00
	Cody Schnee	\$67.00
<b>Office/Clerical</b>	Maudeen Vest	\$63.00
	Amy Stapley	\$59.00
<b>Senior Consultants</b>	Glen Daigger	\$299.00
	Jay Witherspoon	\$237.00
	Jan Allen	\$228.00
	Ron Sieger	\$184.00
	Jim Bays	\$169.00
	Ron Skabo	\$161.00
	Bruce Johnson	\$154.00
	Allen Davis	\$152.00
	Earl Byron	\$140.00

<b>Expenses</b>	Communications <sup>(2)</sup>	\$1.20/hr
	Computers <sup>(2)</sup>	\$4.65/hr
	Photocopies	\$0.04 ea.
	Direct Expenses <sup>(3)</sup>	As Incurred

#### Notes

<sup>(1)</sup>Hourly rates are based on a 2.08 Salary Rate Multiplier and includes allowances for salary, payroll taxes, fringe benefits, overhead, and profit, but do not include allowances for direct expenses. These rates are subject to annual calendar year adjustments.

<sup>(2)</sup>Assessment applies to all labor hours incurred on project.

<sup>(3)</sup>Direct expenses are charges incurred on the project, as well as CH2M HILL's current standard rate charges for services such as photocopies, computing systems, special OSHA health and safety requirements, telecommunications, etc.

RESOLUTION 2005-83

WHEREAS, the City of Grand Island invited proposals for On-Call Engineering Consulting Services in accordance with a Request for Proposal on file with the City Engineer; and

WHEREAS, on March 9, 2005, one proposal was received, reviewed and evaluated in accordance with established criteria; and

WHEREAS, CH2M Hill of Denver, Colorado, submitted a proposal in accordance with the terms of the request for proposals and all statutory requirements contained therein and the City Procurement Code, such proposal being at standard rates in accordance with the agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the proposal of CH2M Hill of Denver, Colorado, for on-call engineering consulting services at standard rates in accordance with the agreement is hereby approved.

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

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, March 22, 2005.

---

RaNae Edwards, City Clerk

Approved as to Form	☐ _____
March 17, 2005	☐ City Attorney





# City of Grand Island

Tuesday, March 22, 2005

Council Session

## Item G11

**#2005-84- Approving Correction to Resolution 2005-62 Regarding  
Street Improvement District No. 1255; Independence Avenue,  
Shanna Street & Lariat Lane**

Staff Contact: Steven P. Riehle, Public Works Director

# **Council Agenda Memo**

**From:** Steven P. Riehle, Public Works Director  
**Meeting:** March 22, 2005  
**Subject:** Approving Correction to Resolution 2005-62  
**Item #'s:** G-11  
**Presenter(s):** Steven P. Riehle, Public Works Director

## **Background**

The Engineering Division of the Public Works Department advertised for bids for Street Improvement District on February 4, 2005. Bids were received and opened on February 22, 2005.

## **Discussion**

The City Council approved Resolution Number 2005-62 at the March 8, 2005 meeting awarding the contract to A & R Construction Co., of Plainview, Nebraska, for the amount of \$415,354.66. An incorrect bid price was in the resolution. The resolution stated an amount \$1,000 less than the bid that A & R Construction submitted. The resolution should be approved for \$416,354.66.

## **Alternatives**

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

1. Approve a resolution rescinding the original resolution and passing a corrected version.
2. Refer the issue to a Committee.
3. Postpone the issue to a future date.
4. Take no action on the issue.

## **Recommendation**

City Administration recommends that the Council pass a resolution rescinding the original resolution and passing a corrected resolution for Street Improvement District 1255.

## **Sample Motion**

Move to approve the rescinding of the original resolution and pass a corrected resolution.

RESOLUTION 2005-84

WHEREAS, on March 8, 2005, by Resolution 2005-62, the City Council of the City of Grand Island awarded the bid of A & R Construction Co. of Plainview, Nebraska for Street Improvement District No. 1255; and

WHEREAS, Resolution 2005-62 incorrectly stated the bid price of A & R Construction Co.; and

WHEREAS, it is necessary to amend Resolution 2005-62 to correctly state the bid amount of \$416,354.66 as submitted by A & R Construction Co. for Street Improvement District No. 1255.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that Resolution 2005-62 is hereby amended to correct the bid amount of \$416,354.66 awarded to A & R Construction Co. of Plainview, Nebraska, for Street Improvement District No. 1255.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, March 22, 2005.

---

RaNae Edwards, City Clerk

Approved as to Form	☐ _____
March 17, 2005	☐ City Attorney



# City of Grand Island

Tuesday, March 22, 2005

Council Session

## Item G12

**#2005-85- Approving Removal of the Handicap Parking Stall in Front of 522 W 1st Street, Northeast Corner of 1st Street & Elm Street**

Staff Contact: Steven P. Riehle, Public Works Director

# **Council Agenda Memo**

**From:** Steven P. Riehle, Public Works Director  
**Meeting:** March 22, 2005  
**Subject:** Approving Removal of the Handicap Parking Stall in Front of 522 W 1st Street  
**Item #'s:** G-12  
**Presenter(s):** Steven P. Riehle, Public Works Director

## **Background**

Council action is required for the installation and removal of handicap parking stalls.

## **Discussion**

The City Council designated a handicap parking stall in front of 522 West 1<sup>st</sup> Street at the January 27, 2004 council meeting. The designation was at the request of the tenant through the landlord. The tenant no longer lives there and the landlord is requesting the handicap designation be removed.

## **Alternatives**

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

1. Approve the removal of the handicap parking stall in front of 522 W 1<sup>st</sup> Street.
2. Refer the issue to a Committee.
3. Postpone the issue to a future date.
4. Take no action on the issue.

## **Recommendation**

City Administration recommends that the Council pass a resolution to remove the handicap parking stall in front of 522 W 1<sup>st</sup> Street.

## **Sample Motion**

Move to approve the removal of the handicap parking stall.

RESOLUTION 2005-85

WHEREAS, on January 27, 2004, by Resolution 2004-21, the City Council of the City of Grand Island approved the designation of a parking stall for the exclusive use of vehicles for handicapped or disabled persons in front of the residence at 522 West First Street to accommodate a tenant at that address; and

WHEREAS, such tenant no longer resides at that address, and the landlord is requesting that such handicap parking stall be removed.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the parking stall designated for handicapped or disabled persons in front of the residence at 522 West First Street shall hereby be removed.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, March 22, 2005.

---

RaNae Edwards, City Clerk

Approved as to Form	☐ _____
March 17, 2005	☐ City Attorney





# City of Grand Island

Tuesday, March 22, 2005

Council Session

## Item G13

**#2005-86- Approving Change Order No. 5 to the Grand  
Generation Center Renovation and Expansion Project**

Staff Contact: Joni Kuzma

# **Council Agenda Memo**

**From:** Joni Kuzma, Community Development  
**Meeting:** March 22, 2005  
**Subject:** Change Order #5 Grand Generation Center  
**Item #'s:** G-13  
**Presenter(s):** Joni Kuzma, Development Specialist

## **Background**

The City of Grand Island is the owner of record of the building occupied by Senior Citizen Industries, Inc, located at 304 East 3<sup>rd</sup> Street. In July 2004, the City awarded a contract in the amount of \$615,985.00 to Starostka Group Unlimited for the expansion and renovation of the Center. The City received a Community Development Block grant in the amount of \$350,000 to assist in this expansion and renovation.

At the October 26, 2004 meeting of the City Council, Change Order #1 was approved in the amount of \$17,524.25 for removal of miscellaneous debris found under the footings during the redigging for the laying of the foundation. Change Order #2 was approved at the Dec. 21, 2004 Council meeting to decrease the amount of the contract by \$29,992.00 for the deduction of the Fire Sprinkler system and allow a 45 day time extension for completion. Change Order #3 was approved at the January 25, 2005 to decrease the contract sum by \$2,000 from a Home Depot gift applied to contractor supply purchases. Change Order #4, approved February 22, 2005, increased costs by \$4,940 for a revision of Footings and Foundations, which includes additional work needed in the Kitchen Work Room and the addition of two receptacles on the east side of the center wall of the kitchen.

## **Discussion**

Change Order #5 provides for a variety of electrical conduit additions and adds a fire extinguisher cabinet. With Council approval, the contract amount (amended by change order #4) of \$606,457.25 will be increased by \$2,631.50. The new contract amount will be \$609,088.75, an amount less than the original contracted base bid.

Since the City owns the building and the original contract was signed by the City, Change Order #5 is being submitted to the City for their approval. No other changes are anticipated for this project.

### **Alternatives**

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

1. Approve Change Order #5.
2. Refer the issue to a Committee.
3. Postpone the issue to a later date.

### **Recommendation**

City Administration recommends that the Council approve Change Order #5.

### **Sample Motion**

Motion to approve Change Order #5 to the contract with Starostka Group Unlimited on the expansion and renovation of the Senior Citizens Industries, Inc.

RESOLUTION 2005-86

WHEREAS, on July 13, 2004, by Resolution 2004-166, the City of Grand Island awarded the bid for the addition and renovation of the Grand Generation Center at 304 East Third Street to Starostka Group, Inc. of Grand Island, Nebraska; and

WHEREAS, on October 26, 2004, by Resolution 2004-274, the City of Grand Island approved Change Order No. 1 for such project to authorize the removal of miscellaneous debris found under the footings; and

WHEREAS, on December 21, 2004, by Resolution 2004-322, the City of Grand Island approved Change Order No. 2 for such project to extend the base bid contract completion date to February 26, 2005 and to transfer the costs of the fire sprinkler system to a separate contract; and

WHEREAS, on January 25, 2005, by Resolution 2005-24, the City of Grand Island approved Change Order No. 3 decreasing the contract sum by \$2,000 due to a Home Depot gift applied to contractor supply purchases; and

WHEREAS, on February 22, 2005, by Resolution 2005-55, the City of Grand Island approved Change Order No. 4 increased the contract sum by \$4,940 for a revision of footings and foundations including additional kitchen work; and

WHEREAS, Change Order No. 5 is being proposed for a variety of electrical conduit additions and a fire extinguisher cabinet; and

WHEREAS, such additional work will increase the contract by \$2,631.50 for a total adjusted contract amount of \$609,088.75.

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. 5 between the City of Grand Island and Starostka Group, Inc. of Grand Island, Nebraska, to increase the contract amount by \$2,631.50 for electrical conduit additions and a fire extinguisher cabinet as set out in such change order.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, March 22, 2005.

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

Approved as to Form	☐ _____
March 17, 2005	☐ City Attorney



# City of Grand Island

Tuesday, March 22, 2005

Council Session

## Item G14

**#2005-87- Approving Contract for Carpet Replacement for Suite 3**

Staff Contact: Craig Lewis

# Council Agenda Memo

**From:** Craig A. Lewis, Building Department Director  
**Meeting:** March 22, 2005  
**Subject:** Approving Contract for Carpet Replacement of Suite #3  
**Item #'s:** G-14  
**Presenter(s):** Craig Lewis

## Background

Grand Island City government offices have operated from the existing City Hall facilities for approximately 12 years. The floor coverings in several of the high traffic areas are in need of replacement. Systematic replacement is proposed for this and next budget year, with suite 3 being targeted for the initial replacement as it is the most in need.

## Discussion

A request for proposal was advertised and sent to several local business requesting proposals for replacement of the floor covering in suite 3. Three proposals were received as follows;

Floor to Ceiling	\$28,901.47	no installation time submitted.
Color Tile & Carpet	\$24,459.68	one week installation.
Johnson Cash-Way	\$18,686.77	four week installation time.

The lowest proposal is certainly attractive from a cost comparison perspective but the time frame associated with that proposal is not acceptable from a functional perspective. The highest dollar proposal did not submit a time schedule as required in the request and has not been considered. The middle proposal from Color Tile & Carpet is the most attractive as the cost appears reasonable and the time schedule proposed is the most beneficial from an operational viewpoint.

## **Alternatives**

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

1. Approve the contract.
2. Disapprove or /Deny the contract.
3. Modify the request to meet the wishes of the Council
4. Table the issue

## **Recommendation**

City Administration recommends that the Council approve the contract and proposal submitted by Color Tile & Carpet.

## **Sample Motion**

A motion to approve the contract agreement with Color Tile & Carpet for the replacement of floor covering in suite 3 of City Hall.



Dale M. Shotkoski, Assistant City Attorney

*Working Together for a  
Better Tomorrow, Today*

**REQUEST FOR PROPOSAL  
FOR  
CARPET REPLACEMENT FOR SUITE 3**

**RFP DUE DATE:** March 10, 2005 at 4:00 p.m.  
**DEPARTMENT:** Building  
**PUBLICATION DATE:** February 19, 2005  
**NO. POTENTIAL BIDDERS:** 7

**SUMMARY OF PROPOSALS RECEIVED**

**Johnson Cash-Way**  
Grand Island, NE

**Color Tile & Carpet**  
Grand Island, NE

**Floor to Ceiling**  
Grand Island, NE 68803

cc: Craig Lewis, Building Director  
Gary Greer, City Administrator  
Dale Shotkoski, Purchasing Agent

Ken Scholl, Building Maintenance  
David Springer, Finance Director  
Laura Berthelsen, Legal Assistant



RESOLUTION 2005-87

WHEREAS, the City of Grand Island invited proposals for Replacement of Carpet – 1<sup>st</sup> Floor – City Hall, in accordance with a Request for Proposal on file with the Building Department; and

WHEREAS, on March 10, 2005, proposals were received, reviewed and evaluated in accordance with established criteria; and

WHEREAS, Color Tile & Carpet of Grand Island, Nebraska, submitted a proposal in accordance with the terms of the request for proposals and all statutory requirements contained therein and the City Procurement Code, such proposal being in the amount of \$24,459.68; and

WHEREAS, the City Attorney's office has reviewed and approved a contract for such project.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the proposal of Color Tile & Carpet of Grand Island, Nebraska, for Replacement of Carpet – City Hall Suite 3 in the amount of \$24,459.68 is hereby approved.

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

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, March 22, 2005.

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RaNae Edwards, City Clerk

Approved as to Form	☐ _____
March 17, 2005	☐ City Attorney



# City of Grand Island

Tuesday, March 22, 2005

Council Session

## Item G15

**#2005-88- Approving Authorization for Mayor to Execute  
Development Agreement and Loan Documents with Standard Iron,  
Inc.**

Staff Contact: Doug Walker

# Council Agenda Memo

**From:** Douglas R. Walker, City Attorney

**Meeting:** March 22, 2005

**Subject:** Resolution Authorizing Mayor to Execute Development Agreement and Loan Documents with Standard Iron, Inc.

**Item #'s:** G-15

**Presenter(s):** Douglas R. Walker, City Attorney

## Background

On September 14, 2004, the City Council authorized the City of Grand Island to proceed with seeking Community Development Block Grant Funds from the Nebraska Department of Economic Development so that the city could make a grant of Community Development Block Grant Funds to Standard Iron, Inc. The city has been successful in obtaining a grant for \$429,947.00 in Community Development Block Grant Funds to extend to Standard Iron, Inc., as part of the incentives to induce Standard Iron, Inc., to locate their new manufacturing facility in the City of Grand Island. This item is now before the City Council to authorize the Mayor to sign the development agreement and all of the final loan documents necessary to complete the process of extending economic incentives to Standard Iron, Inc.

## Discussion

The city has been successful in obtaining Community Development Block Grant Funding in the amount of \$429,947.00. This money will be loaned to Standard Iron, Inc., for building, construction and equipment purchases with the city retaining \$4,000.00 for auditing and administrative expenses. The city will also be extending another \$74,053.00 of Economic Development Program Funds to complete the total incentive package of \$500,000.00. Of this total amount, \$250,000.00 will be in the form of a forgivable loan which will not have to be paid back if all employment objectives are met. The other \$250,000.00 will be extended in the form of a term note that would be paid back in 168 installments at no interest unless Standard Iron defaults. It is necessary to obtain City Council approval for completing the documents associated with extending the CDBG and Economic Development Funds to Standard Iron, Inc. The resolution will authorize the Mayor to sign the necessary documents to complete the process of extending the incentives to Standard Iron, Inc.

## **Alternatives**

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

1. Move to approve the resolution authorizing the Mayor to sign the necessary documents to complete the process of extending the Community Development Block Grant Funds and Economic Development Funds to Standard Iron, Inc.
2. Not approve the resolution which would not permit the process to be concluded.
3. Postpone the issue to future date
4. Take no action on the issue

## **Recommendation**

City Administration recommends that the Council approve the resolution authorizing the Mayor to sign the Economic Development Agreement and all other documents necessary to complete the process of extending financial incentives to Standard Iron, Inc.

## **Sample Motion**

Motion to approve the resolution authorizing the Mayor to sign the necessary documents to complete the process of extending Community Development Block Grant Funds and Economic Development Funds to Standard Iron, Inc.

---

# **DEVELOPMENT AGREEMENT**

**By and Among**

**CITY OF GRAND ISLAND, NEBRASKA, INDIVIDUALLY AND AS  
AGENT FOR  
STATE OF NEBRASKA, DEPARTMENT OF ECONOMIC  
DEVELOPMENT,**

**and**

**STANDARD IRON, INC.,**

**and**

**DEMEULES FAMILY LIMITED PARTNERSHIP**

Dated as of: \_\_\_\_\_, 200\_\_

---

This document was drafted by:

**MOSS & BARNETT**  
A Professional Association  
4800 Wells Fargo Center  
90 South Seventh Street  
Minneapolis, MN 55402  
Telephone: (612) 347-0300

## TABLE OF CONTENTS

	<u>Page</u>
<b>PREAMBLE</b>	<b>1</b>
<b>ARTICLE I</b> <b><u>Definitions</u></b>	
Section 1.1. Definitions	2
<b>ARTICLE II</b> <b><u>Representations</u></b>	
Section 2.1. Representations by the City	4
Section 2.2. Representations by the Demeules Partnership and the Business	5
<b>ARTICLE III</b> <b><u>Financing for the Project</u></b>	
Section 3.1. Project Financing	5
Section 3.2. Demeules Partnership Equity and Other Financing	5
Section 3.3. Provision of Evidentiary Materials	6
Section 3.4. Subordination	6
<b>ARTICLE IV</b> <b><u>Job Creation, Job Retention, Job Maintenance and Reporting Requirements</u></b>	
Section 4.1. Job Creation	6
Section 4.2. Job Retention	6
Section 4.3. Job Maintenance	6
Section 4.4. Wage Commitment	7
Section 4.5. Employment Documentation	7
Section 4.6. Job Creation Documentation	7
Section 4.7. First Source Employment Referral Agreement	7
Section 4.8. Financial Reporting	7
<b>ARTICLE V</b> <b><u>CDBG Loan Terms</u></b>	
Section 5.1. CDBG Amount and Program Use Requirements	8
Section 5.2. Application of CDBG Advance to Notes	8
Section 5.3. CDBG Loan Terms; Effect of CDBG Performance Default	9
Section 5.4. Collateral Agreements	10

**ARTICLE VI**

**Insurance**

Section 6.1.	Insurance	10
Section 6.2.	Certificates	11
Section 6.3.	Subordination	11

**ARTICLE VII**

**Events of Default**

Section 7.1.	Events of Default Defined	11
Section 7.2.	City's Remedies on Default	12
Section 7.3.	No Remedy Exclusive	12
Section 7.4.	No Additional Waiver Implied by One Waiver	12
Section 7.5.	Costs of Enforcement	12

**ARTICLE VIII**

**Additional Provisions**

Section 8.1.	Representatives Not Individually Liable	13
Section 8.2.	Titles of Articles and Sections	13
Section 8.3.	Notices and Demands	13
Section 8.4.	Disclaimer of Relationships	13
Section 8.5.	Modifications	13
Section 8.6.	Counterparts	14
Section 8.7.	Judicial Interpretation	14
Section 8.8.	Law Governing	14
Section 8.9.	Binding Effect	14
Section 8.10.	Severability	14
Section 8.11.	Amendment	14
Section 8.12.	Fees and Expenses	14
Section 8.13.	Memorandum of Agreement	14

TESTIMONIUM		15
SIGNATURES		15

EXHIBIT A	LEGAL DESCRIPTION	
EXHIBIT B	HUD-ESTABLISHED INCOME LIMITS	

## DEVELOPMENT AGREEMENT

This *Agreement* is made on or as of the \_\_\_\_ day of \_\_\_\_\_, 200\_\_, by and among the City of Grand Island, Nebraska (the "City") individually and as agent for the State of Nebraska, Department of Economic Development ("Department" or "DED") having its principal office at 100 East First Street, P.O. Box 1968, Grand Island, Nebraska 68802-1968, and Standard Iron, Inc., a Nebraska corporation (the "Business"), having its principal office at 4160 Gold Core Drive, Grand Island, Nebraska 68802, and the Demeules Family Limited Partnership, a Minnesota limited partnership ("Demeules Partnership"), having its principal office at 207 Dundas Road, Monticello, Minnesota 55362-8916.

### WITNESSETH:

**WHEREAS**, the Department has been designated by the United States Department of Housing and Urban Development ("HUD") to administer, and HUD has awarded the Department funds for, the Department's Community Development Block Grant ("CDBG") Program.

**WHEREAS**, the Demeules Partnership and the Business have presented to the Department and City a proposal for the development of certain real property located within the Platte Valley Industrial Park in Grand Island, Nebraska which real property is more particularly described in *Exhibit A* attached hereto and made a part hereof (herein the "Property") which includes the construction, equipping and staffing of a new 100,000 square foot manufacturing facility to be owned by SEC Accommodator XXIX, LLC, a Nebraska limited liability company and wholly-owned subsidiary of Demeules Partnership and used by the Business (herein the "Project"); and

**WHEREAS**, in order to promote the objectives of CDBG and the national objective of creating new jobs for LMI persons (as hereinafter defined) the City has determined to assist the Demeules Partnership and the Business with financing of certain costs of the Project; and

**WHEREAS**, the City believes that the development and construction of the Project, and the creation of jobs and job opportunities for Low-To-Moderate Income Persons are vital and are in the best interest of the City, the health, safety, morals and welfare of residents of the City, and in accordance with the public purposes and provisions of the applicable federal, state and local laws and requirements under which the Project has been undertaken and is being assisted; and

**WHEREAS**, the requirements of the Housing and Community Development Act of 1974, as amended (herein the "Act"), apply to this Agreement; and

**WHEREAS**, the Department and the City have adopted criteria for awarding funds pursuant to the CDBG program for the purpose of funding projects that will undertake community development activities authorized under the Act, such as the Project.

**NOW, THEREFORE**, in consideration of the premises and the mutual obligations of the parties hereto, each of them does hereby covenant and agree with the other parties as follows:



## ARTICLE I DEFINITIONS

**Section 1.1. Definitions.** In this Agreement, unless a different meaning clearly appears from the context:

“Act” has the meaning given in the Recitals.

“Affiliate” means SEC Accommodator XXIX, LLC or a corporation, limited liability company, partnership, joint venture, or other legal entity controlled by or subject to common control of the Demeules Partnership or the Business; where “control” means the ownership of at least 50% of the voting power for election of the Board of Directors of a corporation or ownership of at least 50% of the members’ or general partners’ interests in a limited liability company, partnership, joint venture, or other legal entity.

“Agreement” means this Agreement, as the same may be from time to time modified, amended, or supplemented.

“Approval Date” means the later of (i) the date that the Improvements are completed and the Business has fully occupied and has commenced operations from the Property or, (ii) the date that the Borrowers have received the final installment of the CDBG Funds available under this Agreement.

“Bank” means U.S. Bank National Association, a national banking association together with any other commercial lender to one or more of the Demeules Partnership, Business or its/their respective Affiliates providing financing for the Property, the Project, the Improvements or to fund working capital or capital expenditures of the operations to be conducted at the Property that are contemplated by this Agreement. The City, the Department and the GIAEDC are specifically excluded from the definition of “BANK”.

“Borrowers” means the Demeules Partnership and the Business, individually and collectively.

“CDBG” means the HUD sponsored community development block grant program.

“CDBG Funds” means the aggregate amount of the CDBG award advanced to the Borrowers in accordance with the provisions of this Agreement, in an amount not to exceed \$500,000 in aggregate.

“CDBG Performance Default” means the failure of the Business to satisfy, in whole or in part, the (i) Job Creation; (ii) Job Retention; and/or (iii) the Job Maintenance requirements of this Agreement by the dates or within the periods set forth for performance therein.

“City” means the City of Grand Island, Nebraska.

“Demeules Partnership” means Demeules Family Limited Partnership, a Minnesota limited partnership, its successors and assigns.

**“Entity Guarantors”** means Standard Iron & Wire Works, Inc., a Minnesota corporation and SEC Accommodator XXIX, LLC, a Nebraska limited liability company, individually and collectively.

**“Event of Default”** means an action by the Borrowers listed in Article 7 of this Agreement.

**“Forgivable Note”** has the meaning given in Section 5.2 of this Agreement.

**“Full-Time Equivalent Position”** or **“FTE”** means a culmination of 2,080 work hours per annum per position by a person in a permanent position of employment with the Business at the Property.

**“GIAEDC”** means the Grand Island Area Economic Development Corporation.

**“GIAEDC Funding”** means an amount up to \$200,000 to be issued by the GIAEDC in the form of a forgivable, unsecured loan to the Business, the terms and conditions of which are set forth in a separate agreement between the Business, the Demeules Partnership and the GIAEDC.

**“Guarantors”** means, the Entity Guarantors and the Individual Guarantors, individually and collectively.

**“Holder”** means the owner of a Mortgage.

**“HUD”** has the meaning given in the Recitals.

**“Improvements”** means the improvements to be constructed by or under the direction of the Demeules Partnership on the Property consisting of an approximately 100,000 square foot industrial building, together with related and incidental improvements.

**“Individual Guarantors”** means Richard Demeules, William Demeules and Joseph Demeules, individually and collectively.

**“Interest Rate”** means the generally accepted rate of “New York Prime” extant at the time of the occurrence of an CDBG Performance Default, which shall be simple interest per annum.

**“Low-To-Moderate Income Person”** or **“LMI”** means a person defined as a member of a family (single-person or multi-person) where the family has an income equal to or less than the most recent HUD-established income limits for the family residence location. For purposes of this Agreement, the HUD-established income limits currently in effect are identified on **Exhibit B** and are made a part of this Agreement, as the same may be amended by HUD from time to time as determined by reference to the HUD website “[www.huduser.org/datasets/il.html](http://www.huduser.org/datasets/il.html)” or such other source publishing equivalent data promulgated by HUD. Reference is made to the low income limits by applicable county in the State of Nebraska based on the location of the family residence at the time an application of employment is submitted. Specifics about how an employment position is considered to be “*held by*” or “*made available to*” an LMI person shall be made in accordance with the Act and the regulations promulgated thereunder, which provisions are specifically incorporated herein by this reference.

**“Matching Funds”** has the meaning given in the definition of Reimbursement Ratio.

**"Mortgage"** means any mortgage granted by the fee owner of the Property to any Bank which is secured, in whole or in part, by the Property.

**"Net Proceeds"** means any proceeds paid by an insurer under a policy or policies of insurance required to be provided and maintained by the Borrowers pursuant to Article 6 of this Agreement and remaining after deducting all expenses (including fees and disbursements of counsel) incurred in the collection of such proceeds.

**"Notes"** means the Term Note and the Forgivable Note.

**"Project"** means the constructing, equipping, and staffing a 100,000 square foot manufacturing facility to be located on the Property.

**"Property"** means the real property located in the Platte Valley Industrial Park in Grand Island, Nebraska more commonly known as 4160 Gold Core Drive, Grand Island, Nebraska and legally described on *Exhibit A* of this Agreement.

**"Reimbursement Ratio"** means 14.5%, said amount determined by dividing (i) \$500,000, said amount representing the maximum authorized CDBG Funds available to the land and building portion of the Project for which CDBG Funds have been authorized; by (ii) \$3,449,114, said amount representing the anticipated total costs of the CDBG-assisted portion of the Project net of maximum available GIAEDC Funding (herein collectively the **"Matching Funds"**).

**"Security Documents"** means the Subordinated Mortgage and the Subordinated Security Agreement.

**"State"** means the State of Nebraska.

**"Subordinated Mortgage"** has the meaning given in Section 5.4 of this Agreement.

**"Subordinated Security Agreement"** has the meaning given in Section 5.4 of this Agreement.

**"Term Note"** has the meaning given in Section 5.2 of this Agreement.

## **ARTICLE II REPRESENTATIONS**

**Section 2.1. Representations by the City.** The City makes the following representations as the basis for the undertaking on its part herein contained:

(a) The City is a public body politic and corporate and a political subdivision of the State duly organized and existing under the laws of the State. The City, individually and as agent for the Department, has all requisite power and authority to enter into this Agreement and carry out its obligations hereunder.

(b) The activities of the City are undertaken for the purpose of creating jobs for LMI Persons and is consistent with the provisions of the CDBG program promulgated by the Act.

(c) Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Agreement is prevented, limited by or conflicts with or results in a breach of, the terms, conditions or provisions of any law, rule or regulation, any current evidence of indebtedness, any agreement or instrument to which the City is now a party or by which it is bound, or constitutes a default under any of the foregoing.

**Section 2.2. Representations by the Demeules Partnership and the Business.** The Borrowers, jointly and severally, represent that:

(a) The Demeules Partnership is a Minnesota limited liability partnership, is not in violation of any provision of its partnership agreement or the laws of the State of Minnesota and has all requisite power and authority to enter into this Agreement and has duly authorized the execution, delivery and performance of this Agreement by proper action of its general partners.

(b) The Business is a corporation, duly organized and validly existing under the laws of the State and has all requisite power and authority to enter into this Agreement and has duly authorized the execution, delivery and performance of this Agreement by proper action of its Board of Directors.

(c) Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Agreement is prevented, limited by or conflicts with or results in a breach of, the terms, conditions or provisions of any evidences of indebtedness, agreement or instrument of whatever nature to which either of the Borrowers are now a party or by which the Borrowers are bound.

(d) There are no legal actions, suits or other proceedings pending or, to the knowledge of the Borrowers threatened, before any court or administrative agency which, if determined adversely to the Business, could reasonably be expected to have a material adverse effect on the financial condition of the Business or on the ability of the Borrowers to complete the Project.

(e) The Borrowers will cooperate with the City with respect to any litigation commenced with respect to the Project, the Property or the Improvements.

### **ARTICLE III FINANCING FOR THE PROJECT**

**Section 3.1. Project Financing.** The Demeules Partnership shall secure from Bank, a commitment for funds necessary to complete the Project.

**Section 3.2. Demeules Partnership Equity and Other Financing.** The Demeules Partnership shall commit not less than \$750,000 of equity to the Project.

**Section 3.3. Provision of Evidentiary Materials.** Disbursements of CDBG Funds shall be made in accordance with the provisions of this Agreement once all evidentiary materials required by the Agreement have been submitted and approved by the City, such approval not to be unreasonably withheld, delayed or conditioned. For purposes of this Agreement, the documentation accepted by any Bank for purposes of obtaining an approved construction draw

for Improvements made to the land and building portion of the Project shall be deemed acceptable evidentiary materials for purposes of meeting Borrower's documentation requirements for obtaining a reimbursement from the CDBG Funds pursuant to this Agreement.

**Section 3.4. Subordination.** In order to facilitate the Borrowers' ability to obtain financing for the Project, the City, individually and as agent for the Department, agrees to execute any and all debt subordination agreements, lien subordination agreements and guaranty subordination agreements (collectively the "Subordination Agreements"), each in form and substance as any Bank may from time to time reasonably require to provide for (i) the subordination of the payment and performance of the Notes to the prior payment of any and all indebtedness of the Borrowers to the Bank, and (ii) the subordination of the liens granted by the Borrowers or any Affiliate pursuant to the Security Documents to the liens granted and to be granted by the Borrowers or any Affiliate to any Bank, and (iii) the subordination of any guaranty granted by any Guarantor for the payment and performance of the Notes and related indebtedness to the guaranty granted by any Guarantor as security for the payment and performance of any and all indebtedness of the Borrowers or any Affiliate to the Bank.

#### **ARTICLE IV JOB CREATION, JOB RETENTION, JOB MAINTENANCE AND REPORTING REQUIREMENTS**

**Section 4.1. Job Creation.** The Business agrees to take affirmative action to ensure that within 24 months of the Approval Date at least 38 new permanent jobs (on an FTE basis) will be created by the Project, over and above the agreed baseline of 22 existing permanent jobs (on an FTE basis), each with an hourly wage of not less than \$8.25 per hour. At a minimum, 51% of all jobs (on an FTE basis) created as a result of the CDBG assisted project must be "*held by*" or must have been "*made available to*" LMI Persons; provided that this requirement will terminate upon the earlier of (A) once all of the CDBG Funds have been disbursed and the 38 new permanent jobs (on an FTE basis) have been created or (B) on the date that is 24 months following the Approval Date. The provisions of this Section 4.1 may be referred to generally as the "Job Creation" requirement.

**Section 4.2. Job Retention.** The Business agrees to take affirmative action to ensure that the minimum 38 new permanent jobs (on an FTE basis) created pursuant to Section 4.1 above, are maintained for a period of 36 months measured from the date of initial hire for each respective job. The provisions of this Section 4.2 may be referred to generally as the "Job Retention" requirement.

**Section 4.3. Job Maintenance.** The Business agrees to take affirmative action to ensure that the existing 22 permanent jobs (on an FTE basis) establishing the agreed baseline of employment of the Business pursuant to Section 4.1 above, are maintained for a period of not less than 36 months measured from the Approval Date. The provisions of this Section 4.3 may be referred to generally as the "Job Maintenance" requirement.

**Section 4.4. Wage Commitment.** The Business shall pay all employees a minimum hourly rate of \$8.25 per hour and shall provide all employees of the Business with a reasonably appropriate package of employee benefits which may take into account reasonable factors including tenure, meritorious performance, and the like.

**Section 4.5. Employment Documentation.** The Business shall complete and provide to the City notification of employment semi-annually or more frequently at the option of the Business. This notification requirement will not be necessary after 2 years from the Approval Date provided the job creation objective set forth in Section 4.1 has been met. In addition, the Business agrees to provide verification that jobs are available to LMI persons by documenting that:

- (a) The skill level of the jobs available meets that of the general LMI population;
- (b) The education and experience required for the jobs meets that of the general LMI population;
- (c) The training will be provided by the Business, if training is needed, to make the jobs available to the general LMI population; and
- (d) The advertising, recruitment and other outreach efforts are made to contact and involve the general LMI population.

**Section 4.6. Job Creation Documentation.** The Business must include job creation information in each semi-annual progress report. This information shall be provided by the Business and must include the Department's "Employee Certification" form from each employee for which LMI status is relevant together with the following information for each LMI employee:

- (a) Jobs created;
- (b) Job title for each created job;
- (c) Dates employees hired;
- (d) Hourly wage;
- (e) Employee benefits provided.

**Section 4.7. First Source Employment Referral Agreement.** In order to ensure that LMI persons receive "first consideration" under the Act, for filling available jobs, in addition to the requirements of the Act, the Business agrees to list any vacant or new positions with the jobs services of the Commissioner of Job and Economic Security Services or a local service unit operated by a county or counties operating under a joint powers agreement, one or more cities of the first class operating under a joint powers agreement, or a city of a first class or equivalent governmental agency acting with authority in the area in which the Project and Property are located.

**Section 4.8. Financial Reporting.** During the first two calendar years following the date of this Agreement, the Business shall cause the following financial statements to be provided to the City of Grand Island Finance Director and the GIAEDC:

- (a) Within thirty (30) days following the close of each semi-annual period (e.g., June 30<sup>th</sup> and December 31<sup>st</sup>), internally prepared financial statements of the Business including statements of income and a balance sheet.

(b) Within 150 days after the end of each fiscal year of the Business, management prepared financial statements on a consolidated basis for the business and SIWW, consisting of at least statements of income, and changes in owners equity, a balance sheet at the end of such year setting forth in each case and comparative form corresponding figures from the previous annual statements.

## ARTICLE V CDBG LOAN TERMS

**Section 5.1. CDBG Amount and Program Use Requirement.** The City shall advance CDBG Funds to the Borrowers promptly upon the Borrowers submitting the evidentiary materials required by Section 3.3 of this Agreement. The amount of each such eligible reimbursement (herein a "CDBG Advance") shall be an amount determined by multiplying the Reimbursement Ratio by the amount of the Matching Funds invested by the Borrowers as reflected in the Evidentiary Materials.

**Section 5.2. Application of CDBG Advance to Notes.** Each CDBG Advance shall be applied to the promissory notes to be delivered by the Borrowers, as co-makers, as follows:

(a) Concurrent with the execution of this Agreement, the Borrowers shall deliver their promissory note (herein the "Forgivable Note") pursuant to which the first two hundred fifty thousand and no/100 dollars (\$250,000) of the CDBG Funds advanced by the City to the Borrowers pursuant to this Agreement shall be subject to contingent repayment. The parties agree that the Forgivable Note proceeds shall bear no interest (except as provided herein) and shall constitute a forgivable loan, repayable by the Borrowers only upon the occurrence of a CDBG Performance Default, in which event the City's remedies set forth in Section 5.3 of this Agreement shall apply with respect to the calculation of interest and the repayment of some or all of the principal balance and interest referable thereto. In the event the Borrowers satisfy the Job Creation, Job Retention and Job Maintenance requirements of this Agreement, the Forgivable Note shall be fully forgiven and discharged by the City without any further act required by the City or the Borrowers.

(b) Concurrent with the execution of this Agreement, the Borrowers shall deliver their promissory note (herein the "Term Note") pursuant to which the balance of the CDBG Funds in excess of the Forgivable Note proceeds referenced in Section 5.2(a) above shall be subject to repayment (with or without interest, as determined pursuant to Section 5.3 of this Agreement). The parties agree that the Term Note proceeds shall bear no interest (except upon the occurrence of a CDBG Performance Default) and shall provide for repayment of the principal balance thereof, without interest (except upon the occurrence of a CDBG Performance Default as provided herein) in equal monthly installments amortized over a period beginning one year from the Approval Date and ending with a final maturity of Fifteen (15) years from the Approval Date.

**Section 5.3. CDBG Loan Terms; Effect of CDBG Performance Default.** In the event of a CDBG Performance Default, the following provisions shall apply with respect to the Notes:

(a) A CDBG Performance Default shall have the following effect on the Term Note:

(i) Interest, at the Interest Rate, on each respective CDBG Advance constituting Term Note proceeds shall be calculated from the date of each such respective CDBG Advance and shall be repaid within a reasonable period following written demand from the City; and

(ii) The unpaid principal balance of the Term Note then outstanding shall be re-amortized together with interest at the Interest Rate, such that all outstanding principal, together with interest accruing thereon from and after the date of the CDBG Performance Default shall be fully repaid, in consecutive equal monthly installments over the remaining term of the Term Note.

(b) A CDBG Performance Default shall have the following effect on the Forgivable Note:

(i) The portion of the Forgivable Note proceeds that are subject to repayment shall be determined in accordance with the following provisions:

(A) If the Business fails to meet the national objective by not having at least 51% of the created/retained jobs benefiting LMI persons (the "51% LMI Test"), then the Borrowers shall be required to repay the entire Forgivable Note, with interest (calculated on the Forgivable Note proceeds in accordance with the provisions of Section 5.3(a)(i) of this Agreement); or

(B) If the 51% LMI Test is met but the Business failed to meet one or more of the Job Creation, Job Retention or Job Maintenance provisions, then the "pro-rata share" of the Forgivable Proceeds that are required to be repaid shall be determined as follows:

(1) if the failure relates to the Job Creation obligation, then the sum of the jobs required less the jobs created divided by the jobs required; or

(2) if the failure relates to the Job Maintenance obligation, then the required maintenance period in months less the number of months the jobs were maintained, divided by the required maintenance period in months; or

(3) If the failure relates to a combination of the events described in (1) and (2) above, then the amount determined by subtracting from 1, the resultant arithmetic product of the two ratios in paragraphs (1) and (2) above.

(ii) The portion of the Forgivable Note proceeds that are subject to repayment determined pursuant to (i) above shall:

(1) bear interest at the Interest Rate from the date of the respective CDBG Advance. For purposes of this calculation, the forgivable proceeds shall be deemed to be the CDBG Proceeds which were last advanced. Interest shall be determined thereon in accordance with 5.3(a)(i) of this Agreement and shall be paid within a reasonable period following written demand from the City;



(2) be payable in full on the fifth anniversary of the Approval Date, provided that interest accruing thereon from and after the date of the CDBG Performance Default shall be paid not less than annually, on or before the last day of December (or on the maturity date, if earlier).

**Section 5.4. Collateral Agreements.** In order to secure the payment and performance of the obligations of the Borrowers pursuant to the Notes, the Borrowers shall deliver, or cause to be delivered to the City, each of the following (herein collectively the "Security Documents"):

(a) A Mortgage (herein the "Subordinated Mortgage") encumbering the Property; *provided that* the City's lien encumbering the Property shall be junior and subordinate to the lien of any Bank.

(b) A security agreement (the "Subordinated Security Agreement") pursuant to which the Business shall have granted a security interest in personal property owned by the Business, *provided that* the City's lien encumbering the Property shall be junior and subordinate to the lien of any Bank.

(c) One or more instruments pursuant to which the Guarantors, jointly and severally, will guaranty the repayment of the CDBG Funds advanced by the City to the Borrowers pursuant to this Agreement, *provided that* the obligations of the Guarantors shall be junior and subordinate to the obligations of the Guarantors, as guarantors of indebtedness owing to any Bank.

(d) A Collateral Assignment of the Lease between the Business, as tenant, and SEC Accommodator XXIX, LLC, as landlord, *provided that* the City's lien shall be junior and subordinate to the lien of any Bank.

## ARTICLE VI INSURANCE

**Section 6.1. Insurance.** The Borrowers shall maintain, or shall cause to be maintained, at their cost and expense, and from time to time at the request of the City shall furnish the City with insurance binders on insurance as follows:

(a) Insurance against loss and/or damage to the Property and other collateral for the CDBG Funds under a policy or policies covering such risk as are ordinarily insured against by similar businesses, including (without limiting the generality of the foregoing) fire, extended coverage, all risk vandalism and malicious mischief, boiler explosion, water damage, demolition cost, debris removal, and collapse in an amount not less than their full insurable replacement value; and

(b) Comprehensive general liability insurance, including personal injury liability, and automobile insurance, including owned, non-owned and hired automobiles, against liability for injuries to persons and/or property, in the minimum amount for each occurrence and for each year of \$2,000,000.00, for public liability and shall be endorsed to show the City as additional insured.

**Section 6.2. Certificates.** All insurance required in Section 6.1 of this Agreement shall be taken out and maintained in responsible insurance companies selected by the Borrowers

which are authorized under the laws of the State to assume the risk covered thereby. Unless otherwise provided in this Agreement each policy shall contain a provision that the insurer shall not cancel or modify it without giving written notice to the Borrowers and the City at least thirty (30) days before the cancellation or modification becomes effective. Not less than fifteen (15) days prior to the expiration of any policy, the Borrowers shall furnish the City evidence satisfactory to the City that the policy has been renewed or replaced by another policy conforming to the provisions of Section 6.1. In lieu of separate policies, the Borrowers (and its Affiliates) may maintain a single policy, blanket or umbrella policies, or a combination thereof, having the coverage required herein.

**Section 6.3. Subordination.** The City agrees that upon request by any Bank, the City will execute an agreement subordinating its rights with respect to the receipt and application of Net Proceeds to the lien of a Mortgage or security interest in any other collateral securing the repayment of the CDBG Funds. The obligation of the City to subordinate pursuant to this Section 6.3 is in addition to the obligations of subordination set forth in other provisions of this Agreement.

## **ARTICLE VII EVENTS OF DEFAULT**

**Section 7.1. Events of Default Defined.** The following shall be “Events of Default” under this Agreement and the term “Event of Default” shall mean, whenever it is used in this Agreement (unless the context otherwise provides), any one or more of the following events:

(a) Failure by the Borrowers to pay when due any payments required to be paid under the Notes (and such default is not remedied within 30 days after the City gives written notice of such default to the Borrowers).

(b) Failure by the Borrowers to obtain financing for construction of the Improvements or to provide evidence that the Borrowers have sufficient funds committed for such purpose.

(c) Failure of the Business to observe or substantially perform any other material covenant, condition, obligation or agreement on its part to be observed or performed hereunder, including the failure of the Business to provide, in a timely manner, reports and other administrative documents required hereunder, after notice and opportunity of not less than twenty (20) days to effect cure.

(d) There occurs any of the following: (i) the Business files any petition in bankruptcy or for any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under United States Bankruptcy Laws or any similar Federal or State Laws; or (ii) the Business makes an assignment for the benefit of its creditors; or (iii) the Business admits, in writing, its inability to pay its debts generally as they become due; or (iv) the Business is adjudicated, bankrupt or insolvent.

(e) There occurs a default by the Borrowers or any Affiliate under a Mortgage or other instrument securing Bank financing acquired to facilitate the Project, the Holder of such Mortgage or security interest exercises its remedies as a result of such default, such exercise of remedies adversely affects the Borrowers’ (or such Affiliates) interest in the Property or other

collateral pledged hereunder to secure the Notes, and the Borrowers (or such Affiliate) do not cure the basis for the default within the applicable notice and cure period.

(f) If the Business, or the officers or employees of the Business engage in (i) any intentional material misrepresentation concerning the CDBG Funds; or (ii) unauthorized use or theft of the CDBG Funds which is not promptly remedied by the Business following discovery of such unauthorized use or theft.

(g) The sale, lease or other disposition (whether in one or more transactions), to one or more persons or entities, of all or substantially all of the assets of the Business without the consent of the City, which shall not be unreasonable withheld, delayed or conditioned.

**Section 7.2. City's Remedies on Default.** Whenever any Event of Default by a Borrower referred to in Section 7.1 of this Agreement occurs, the City may immediately suspend its performance under this Agreement until it receives assurances from the Borrowers, deemed adequate by the City, that the Borrowers will cure their default and continue their performance under this Agreement, and may take any one or more of the following actions after providing thirty (30) days written notice to the Borrowers of the Event of Default, but only if the Event of Default has not been cured within said thirty (30) days (or such longer period as may be reasonably required to cure the default if Borrowers are diligently proceeding with good faith efforts to cure same), take whatever action, including legal, equitable or administrative action, which may appear necessary or desirable to the City to collect any payments due under the Notes, or to enforce performance and observance of any obligation, agreement, or covenant of the Borrowers under this Agreement or the Security Documents, subject to any restrictions imposed by applicable Subordination Agreements

**Section 7.3. No Remedy Exclusive.** No remedy herein conferred upon or reserved to the City or Borrowers is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the City or the Borrowers to exercise any remedy reserved to it, it shall not be necessary to give notice, other than such notice as may be required in this Article VII.

**Section 7.4. No Additional Waiver Implied by One Waiver.** In the event any agreement contained in this Agreement should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other concurrent, previous or subsequent breach hereunder.

**Section 7.5. Costs of Enforcement.** Whenever any Event of Default occurs and the City shall employ attorneys or incur other expenses for the collection of payments due or to become due or for the enforcement of performance or observance of any obligation or agreement on the part of the Borrowers under this Agreement, the Borrowers agree that they shall, within thirty (30) days of written demand by the City, pay to the City the reasonable fees of such attorneys and such other expenses so incurred by the City, but only to the extent the City is the prevailing party in any such action or proceeding.

**ARTICLE VIII  
ADDITIONAL PROVISIONS**

**Section 8.1. Representatives Not Individually Liable.**

(a) No member, official, or employee of the City or Department shall be personally liable to the Borrowers, or any successor in interest, in the event of any default or breach or for any amount which may become due to the Borrowers or successor or on any obligations under the terms of the Agreement.

(b) No partner, official, or employee of the Borrowers (other than the Individual Guarantors pursuant to the provisions of their respective guaranty) shall be personally liable to the City or Department, or any successor in interest, in the event of any default or breach or for any amount which may become due to the City or Department or successor or on any obligations under the terms of the Agreement.

**Section 8.2. Titles of Articles and Sections.** Any titles of the several parts, Articles, and Sections of the Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

**Section 8.3. Notices and Demands.** Except as otherwise expressly provided in this Agreement, a notice, demand, or other communication under the Agreement by either party to the other shall be sufficiently given or delivered if it is dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered personally; and

(a) in the case of the Borrowers, is addressed to or delivered personally to the Borrowers at 207 Dundas Road, Monticello, Minnesota 55362-8916, in each instance Attention: Richard Demeules; and

(b) in the case of the City, is addressed to or delivered personally to the City at 100 East First Street, Grand Island, Nebraska 68802-1968, Attention: Executive Director, or at such other address with respect to either such party as that party may, from time to time, designate in writing and forward to the other as provided in this Section.

**Section 8.4. Disclaimer of Relationships.** The Borrowers acknowledge that nothing contained in this Agreement nor any act by the City or the Borrowers shall be deemed or construed by the Borrowers or by any third person to create any relationship of third-party beneficiary, principal and agent, limited or general partner, or joint venture between the City, the Borrowers and/or any third party.

**Section 8.5. Modifications.** This Agreement may be modified solely through written amendments hereto executed by the Borrowers and the City.

**Section 8.6. Counterparts.** This Agreement is executed in any number of counterparts, each of which shall constitute one and the same instrument.

**Section 8.7. Judicial Interpretation.** Should any provision of this Agreement require judicial interpretation, the court interpreting or construing the same shall not apply a presumption that the terms hereof shall be more strictly construed against one party by reason of the rule of construction that a document is to be construed more strictly against the party who itself or

through its agent or attorney prepared the same, it being agreed that the agents and attorneys of both parties have participated in the preparation hereof.

**Section 8.8. Law Governing.** This Agreement will be governed and construed in accordance with the laws of the State of Nebraska.

**Section 8.9. Binding Effect.** This Agreement will be binding upon and will inure to the benefit of the successors, assigns and legal representatives of the parties.

**Section 8.10. Severability.** If any provision or application of this Agreement is held unlawful or unenforceable in any respect, such illegality or unenforceability shall not affect other provisions or applications which can be given effect and this Agreement shall be construed as if the unlawful or unenforceable provision or application had never been contained herein or prescribed hereby.

**Section 8.11. Amendment.** This Agreement may not be modified, altered or changed in any way except by written agreement signed by all of the parties hereto.

**Section 8.12. Fees and Expenses.** The City acknowledges that it has voluntarily undertaken to review the provisions of this Agreement and the documents, instruments and agreements that are contemplated by this Agreement, including the Subordinated Security Agreement, the Subordinated Mortgage, instruments of guaranty of the respective Guarantors and that it will be responsible for all costs and expenses incident to the same, except to the extent expressly set forth in this Agreement. The Borrowers shall not be obligated to reimburse the City for any such costs and expenses that are not expressly set forth in this Agreement. Any costs and expenses of the City that are required to be reimbursed by the Borrowers shall be reimbursed solely out of the CDBG Funds if and when made available to the Borrowers hereunder.

**Section 8.13. Memorandum of Agreement.** In the event of a conflict between the provisions of this Agreement and the provisions of that certain Memorandum of Agreement by and among the parties hereto, the GIAEDC, SIWW and the Guarantors, the provisions of this Agreement shall control.

**IN WITNESS WHEREOF**, the City has caused this Agreement to be duly executed in its name and behalf and as agent for the Department and the Borrowers have caused this Agreement to be duly executed in their name and behalf on or as of the date first above written.

City of Grand Island, Nebraska

Standard Iron, Inc.

By: \_\_\_\_\_  
(Signature of Elected Official)

By: \_\_\_\_\_

\_\_\_\_\_  
Type or Print Name

\_\_\_\_\_  
Type or Print Name

Date: \_\_\_\_\_

Date: \_\_\_\_\_

The Demeules Family Limited Partnership

By: \_\_\_\_\_

\_\_\_\_\_  
Type or Print Name

Date: \_\_\_\_\_

***EXHIBIT A***

***LEGAL DESCRIPTION OF PROPERTY***

**Lot One (1), Platte Valley Industrial Park Fourth Subdivision, in  
the City of Grand Island, Hall County, Nebraska.**

***EXHIBIT B***

***HUD INCOME LIMITS – LMI PERSON STATUS***

***[ATTACH EXHIBIT FROM MEMORANDUM OF AGREEMENT]***



**ATTACHMENT A**  
**INCOME LIMITS (80%)**  
**State of Nebraska**  
**(LMI limits in nonmetropolitan areas)**  
**Approved and Effective February 28, 2004**

The income limits of these guidelines are determined for each county on the higher of either: 80% of the median income of the county, or 80% of the median income of the entire nonmetropolitan area of the state.

COUNTY NAME	1 PERSON	2 PERSONS	3 PERSONS	4 PERSONS	5 PERSONS	6 PERSONS	7 PERSONS	8 PERSONS
Adams County	\$ 30,050	\$ 34,350	\$ 38,650	\$ 42,950	\$ 46,400	\$ 49,850	\$ 53,250	\$ 56,700
Antelope County	\$ 27,850	\$ 31,800	\$ 35,800	\$ 39,750	\$ 42,950	\$ 46,100	\$ 49,300	\$ 52,500
Arthur County	\$ 27,850	\$ 31,800	\$ 35,800	\$ 39,750	\$ 42,950	\$ 46,100	\$ 49,300	\$ 52,500
Banner County	\$ 27,850	\$ 31,800	\$ 35,800	\$ 39,750	\$ 42,950	\$ 46,100	\$ 49,300	\$ 52,500
Blaine County	\$ 27,850	\$ 31,800	\$ 35,800	\$ 39,750	\$ 42,950	\$ 46,100	\$ 49,300	\$ 52,500
Boone County	\$ 27,850	\$ 31,800	\$ 35,800	\$ 39,750	\$ 42,950	\$ 46,100	\$ 49,300	\$ 52,500
Box Butte County	\$ 30,750	\$ 35,150	\$ 39,550	\$ 43,900	\$ 47,450	\$ 50,950	\$ 54,450	\$ 57,950
Boyd County	\$ 27,850	\$ 31,800	\$ 35,800	\$ 39,750	\$ 42,950	\$ 46,100	\$ 49,300	\$ 52,500
Brown County	\$ 27,850	\$ 31,800	\$ 35,800	\$ 39,750	\$ 42,950	\$ 46,100	\$ 49,300	\$ 52,500
Buffalo County	\$ 31,200	\$ 35,650	\$ 40,100	\$ 44,550	\$ 48,100	\$ 51,700	\$ 55,250	\$ 58,800
Burt County	\$ 27,850	\$ 31,800	\$ 35,800	\$ 39,750	\$ 42,950	\$ 46,100	\$ 49,300	\$ 52,500
Butler County	\$ 28,600	\$ 32,700	\$ 36,800	\$ 40,900	\$ 44,150	\$ 47,400	\$ 50,700	\$ 53,950
Cass County	\$ 36,050	\$ 41,200	\$ 46,350	\$ 51,500	\$ 55,650	\$ 59,750	\$ 63,900	\$ 68,000
Cedar County	\$ 27,850	\$ 31,800	\$ 35,800	\$ 39,750	\$ 42,950	\$ 46,100	\$ 49,300	\$ 52,500
Chase County	\$ 27,850	\$ 31,800	\$ 35,800	\$ 39,750	\$ 42,950	\$ 46,100	\$ 49,300	\$ 52,500
Cherry County	\$ 27,850	\$ 31,800	\$ 35,800	\$ 39,750	\$ 42,950	\$ 46,100	\$ 49,300	\$ 52,500
Cheyenne County	\$ 30,050	\$ 34,350	\$ 38,650	\$ 42,950	\$ 46,400	\$ 49,850	\$ 53,250	\$ 56,700
Clay County	\$ 27,850	\$ 31,800	\$ 35,800	\$ 39,750	\$ 42,950	\$ 46,100	\$ 49,300	\$ 52,500
Coffax County	\$ 27,850	\$ 31,800	\$ 35,800	\$ 39,750	\$ 42,950	\$ 46,100	\$ 49,300	\$ 52,500
Cuming County	\$ 27,850	\$ 31,800	\$ 35,800	\$ 39,750	\$ 42,950	\$ 46,100	\$ 49,300	\$ 52,500
Custer County	\$ 27,850	\$ 31,800	\$ 35,800	\$ 39,750	\$ 42,950	\$ 46,100	\$ 49,300	\$ 52,500
Dakota County	\$ 29,450	\$ 33,650	\$ 37,850	\$ 42,100	\$ 45,450	\$ 48,800	\$ 52,200	\$ 55,550
Dawes County	\$ 27,850	\$ 31,800	\$ 35,800	\$ 39,750	\$ 42,950	\$ 46,100	\$ 49,300	\$ 52,500
Dawson County	\$ 27,850	\$ 31,800	\$ 35,800	\$ 39,750	\$ 42,950	\$ 46,100	\$ 49,300	\$ 52,500
Deuel County	\$ 27,850	\$ 31,800	\$ 35,800	\$ 39,750	\$ 42,950	\$ 46,100	\$ 49,300	\$ 52,500
Dixon County	\$ 27,850	\$ 31,800	\$ 35,800	\$ 39,750	\$ 42,950	\$ 46,100	\$ 49,300	\$ 52,500
Dodge County	\$ 29,850	\$ 34,100	\$ 38,400	\$ 42,650	\$ 46,050	\$ 49,450	\$ 52,850	\$ 56,300
Douglas County	\$ 36,050	\$ 41,200	\$ 46,350	\$ 51,500	\$ 55,650	\$ 59,750	\$ 63,900	\$ 68,000
Dundy County	\$ 27,850	\$ 31,800	\$ 35,800	\$ 39,750	\$ 42,950	\$ 46,100	\$ 49,300	\$ 52,500
Fillmore County	\$ 27,950	\$ 31,950	\$ 35,950	\$ 39,900	\$ 43,100	\$ 46,300	\$ 49,500	\$ 52,700
Franklin County	\$ 27,850	\$ 31,800	\$ 35,800	\$ 39,750	\$ 42,950	\$ 46,100	\$ 49,300	\$ 52,500
Frontier County	\$ 27,850	\$ 31,800	\$ 35,800	\$ 39,750	\$ 42,950	\$ 46,100	\$ 49,300	\$ 52,500
Furnas County	\$ 27,850	\$ 31,800	\$ 35,800	\$ 39,750	\$ 42,950	\$ 46,100	\$ 49,300	\$ 52,500
Gage County	\$ 28,850	\$ 32,950	\$ 37,100	\$ 41,200	\$ 44,500	\$ 47,800	\$ 51,100	\$ 54,400
Garden County	\$ 27,850	\$ 31,800	\$ 35,800	\$ 39,750	\$ 42,950	\$ 46,100	\$ 49,300	\$ 52,500
Garfield County	\$ 27,850	\$ 31,800	\$ 35,800	\$ 39,750	\$ 42,950	\$ 46,100	\$ 49,300	\$ 52,500
Gosper County	\$ 30,150	\$ 34,450	\$ 38,750	\$ 43,050	\$ 46,500	\$ 49,950	\$ 53,350	\$ 56,800
Grant County	\$ 27,850	\$ 31,800	\$ 35,800	\$ 39,750	\$ 42,950	\$ 46,100	\$ 49,300	\$ 52,500
Greeley County	\$ 27,850	\$ 31,800	\$ 35,800	\$ 39,750	\$ 42,950	\$ 46,100	\$ 49,300	\$ 52,500
Hall County	\$ 29,300	\$ 33,450	\$ 37,650	\$ 41,850	\$ 45,200	\$ 48,550	\$ 51,900	\$ 55,250
Hamilton County	\$ 29,850	\$ 34,100	\$ 38,400	\$ 42,650	\$ 46,050	\$ 49,450	\$ 52,850	\$ 56,300
Harlan County	\$ 27,850	\$ 31,800	\$ 35,800	\$ 39,750	\$ 42,950	\$ 46,100	\$ 49,300	\$ 52,500
Hayes County	\$ 27,850	\$ 31,800	\$ 35,800	\$ 39,750	\$ 42,950	\$ 46,100	\$ 49,300	\$ 52,500
Hitchcock County	\$ 27,850	\$ 31,800	\$ 35,800	\$ 39,750	\$ 42,950	\$ 46,100	\$ 49,300	\$ 52,500
Holt County	\$ 27,850	\$ 31,800	\$ 35,800	\$ 39,750	\$ 42,950	\$ 46,100	\$ 49,300	\$ 52,500
Hooker County	\$ 27,850	\$ 31,800	\$ 35,800	\$ 39,750	\$ 42,950	\$ 46,100	\$ 49,300	\$ 52,500
Howard County	\$ 27,850	\$ 31,800	\$ 35,800	\$ 39,750	\$ 42,950	\$ 46,100	\$ 49,300	\$ 52,500

**ATTACHMENT A**  
**INCOME LIMITS (80%) - continued**  
**State of Nebraska**  
**(LMI limits in nonmetropolitan areas)**  
**Approved and Effective February 28, 2004**

The income limits of these guidelines are determined for each county on the higher of either: 80% of the median income of the county, or 80% of the median income of the entire nonmetropolitan area of the state.

COUNTY NAME	1 PERSON	2 PERSONS	3 PERSONS	4 PERSONS	5 PERSONS	6 PERSONS	7 PERSONS	8 PERSONS
Jefferson County	\$ 27,850	\$ 31,800	\$ 35,800	\$ 39,750	\$ 42,950	\$ 46,100	\$ 49,300	\$ 52,500
Johnson County	\$ 27,850	\$ 31,800	\$ 35,800	\$ 39,750	\$ 42,950	\$ 46,100	\$ 49,300	\$ 52,500
Kearney County	\$ 29,300	\$ 33,450	\$ 37,650	\$ 41,850	\$ 45,200	\$ 48,550	\$ 51,900	\$ 55,250
Keith County	\$ 27,850	\$ 31,800	\$ 35,800	\$ 39,750	\$ 42,950	\$ 46,100	\$ 49,300	\$ 52,500
Keya Paha County	\$ 27,850	\$ 31,800	\$ 35,800	\$ 39,750	\$ 42,950	\$ 46,100	\$ 49,300	\$ 52,500
Kimball County	\$ 27,850	\$ 31,800	\$ 35,800	\$ 39,750	\$ 42,950	\$ 46,100	\$ 49,300	\$ 52,500
Knox County	\$ 27,850	\$ 31,800	\$ 35,800	\$ 39,750	\$ 42,950	\$ 46,100	\$ 49,300	\$ 52,500
Lancaster County	\$ 35,600	\$ 40,700	\$ 45,900	\$ 50,900	\$ 54,950	\$ 59,000	\$ 63,100	\$ 67,150
Lincoln County	\$ 30,650	\$ 35,000	\$ 39,400	\$ 43,750	\$ 47,250	\$ 50,750	\$ 54,250	\$ 57,750
Logan County	\$ 27,850	\$ 31,800	\$ 35,800	\$ 39,750	\$ 42,950	\$ 46,100	\$ 49,300	\$ 52,500
Loup County	\$ 27,850	\$ 31,800	\$ 35,800	\$ 39,750	\$ 42,950	\$ 46,100	\$ 49,300	\$ 52,500
McPherson County	\$ 27,850	\$ 31,800	\$ 35,800	\$ 39,750	\$ 42,950	\$ 46,100	\$ 49,300	\$ 52,500
Madison County	\$ 28,650	\$ 32,750	\$ 36,850	\$ 40,950	\$ 44,250	\$ 47,500	\$ 50,800	\$ 54,050
Merrick County	\$ 27,850	\$ 31,800	\$ 35,800	\$ 39,750	\$ 42,950	\$ 46,100	\$ 49,300	\$ 52,500
Morrill County	\$ 27,850	\$ 31,800	\$ 35,800	\$ 39,750	\$ 42,950	\$ 46,100	\$ 49,300	\$ 52,500
Nance County	\$ 27,850	\$ 31,800	\$ 35,800	\$ 39,750	\$ 42,950	\$ 46,100	\$ 49,300	\$ 52,500
Nemaha County	\$ 32,300	\$ 36,950	\$ 41,550	\$ 46,150	\$ 49,850	\$ 53,550	\$ 57,250	\$ 60,950
Nuckolls County	\$ 27,850	\$ 31,800	\$ 35,800	\$ 39,750	\$ 42,950	\$ 46,100	\$ 49,300	\$ 52,500
Otoe County	\$ 29,500	\$ 33,750	\$ 37,950	\$ 42,150	\$ 45,550	\$ 48,900	\$ 52,300	\$ 55,650
Pawnee County	\$ 27,850	\$ 31,800	\$ 35,800	\$ 39,750	\$ 42,950	\$ 46,100	\$ 49,300	\$ 52,500
Perkins County	\$ 27,850	\$ 31,800	\$ 35,800	\$ 39,750	\$ 42,950	\$ 46,100	\$ 49,300	\$ 52,500
Phelps County	\$ 30,300	\$ 34,600	\$ 38,950	\$ 43,300	\$ 46,750	\$ 50,200	\$ 53,650	\$ 57,150
Pierce County	\$ 27,850	\$ 31,800	\$ 35,800	\$ 39,750	\$ 42,950	\$ 46,100	\$ 49,300	\$ 52,500
Platte County	\$ 31,100	\$ 35,500	\$ 39,950	\$ 44,400	\$ 47,950	\$ 51,500	\$ 55,050	\$ 58,600
Polk County	\$ 31,700	\$ 36,200	\$ 40,750	\$ 45,300	\$ 48,900	\$ 52,500	\$ 56,150	\$ 59,750
Red Willow County	\$ 27,850	\$ 31,800	\$ 35,800	\$ 39,750	\$ 42,950	\$ 46,100	\$ 49,300	\$ 52,500
Richardson County	\$ 27,850	\$ 31,800	\$ 35,800	\$ 39,750	\$ 42,950	\$ 46,100	\$ 49,300	\$ 52,500
Rock County	\$ 27,850	\$ 31,800	\$ 35,800	\$ 39,750	\$ 42,950	\$ 46,100	\$ 49,300	\$ 52,500
Saline County	\$ 30,750	\$ 35,150	\$ 39,550	\$ 43,900	\$ 47,450	\$ 50,950	\$ 54,450	\$ 57,950
Sarpy County	\$ 36,050	\$ 41,200	\$ 46,350	\$ 51,500	\$ 55,650	\$ 59,750	\$ 63,900	\$ 68,000
Saunders County	\$ 32,500	\$ 37,100	\$ 41,750	\$ 46,400	\$ 50,100	\$ 53,800	\$ 57,550	\$ 61,250
Scotts Bluff County	\$ 27,850	\$ 31,800	\$ 35,800	\$ 39,750	\$ 42,950	\$ 46,100	\$ 49,300	\$ 52,500
Seward County	\$ 35,000	\$ 40,000	\$ 45,000	\$ 50,000	\$ 54,000	\$ 58,000	\$ 62,000	\$ 66,000
Sheridan County	\$ 27,850	\$ 31,800	\$ 35,800	\$ 39,750	\$ 42,950	\$ 46,100	\$ 49,300	\$ 52,500
Sherman County	\$ 27,850	\$ 31,800	\$ 35,800	\$ 39,750	\$ 42,950	\$ 46,100	\$ 49,300	\$ 52,500
Sioux County	\$ 27,850	\$ 31,800	\$ 35,800	\$ 39,750	\$ 42,950	\$ 46,100	\$ 49,300	\$ 52,500
Stanton County	\$ 27,850	\$ 31,800	\$ 35,800	\$ 39,750	\$ 42,950	\$ 46,100	\$ 49,300	\$ 52,500
Thayer County	\$ 27,850	\$ 31,800	\$ 35,800	\$ 39,750	\$ 42,950	\$ 46,100	\$ 49,300	\$ 52,500
Thomas County	\$ 27,850	\$ 31,800	\$ 35,800	\$ 39,750	\$ 42,950	\$ 46,100	\$ 49,300	\$ 52,500
Thurston County	\$ 27,850	\$ 31,800	\$ 35,800	\$ 39,750	\$ 42,950	\$ 46,100	\$ 49,300	\$ 52,500
Valley County	\$ 27,850	\$ 31,800	\$ 35,800	\$ 39,750	\$ 42,950	\$ 46,100	\$ 49,300	\$ 52,500
Washington County	\$ 36,050	\$ 41,200	\$ 46,350	\$ 51,500	\$ 55,650	\$ 59,750	\$ 63,900	\$ 68,000
Wayne County	\$ 28,300	\$ 32,300	\$ 36,350	\$ 40,400	\$ 43,850	\$ 46,850	\$ 50,100	\$ 53,350
Webster County	\$ 27,850	\$ 31,800	\$ 35,800	\$ 39,750	\$ 42,950	\$ 46,100	\$ 49,300	\$ 52,500
Wheeler County	\$ 27,850	\$ 31,800	\$ 35,800	\$ 39,750	\$ 42,950	\$ 46,100	\$ 49,300	\$ 52,500
York County	\$ 31,300	\$ 35,800	\$ 40,250	\$ 44,700	\$ 48,300	\$ 51,900	\$ 55,450	\$ 59,050

RESOLUTION 2005-88

WHEREAS, on September 14, 2004, the Grand Island City Council authorized the Mayor to proceed with the formulation of documents, contracts and memorandum between the City of Grand Island and the Nebraska Department of Economic Development to effect the application for acceptance for Community Development Block Grant Program funds for Standard Iron, Inc.'s building construction and equipment costs; and

WHEREAS, the city has been successful in obtaining such funds and has proceeded to have the necessary economic development agreement and financing documents drafted to secure the Community Development Block Grant Program loan; and

WHEREAS, it is necessary for the Grand Island City Council to authorize the Mayor to sign the development agreement and the necessary financing documents to conclude the process of extending the Community Development Block Grant Program funds to Standard Iron, Inc.,

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 proceed with executing the Development Agreement with Standard Iron, Inc., and the Demeules Family Limited Partnership as well as all other documents necessary to complete the process of extending Community Development Block Grant Funds to Standard Iron, Inc.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, March 22, 2005.

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RaNae Edwards, City Clerk

Approved as to Form	☐ _____
March 17, 2005	☐ City Attorney



# City of Grand Island

Tuesday, March 22, 2005

Council Session

## Item G16

**#2005-89- Approving Supplemental Agreement for Overhead  
Power Line Encroachment and Crossing Agreement with Union  
Pacific Railroad**

Staff Contact: Doug Walker

# **Council Agenda Memo**

**From:** Gary Mader, Utilities Director  
Douglas R. Walker, City Attorney

**Meeting:** March 22, 2005

**Subject:** Supplemental Crossing Agreement with  
Union Pacific Railway

**Item #'s:** G-16

**Presenter(s):** Gary Mader, Utilities Director

## **Background**

The City of Grand Island currently has an agreement with the Union Pacific Railroad for an overhead wire crossing of the Union Pacific Railroad tracks on the east side of Engleman Road railroad crossing. Due to planned road construction in the area which will widen the approaches to this intersection, an electric utility pole needs to be relocated back onto the Union Pacific Railroad right-of-way. When a power pole is located on a railroad right-of-way, the railway requires an agreement setting forth the conditions for permitting that pole to be located on railroad property. A supplement agreement has been prepared by the Union Pacific Railroad and submitted to the City of Grand Island for its consideration.

## **Discussion**

The supplement agreement prepared by the Union Pacific Railroad sets forth the terms under which the city would be permitted to relocate its power pole for the wire line crossing of the Union Pacific Railroad tracks near the east side of the Engleman Road Railroad crossing. The supplemental agreement sets forth that a one time license fee would be paid by the City to the railroad for the relocation of the electric utility pole on the railroad right-of-way. Reaching an agreement with the railroad is necessary so that this power line can be properly maintained as it crosses the Union Pacific Railroad right-of-way and U.S. Highway 30 on the west side of Grand Island.

## **Alternatives**

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

1. Move to approve the supplement agreement with Union Pacific Railroad which will permit the relocation of the power pole.
2. Choose to not pass the resolution authorizing the city to enter into the supplement agreement which would not permit the power pole relocation.
3. Postpone the issue to future date.
4. Take no action on the issue.

## **Recommendation**

City Administration recommends that the Council pass the resolution authorizing the city to enter into the supplemental agreement for relocating the power pole onto the Union Pacific Railroad right-of-way.

## **Sample Motion**

Motion to approve the resolution authorizing the supplemental agreement with Union Pacific Railroad.

## **SUPPLEMENTAL AGREEMENT**

**THIS SUPPLEMENTAL AGREEMENT** is made as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, between **UNION PACIFIC RAILROAD COMPANY**, a Delaware corporation, (hereinafter the "Licensor") and **CITY OF GRAND ISLAND**, a Nebraska municipal corporation, with a mailing address at City Hall 100 East First Street, Grand Island, Nebraska 68802-1968 (hereinafter the "Licensee").

### **RECITALS:**

By instrument dated December 14, 1984, the parties hereto, or their predecessors in interest (if any), entered into an agreement (herein the "Basic Agreement"), identified as Audit No. A106313, covering overhead power line encroachment and crossing located at or near Grand Island, Hall County, Nebraska.

The parties now desire to modify the Basic Agreement by adding Exhibit A-1 print depicting relocation of one pole.

### **AGREEMENT:**

**NOW, THEREFORE, IT IS AGREED** by and between the parties hereto as follows:

#### **Article I. ADDITIONAL PRINT**

The print dated February 16, 2005, attached hereto as Exhibit 'A-1', shall be and hereby is attached to print dated August 31, 1984, attached to the Basic Agreement, and from and after the effective date herein whenever the term Wireline is used in the Basic Agreement, or any amendment or supplement thereto (if any), such reference shall be deemed to refer to the Wireline as shown on both Exhibits 'A' and 'A-1', hereto attached.

#### **Article II. INDEFINITE OF BASIC AGREEMENT**

Effective March 15, 2005, the Basic Agreement is hereby indefinitely and shall continue in full force and effect until terminated as provided in the Basic Agreement.

#### **Article III. LICENSE FEE**

Upon execution and delivery of this Supplemental Agreement, the Licensee shall pay to the Licensor a one-time fee of **One Thousand Five Hundred Dollars (\$1,500.00)**.

**Article IV. EFFECTIVE DATE**

This Supplemental Agreement shall be effective as of March 15, 2005.

**Article V. AGREEMENT SUPPLEMENT.**

Nothing in this Supplemental Agreement shall be construed as amending or modifying the Basic Agreement unless specifically provided herein.

IN WITNESS WHEREOF, the parties have executed this Supplemental Agreement as of the day and year first written.

**UNION PACIFIC RAILROAD COMPANY**

**CITY OF GRAND ISLAND**

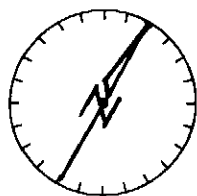
By: \_\_\_\_\_  
Manager - Contracts

By: \_\_\_\_\_  
Title: \_\_\_\_\_



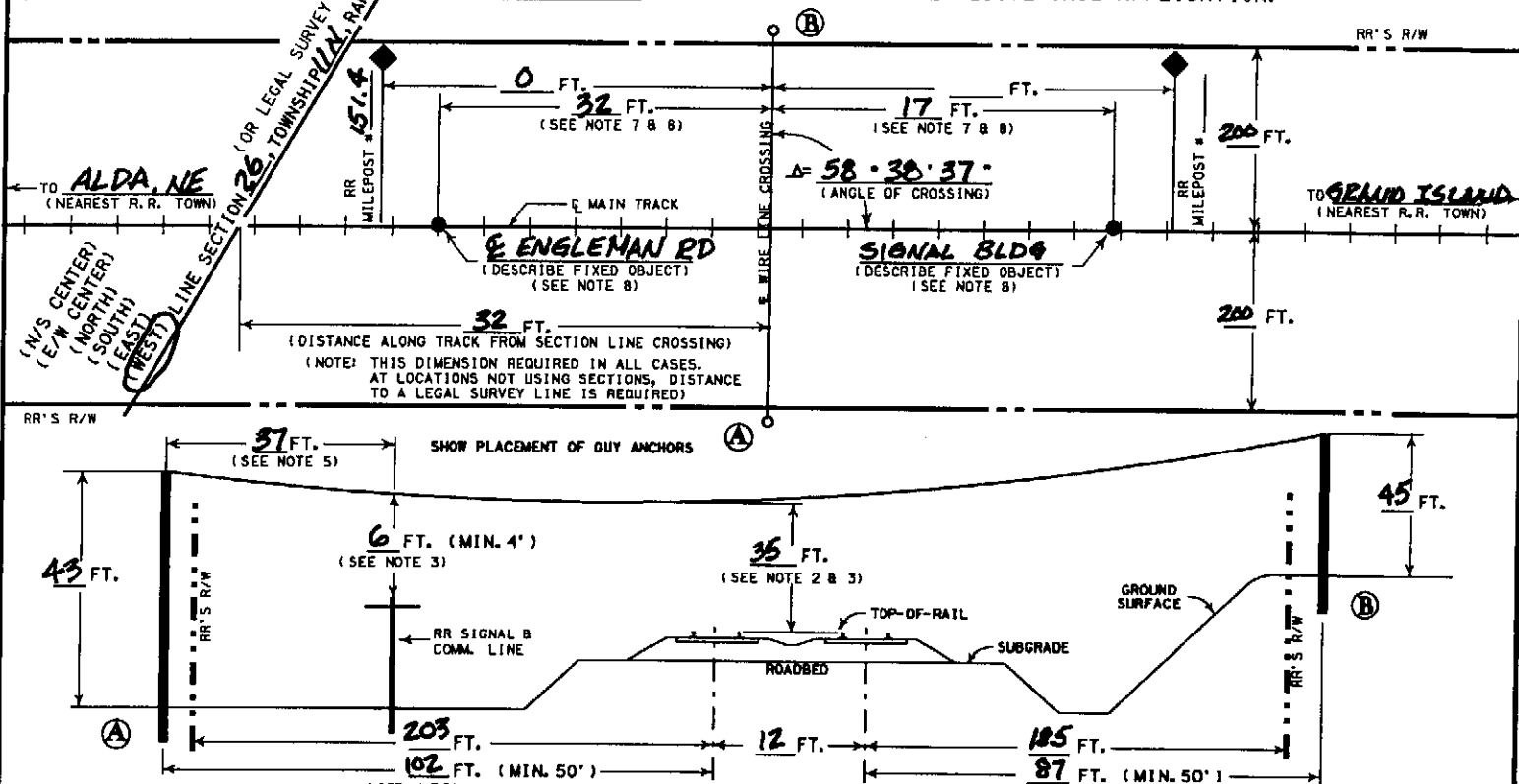
PLACE ARROW INDICATING NORTH DIRECTION RELATIVE TO CROSSING

# OVERHEAD WIRELINE CROSSING OVER 750 VOLTS



NO SCALE

NOTE: ALL AVAILABLE DIMENSIONS MUST BE FILLED IN TO EXPEDITE THIS APPLICATION.



- NOTES :
- 1) ALL HORIZONTAL DISTANCES TO BE MEASURED AT RIGHT ANGLES FROM  $\epsilon$  OF TRACK, EXCEPT AS NOTED.
  - 2) FOR MINIMUM ABOVE TOP-OF-RAIL CLEARANCE, REFER TO WIRELINE CLEARANCE CHART.
  - 3) MINIMUM 4' CLEARANCE REQUIRED ABOVE SIGNAL AND COMMUNICATION LINES, REFER TO WIRELINE CLEARANCE CHART.
  - 4) POLES (INCLUDING STEEL STRUCTURES) MUST BE LOCATED MIN. 50' (200' FOR LINES CARRYING 100 KV OR MORE) OUT FROM  $\epsilon$  OF OUR MAIN, BRANCH, AND RUNNING TRACKS, CTC SIDINGS, AND HEAVY TONNAGE SPURS.
  - 5) POLES (INCLUDING STEEL POLES) MUST BE LOCATED A MINIMUM DISTANCE FROM OUR SIGNAL AND COMMUNICATION LINES EQUAL TO THE HEIGHT OF THE POLE ABOVE GROUNDLINE OR ELSE BE GUYED AT RIGHT ANGLES TO OUR LINES.
  - 6) POLE LOCATION ADJACENT TO INDUSTRY TRACKS MUST PROVIDE AT LEAST 10' CLEARANCE FROM  $\epsilon$  OF TRACK WHEN MEASURED AT RIGHT ANGLES. IF LOCATED ADJACENT TO CURVE TRACK, THEN SAID CLEARANCE MUST BE INCREASED AT A RATE OF 1-1/2" PER DEGREE OF CURVE TRACK.
  - 7) POWER LINES MUST BE LOCATED A MINIMUM OF 500' FROM THE END OF ANY RAILROAD BRIDGE OR 300' FROM  $\epsilon$  OF ANY CULVERT.
  - 8) ALLOWABLE FIXED OBJECTS INCLUDE: BACKWALLS OF BRIDGES;  $\epsilon$  OF ROAD CROSSINGS & OVERHEAD VIADUCTS (GIVE ROAD NAME), OR  $\epsilon$  OF CULVERTS.

A) IS WIRELINE CROSSING WITHIN DEDICATED STREET?  YES;  NO;

B) IF YES, NAME OF STREET: ENGLEMAN ROAD

C) DISTRIBUTION LINE  OR TRANSMISSION LINE

D) IS THERE A SIGNAL OR COMMUNICATION POLELINE NEAR THE TRACKS? YES

E) MAXIMUM GROUND CURRENT AT FEED: 0 AMPS. AT LOAD: 0 AMPS.

F) WHAT TYPE OF FACILITY WILL LINE BE SERVING? PUBLIC

G) IF A NEW POWER SUBSTATION IS TO BE BUILT WITHIN 1/2 MILE OF RR, WHAT IS MAX: OPERATING CURRENT TO GROUND? N/A AMPS; RESISTANCE TO GROUND? N/A OHMS; FAULT CURRENT TO GROUND? N/A AMPS.

H) CIRCUITS TO BE CARRIED ON PROPOSED WIRELINES:

CIRCUITS	NO.	VOLTAGE TO GROUND	PHASE	NO. OF WIBES	GAGE	MATERIAL	SOLID OR STRANDED
1	7620	13,800	3	3	336.4	ACSR	STRANDED

GROUND WIRE: SIZE 1/0; MATERIAL ACSR; SOLID OR STRANDED STRANDED

I) CROSSING SPAN: LENGTH 223 FT.; NORMAL CONDUCTOR SAG 43 IN. AT 75 °F.

J) ADJOINING SPANS: LENGTH 140 FT.; NORMAL CONDUCTOR SAG 18 IN. AT 75 °F.

K) POLES: LENGTH 119 FT.; NORMAL CONDUCTOR SAG 11 IN. AT 75 °F.

TIMBER TIE LENGTH 60 FT. DEPTH OF SETTING 8 FT.

HEIGHT ABOVE GROUND 52 FT.

CLASS OR BUTT AND TOP DIMENSIONS CLASS 2

(IF STEEL TOWERS ARE EMPLOYED, FURNISH DETAIL DRAWINGS)

L) HEAD GUYS: NUMBER ON EACH POLE N/A; SIZE OR STRENGTH \_\_\_\_\_; LEAD \_\_\_\_\_.

M) SIDE GUYS: NUMBER EACH WAY N/A; SIZE OR STRENGTH \_\_\_\_\_; LEAD \_\_\_\_\_.

N) CROSSARMS: SINGLE OR DOUBLE DOUBLE; MATERIAL WOOD; SIZE 10' BY 4x5.

O) INSULATORS: PIN OR SUSPENSION PIN; MANUFACTURER'S AND CATALOGUE NO. 3376

P) CONDUCTOR ATTACHMENT: TIES OR CLAMPS TIES

Q) IF POWER LINE PARALLELS TRACK WITHIN 1/2 MILE, INCLUDE DIAGRAM SHOWING SPACING AND CONFIGURATION OF WIRES INCLUDING SHIELD WIRES.

R) APPLICANT HAS CONTACTED 1-800-336-9193, U.P. COMMUNICATIONS DEPARTMENT, AND HAS DETERMINED FIBER OPTIC CABLE  DOES;  DOES NOT; EXIST IN VICINITY OF WORK TO BE PERFORMED. TICKET NO. 2005-01-20-030

**EXHIBIT "A-1"**  
(FOR RAILROAD USE ONLY - DO NOT WRITE IN THIS BOX)

UNION PACIFIC RAILROAD CO.  
Kenney  
(SUBDIVISION)

M. P. 151.40 E. S. 8475+33+

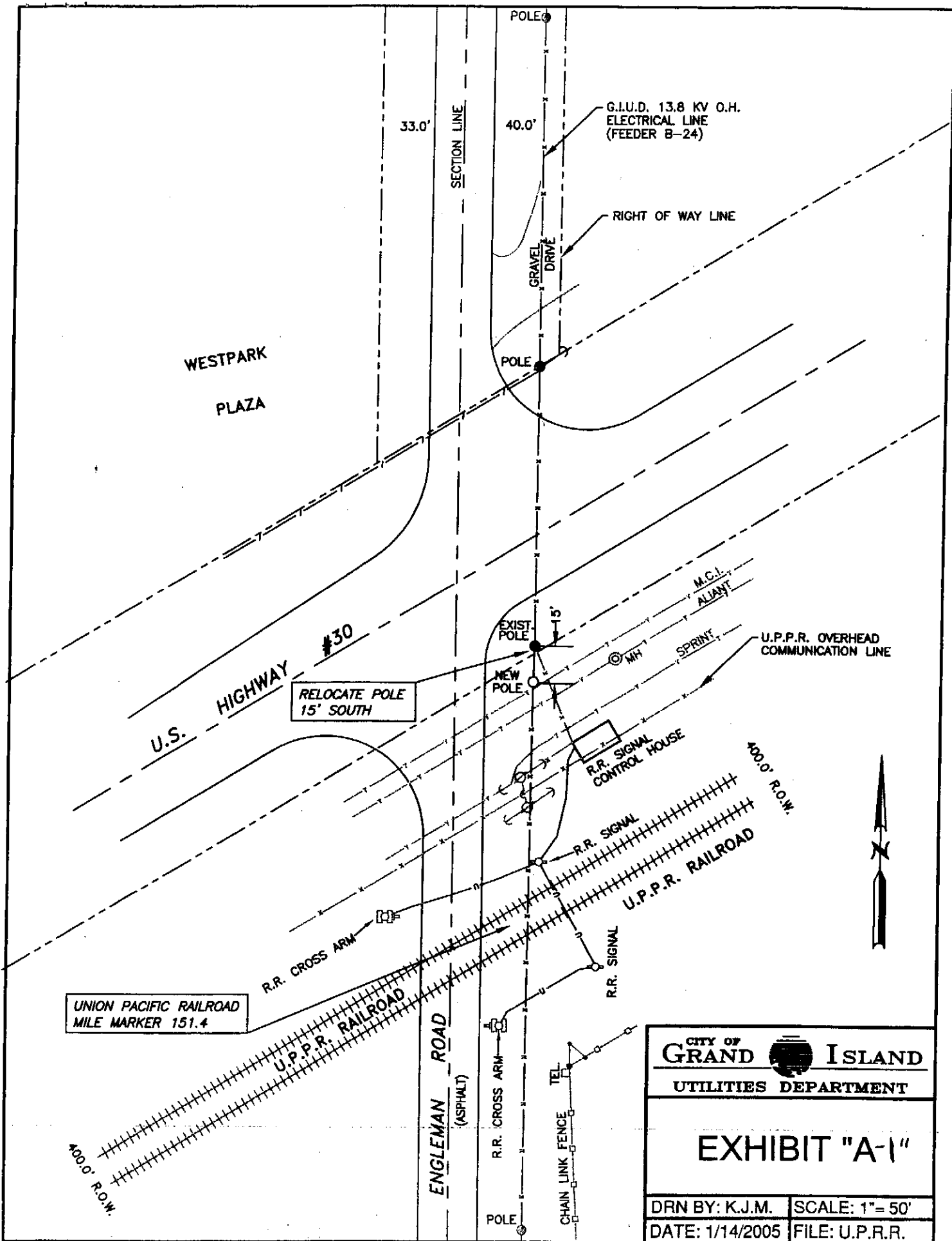
OVERHEAD WIRELINE CROSSING  
Grand Island Hall NE  
(NEAREST RR STATION) (COUNTY) (STATE)

FOR City of Grand Island  
(APPLICANT)

RR FILE NO. 234-33 DATE 2-16-05

**WARNING**

IN ALL OCCASIONS, U. P. COMMUNICATIONS DEPARTMENT MUST BE CONTACTED IN ADVANCE OF ANY WORK TO DETERMINE EXISTENCE AND LOCATION OF FIBER OPTIC CABLE. PHONE 1-800-336-9193



RESOLUTION 2005-89

WHEREAS, Union Pacific Railroad Company has tendered to the City of Grand Island, a Supplemental Agreement covering an overhead power line encroachment and crossing at or near Grand Island, Hall County, Nebraska; and

WHEREAS, the City Council of the City of Grand Island has the proposed Supplemental Agreement before it and has given it careful review and consideration; and

WHEREAS, the best interests of said City will be subserved by the acceptance of said Supplemental Agreement;

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the terms of the Supplemental Agreement covering an overhead power line encroachment and crossing at or near Grand Island, Nebraska, which has been submitted by Union Pacific Railroad Company as aforesaid be, and the same is hereby accepted on behalf of said City and the Mayor is hereby authorized, empowered and directed to execute said Supplemental Agreement on behalf of the City and that the City Clerk of said City is hereby authorized and directed to attest said Supplemental Agreement and to attach to each duplicate original of said Supplement Agreement a certified copy of this Resolution.

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Adopted by the City Council of the City of Grand Island, Nebraska, March 22, 2005.

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RaNae Edwards, City Clerk

Approved as to Form	☐ _____
March 17, 2005	☐ City Attorney



# City of Grand Island

Tuesday, March 22, 2005

Council Session

## Item G17

**#2005-90- Approving Agreement with Northwest Baseball/Softball Association**

Staff Contact: Steve Paustian

# **Council Agenda Memo**

**From:** Steve Paustian, Parks and Recreation Director

**Meeting:** March 22, 2005

**Subject :** Approving agreement with Northwest Baseball/Softball Organization

**Item #'s:** G-17

**Presenter(s):** Steve Paustian, Parks and Recreation Director

## **Background**

Since July 26, 1995 the City of Grand Island has cooperated with the Northwest Baseball organization to provide youth activities. The arrangement between the city and the Northwest organization has been guided by a signed agreement. The current agreement with the Northwest Baseball/Softball Association expires this year , thereby requiring a new document..

## **Discussion**

A new contract is before the City Council for consideration. The only recommended change to the contract is to make the contract automatically renewable until which time the City or Northwest Baseball/Softball Association request to modify it.

## **Alternatives**

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

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

## **Recommendation**

City staff recommends the approval of the new contract.

## **Sample Motion**

Motion to approve agreement with Northwest Baseball/Softball Association.

## AGREEMENT

THIS AGREEMENT is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2005, by and between the **CITY OF GRAND ISLAND, NEBRASKA**, a Municipal Corporation, hereinafter referred to as "City", and **NORTHWEST BASEBALL/SOFTBALL ASSOCIATION**, hereinafter referred to as "Northwest."

WHEREAS, the City sponsors a Little League baseball program each summer at the city parks for the children of Grand Island; and

WHEREAS, Northwest has in the past provided the necessary instruction, baseball equipment, grounds and maintenance personnel, league schedules, and other services relating to the implementation of said baseball programs; and

WHEREAS, the City and Northwest desire to continue their relationship to provide said baseball program under the terms and conditions set forth in this agreement.

NOW, THEREFORE, in consideration of the mutual promises set forth herein, the City and Northwest agree as follows:

1. **SERVICES.** Northwest will provide the administration of the baseball program, hire the umpires, schedule games and tournaments, provide equipment and uniforms, provide an employee to chalk and drag the infield, and provide direct infield maintenance. The City will provide overall facility maintenance, including bleacher repair, irrigation operation and repair, electrical work with respect to field lighting, and general mowing.

2. **COMPENSATION.** In consideration of Northwest performing the services provided for in this agreement, the City agrees to pay Northwest an amount up to Two Thousand Eight Hundred Seventy Five Dollars (\$2,875.00) each fiscal year, subject to Northwest submitting to the City, receipts of amounts expended totaling at least Two Thousand Eight Hundred Seventy Five Dollars (\$2,875.00) with respect to said baseball program.

3. **TERM.** The terms of this agreement shall be from April 1, 2005 to September 30, 2010. The agreement shall be automatically extended in one (1) year increments thereafter, upon the same terms and conditions unless terminated by either party as provided herein. It is specially agreed and understood that either party shall have the right to terminate this agreement by giving the other party sixty (60) days written notice in advance of the termination date. This agreement shall immediately terminate in the event either party defaults or fails to perform any of its obligations or conditions set forth herein.

4. **ASSIGNABILITY.** This agreement shall not be assigned in whole or in part without prior written consent of the City.

5. ENTIRE AGREEMENT. This agreement constitutes the entire agreement between the City and Northwest notwithstanding any other oral agreements or understandings to the contrary and may be amended only in writing, approved and executed as required by law.

IN WITNESS WHEREOF, this agreement is executed by the respective parties.

CITY OF GRAND ISLAND, NEBRASKA,  
A Municipal Corporation,

By: \_\_\_\_\_  
Jay Vavricek, Mayor

Attest: \_\_\_\_\_  
RaNae Edwards, City Clerk

NORTHWEST BASEBALL/SOFTBALL  
ASSOCIATION,

By: \_\_\_\_\_  
Ken Thompson, President

STATE OF NEBRASKA            )  
  ) ss  
COUNTY OF HALL            )

On \_\_\_\_\_, 2005, before me, the undersigned, a Notary Public in and for said County and State, personally appeared Ken Thompson, President of the Northwest Baseball/Softball Association, known personally to me to be the identical person who signed the foregoing Agreement and acknowledged the execution thereof to be his voluntary act and deed for the purpose therein expressed on behalf of the association.

WITNESS my hand and notarial seal the date above written.

\_\_\_\_\_  
Notary Public



RESOLUTION 2005-90

WHEREAS, the City of Grand Island subsidizes the Northwest Baseball/Softball Association to provide baseball programs each summer at City parks; and

WHEREAS, Northwest Baseball/Softball Association provides the necessary instruction, baseball equipment, grounds and maintenance personnel, league schedules, and other services relating to the implementation of the baseball programs; and

WHEREAS, it is recommended that funding to Northwest Baseball/Softball Association in the amount of \$2,875 each fiscal year be approved for providing such services; and

WHEREAS, an agreement for such services has been reviewed and approved by the City Attorney's office.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the agreement by and between the City and Northwest Baseball/Softball Association for the provision of summer baseball leagues, in accordance with the terms of the agreement is hereby approved; and 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, March 22, 2005.

---

RaNae Edwards, City Clerk

Approved as to Form	☐ _____
March 17, 2005	☐ City Attorney



# City of Grand Island

Tuesday, March 22, 2005

Council Session

## Item G18

**#2005-91- Approving Agreement with Grand Island Softball Association**

Staff Contact: Steve Paustian

# Council Agenda Memo

**From:** Steve Paustian, Parks and Recreation Director

**Meeting:** March 22, 2005

**Subject:** Approving Agreement with Grand Island Softball Association

**Item #'s:** G-18

**Presenter(s):** Steve Paustian, Parks and Recreation Director

## Background

Since the early 1970's the City of Grand Island has cooperated with the Grand Island Softball Association to provide softball opportunities to residents. The arrangement between the organization and the city has been guided by a signed agreement. The agreement with the Grand Island Softball Association has expired.

## Discussion

The agreement before the City Council reflects two changes from the current contract. The first item changes the contract to being indefinitely renewable until which time either party wished to renegotiate the agreement. The second change reflects an increase of the user fee by \$1.00 every two years.

## Alternatives

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

1. Move to approve the agreement
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 Council approve the agreement with the Grand Island Softball Association.

## **Sample Motion**

Motion to approve agreement with the Grand Island Softball Association..

A G R E E M E N T

THIS AGREEMENT dated this \_\_\_\_\_ day of \_\_\_\_\_ 2005, by and between the CITY OF GRAND ISLAND, Hall County, Nebraska, hereinafter referred to as "City", and GRAND ISLAND SOFTBALL ASSOCIATION, INC., a Nebraska non-profit corporation, hereinafter referred to as "GISBA."

WHEREAS, GISBA has accepted the responsibility for organizing and supervising the softball program and taking on more responsibility in future years; and

WHEREAS, the City has agreed to provide maintenance of the playing fields; and

WHEREAS, each party wishes to set its obligations and duties in writing.

NOW, THEREFORE, IN CONSIDERATION OF THE PREMISES, it is agreed as follows:

1. TERM: The term of this agreement shall be from April 15, 2005 to April 15, 2010. The agreement shall be automatically extended in one (1) year increments thereafter, upon the same terms and conditions unless modified in writing with the mutual consent of both parties or terminated:
  - (A) By service of a 60-day written notice of termination by either party; or
  - (B) By service of 60-day written notice of intent to renegotiate by either party.
2. DEFINITIONS: Playing Fields shall mean:
  - (A) Fonner Park Fields One, Two and Three.
  - (B) Any other field created by the City which the City authorized for league softball.
3. CITY OBLIGATIONS:
  - (A) Routine Maintenance:

- (1) To water and mow all playing fields as needed to maintain the fields in good, playable, and safe condition.
  - (2) To maintain all drinking fountains serving playing fields in good, operable condition.
  - (3) To maintain backstops, benches, and bleachers serving playing fields in good, safe condition.
  - (4) To maintain all existing and new fences (and gates) surrounding playing fields in safe, playable, and operable condition.
  - (5) To provide adequate receptacles for trash and debris, and to provide pickup of trash on a regular and frequent schedule.
  - (6) To provide all the lime necessary and the chalker for the chalking of the fields.
  - (7) To provide one set of new bases for each field per season, and to insure that all bases and anchors are in safe and operable condition.
  - (8) To chalk all fields during the season.
  - (9) To pay for energy costs associated with lighting for the playing fields.
  - (10) To provide the opportunity for GISBA to voice any concerns to the Parks and Recreation Department of the City.
  - (11) To dedicate all user fees collected hereunder by GISBA to the maintenance and improvement of the physical plant of the softball fields used by GISBA.
- (B) **SPECIAL MAINTENANCE:** To provide at the beginning of the season properly setup infields and outfields for softball play, with such dirt and leveling as is needed, and to maintain the fields during the season in good, safe, playable condition.

4. **GISBA OBLIGATIONS:**

- (A) **General obligations:**
- (1) To provide all scheduling of games, handle all leagues, complaints, and all other administrative duties in regard to softball activities.
  - (2) To provide all trophies or awards for league participation.

- (3) To chalk all fields as needed during the absence of Parks Department employees.
- (4) To stress the need for cleanliness of the parks and playing fields to members, and to provide for sanctions in the event that rules and regulations of the City are not followed.
- (5) To strictly enforce all rules and regulations of the City concerning use of public playing fields.
- (6) To assist with and cooperate with the City in all areas to promote recreational activities in Grand Island.
- (7) GISBA shall be solely liable for, and indemnify the City against, all claims for damages to persons or property resulting from the GISBA's maintenance work performed pursuant to paragraph 4(B) of this agreement.
- (8) GISBA shall be solely liable for, and indemnify the City against, all claims for damages to persons or property resulting from the activities and operations conducted, supervised, managed, or assumed, by GISBA hereunder.
- (9) GISBA shall collect a user fee from each participant in the softball program. The fee for the 2005 softball season shall be \$10.00 per person. All fees shall be paid by GISBA to the City by delivery to the Parks & Recreation Department within thirty (30) days after receipt.

<u>Season</u>	<u>Amount</u>
2006	\$11.00 per person
2007	\$11.00 per person
2008	\$12.00 per person
2009	\$12.00 per person
2010	\$13.00 per person

Fees for softball seasons after 2010 shall increase by \$1.00 per person every other year that the contract remains in force.

(B) THE GISBA IS PROHIBITED FROM THE FOLLOWING ACTS:

- (1) Operating motorized or self-propelled vehicles or equipment on the premises;
- (2) Adding soils or foreign materials to the ball field;
- (3) Using anything other than hand tools for the raking or leveling of the ball field;

- (4) Using or permitting the use of the hurricane fences located on the premises for backstops during practice drills, unless said fences are protected by padding approved by the City; and
- (5) Use of the underground irrigation system.

5. JOINT OBLIGATIONS:

(A) Tournaments:

- (1) The City agrees to provide for routine maintenance during the season. For all tournaments other than those conducted by the GISBA a fee of \$50.00 per day will be charged to the tournament sponsor for field maintenance and use. This fee must be paid to the Parks and Recreation Department prior to the tournament.
- (2) Tournaments other than those provided by the GISBA shall be authorized and scheduled by the City of Grand Island Parks & Recreation Department.

(B) Both parties agree that each will extend to the other full cooperation to insure that the softball league season is successful.

(C) Parties to be contacted for the purposes of implementing this Agreement are:

City:	Parks & Recreation Director	385-5444 ext. 290
GISBA:	Darrell Randolph	381-8139

IN WITNESS WHEREOF, this agreement is executed by the respective parties.

CITY OF GRAND ISLAND, NEBRASKA,  
A Municipal Corporation,

By: \_\_\_\_\_  
Jay Vavricek, Mayor

Attest: \_\_\_\_\_  
RaNae Edwards, City Clerk



GRAND ISLAND SOFTBALL ASSOCIATION,  
INC., A Nebraska non-profit corporation,

By: \_\_\_\_\_  
Darrell Randolph, President

STATE OF NEBRASKA            )  
  ) ss  
COUNTY OF HALL            )

The foregoing document was executed before me on \_\_\_\_\_, 2005, by Darrell Randolph, President of the Grand Island Softball Association, Inc., a Nebraska non-profit corporation, on behalf of the corporation.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Approved as to form by City Attorney

RESOLUTION 2005-91

WHEREAS, the Grand Island Softball Association, Inc., a Nebraska non-profit corporation, has accepted responsibility for organizing and supervising the softball program at the Fonner Park Softball Complex; and

WHEREAS, the City of Grand Island has agreed to provide maintenance of the playing fields; and

WHEREAS, a formal agreement has been agreed to by the City and the Grand Island Softball Association, Inc.

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 execute on behalf of the City of Grand Island, an agreement with the Grand Island Softball Association, Inc., a Nebraska non-profit corporation, whereby the Grand Island Softball Association, Inc. will organize and supervise the softball program at Fonner Park Softball Complex, and the City will provide maintenance, in accordance with the terms of the agreement.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, March 22, 2005.

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RaNae Edwards, City Clerk



# City of Grand Island

Tuesday, March 22, 2005

Council Session

## Item G19

**#2005-92- Approving Change Order No. 1 to the Contract for  
Heartland Public Shooting Park with Hooker Brothers  
Construction**

Staff Contact: Steve Paustian

# **Council Agenda Memo**

**From:** Steve Paustian, Parks and Recreation Director

**Meeting:** March 22, 2005

**Subject:** Change Order #1 for Heartland Public Shooting Park with Hooker Brothers Construction.

**Item #'s:** G-19

**Presenter(s):** Steve Paustian, Parks and Recreation Director

## **Background**

The Park and Recreation Department opened bids for earthwork associated with the construction of the rifle/pistol ranges at the Heartland Public Shooting Park on September 29, 2004. Hooker Brothers Construction of Grand Island provided the low bid and entered into a contract to provide such services.

## **Discussion**

Since the award of the original contract, modifications to the plan have been made that has allowed for the reduction of the contract price by \$110,500.00. The original contract was awarded for \$684,150.00. The deductive change order will result in a new contract amount of \$573,650.00.

## **Alternatives**

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

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

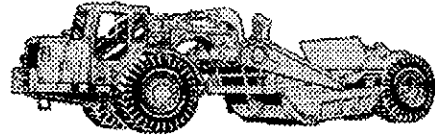
## **Recommendation**

City Administration recommends that the Council approve change order #1 with Hooker Brothers Construction.

## **Sample Motion**

Motion to approve change order #1 with Hooker Brothers Construction.

**HOOKER**  
**h** **BROTHERS**  
**CONSTRUCTION**  
**COMPANY**



P.O. BOX 5288  
 2510 SO. NORTH RD.  
 GRAND ISLAND NE. 68802-5288  
 PHONE 308-384-2030  
 FAX 308-384-2036

February 14, 2005

City of Grand Island  
 Parks and Recreation Dept.  
 100 East 1st street  
 P.O. Box 1968  
 Grand Island Ne. 68802

ATTN: Steve Paustin

Dear Steve,

After a more thorough and in depth study on the deducts for Heartland Shooting Range the following are deducts Hooker Brothers Construction Co. can give and still maintain a small margin of profitability for constructing the complex.

		<b>Deducts</b>
1	Cover crop only with certified seed. Seed to be broadcasted. The reason this is lower then previous stated is because the seed price was also deducted, we still have to buy the cover crop seed.	\$ 25,000.00
2	Gravel vs. crushed concrete	\$ 15,000.00
3	As build survey by a professional L.S. - eliminate	\$ 9,000.00
4	Subgrade preparation vs. over excavation of berms	\$ 25,000.00
5	Performance Bond There was a possible deduct as previous stated but we were actually required to get one by shotkowski.	\$ -
6	Ballistic sand-eliminate	\$ 4,000.00
7	Retaining walls-eliminate After talking with Vargus we still have to construct one of the retaining walls.	\$ 31,000.00
8	Eliminate 1000' of road on west side	\$ 1,500.00

<b>TOTAL</b>	<b>\$ 110,500.00</b>
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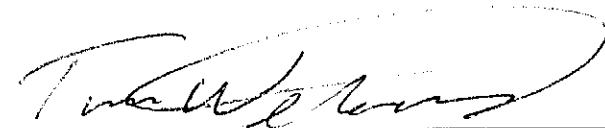
continued on next page

**NOTE:**

If you decide you want a as-build survey we can provide you one using our own survey crew for \$4500.00 everything will be collected electronically and put on a cad drawing showing the actual shots and elevations.

Sincerely Yours:  
Hooker Brothers Construction Co.

Tim Wetovick Project Manager



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RESOLUTION 2005-92

WHEREAS, on October 26, 2004, by Resolution 2004-271, the City of Grand Island awarded the bid for Site Preparation and Lake Excavation at the CAAP Sport Shooting Complex to Hooker Brothers Construction Company of Grand Island, Nebraska; and

WHEREAS, it has been determined that modifications to the work to be performed by Hooker Brothers Construction Company are necessary; and

WHEREAS, such modifications have been incorporated into a change order; and

WHEREAS, the result of such modifications will decrease the contract amount by \$110,500 for a revised contract price of \$573,650.00.

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 a change order between the City of Grand Island and Hooker Brothers Construction Company of Grand Island, Nebraska to provide the modifications set out as follows:

- Cover crop only with certified seed. Seed to be broadcasted.....(25,000.00)
- Gravel vs. crushed concrete .....(15,000.00)
- Subgrade preparation vs. over excavation of berms .....(25,000.00)
- Eliminate As Build survey by a professional L.S. ....( 9,000.00)
- Eliminate ballistic sand.....( 4,000.00)
- Eliminate retaining walls .....(31,000.00)
- Eliminate 1,000 feet of road on west side .....( 1,500.00)

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, March 22, 2005.

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

Approved as to Form	☐ _____
March 17, 2005	☐ City Attorney





# City of Grand Island

Tuesday, March 22, 2005

Council Session

## Item G20

**#2005-93- Approving Contract for Design and Engineering Services for Island Oasis Expansion**

Staff Contact: Steve Paustian

# **Council Agenda Memo**

**From:** Steve Paustian, Parks and Recreation Director

**Meeting:** March 22, 2005

**Subject:** Approving Contract for Design and Engineering Services for Island Oasis Expansion

**Item #'s:** G-20

**Presenter(s):** Steve Paustian, Parks and Recreation Director

## **Background**

The Park and Recreation Department is continuing with long-term plans to update Island Oasis Water Park. Funding in the 2004-05 budget allows for \$50,000.00 for engineering services. It has been the practice of the City to offer a new option at Island Oasis every few years.

## **Discussion**

In an effort to continue to offer a top level aquatic facility, the Parks and Recreation Department is proposing to add a Wet Children's Play attraction to Island Oasis. This new addition was also recommended by the Aquatic Consultant the city hired last summer to assess the community's aquatic facility needs. Proposals were solicited with six received. After ranking the proposals it was determined Olsson Associates in conjunction with Water Technology Inc. provided the proposal that best met City requirements.

## **Alternatives**

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

1. Move to approve the agreement
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 contract agreement with Olsson Associates for design services for Island Oasis expansion for preliminary and final design in an amount not to exceed \$42,700.00 based on a \$500,000.00 project.

## **Sample Motion**

Motion to approve agreement with Olsson Associates for design services.



**OLSSON ASSOCIATES**  
ENGINEERS • PLANNERS • SCIENTISTS • SURVEYORS

**LETTER AGREEMENT FOR  
CONSULTING SERVICES**

March 17, 2005

Mayor and City Council  
c/o Steve Paustian  
City of Grand Island  
P.O. Box 1968  
Grand Island, NE 68802

**Re: AGREEMENT FOR PROFESSIONAL SERVICES  
AQUATIC DESIGN, ISLAND OASIS WATER PARK ("PROJECT")  
GRAND ISLAND, NEBRASKA**

It is our understanding that City of Grand Island ("Client") requests Olsson Associates ("OA"), working with Water Technology, Inc. ("WTI"), to perform the following services pursuant to the terms of this Letter Agreement, OA's General Provisions and any exhibits attached thereto (hereinafter "the Agreement").

1. OA and WTI have acquainted themselves with the information provided by Client relative to the Project and based upon such information offer to provide the services described below for the Project. Client warrants that it is either the legal owner of the property to be improved by this Project or that Client is acting as the duly authorized agent of the legal owner of such property. Client acknowledges that it has reviewed the General Provisions (and any exhibits attached thereto) which are expressly made a part of and incorporated into this Agreement by this reference. In the event of any conflict or inconsistency between this Agreement and the General Provisions regarding the services to be performed by OA, the requirements of this Agreement shall take precedence.

2. OA and WTI shall provide Client, all Basic Services for **Phase 1, - Preliminary Planning and Conceptual Design; Phase 2, - Final Design; and Phase 3, - Construction Phase Services; more specifically described in Exhibit "A" and Exhibit "B"**. Should Client request work in excess of \$500,000 and/or not described and included in the above Description of Services, such work will be considered Additional Services. OA shall invoice Client for such services on an hourly basis, and our current billing rates as shown in Exhibit "C" for services rendered by our principals and employees engaged directly on the Project plus Reimbursable Expenses, unless otherwise agreed to by both parties. OA and WTI shall not commence work on Additional Services without Client's prior approval in writing.

OA and WTI agree to provide all services in a timely, competent and professional manner, in accordance with applicable standards of care, for projects of similar geographic location, quality and scope.

**SCHEDULE FOR CONSULTANT'S SERVICES:**

3. Unless otherwise agreed, OA would expect to begin performing its services under this Agreement promptly upon your signing.

Anticipated Start Date: March 28,2005

Anticipated Completion Date: May 31, 2006

**COMPENSATION:**

4. Client shall pay to OA for the performance of the Services a fixed rate, plus all actual reimbursable expenses in accordance with the Schedule contained in the General Provisions attached to this Letter Agreement.

Phase 1 - Preliminary Planning and Conceptual Design	\$ 8,950
Phase 2 - Final Design (Construction Budget \$500,000)	\$33,750
Phase 3 - Construction Phase Services (Construction Budget \$500,000)	\$27,500

These financial arrangements are proposed with the assumption OA's bills will be paid promptly and the Project will progress orderly and continuously. Client agrees to pay the OA the amounts due for services rendered and expenses incurred pursuant to the terms of this Agreement within thirty (30) days after OA has provided its invoice for such services.

**TERMS AND CONDITIONS OF SERVICE**

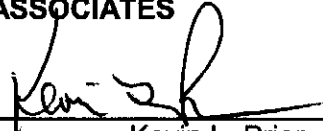
5. We have discussed with you the risks, rewards and benefits of the Project and our fees for services. The risks have been allocated such that the Client agrees that, to the fullest extent permitted by law, OA's total liability to the Client for any and all injuries, claims, losses, expenses, damages, or claims expenses of any kind arising from any services provided by or through us under this Agreement, shall not exceed the total amount of the construction cost, per Section 4.2, General Provisions, designed under this Agreement. Client acknowledges that such causes include, but are not limited to, OA's negligence, errors, omissions, strict liability, breach of contract or breach of warranty.

6. The Agreement represents the entire understanding between Client and OA with respect to the Project and may only be modified in writing signed by both parties.

7. If this proposal satisfactorily sets forth your understanding of our agreement, please sign the Letter Agreement in the space provided (indicating Client's designated Project representative if different from the party signing the Agreement). Retain a copy for your files and return an executed original to OA.

8. By signing below, you acknowledge that you have full authority to bind Client to this Agreement.

**OLSSON ASSOCIATES**

By   
Kevin L. Prior

Title Vice President

If you are in agreement with the preceding proposal, please sign:

**CITY OF GRAND ISLAND "Client"**

By \_\_\_\_\_  
Jay Vavricek

Title Mayor

Dated: \_\_\_\_\_

If different from above,  
\_\_\_\_\_

Attest:  
\_\_\_\_\_  
RaNae Edwards, City Clerk

Approved as to Form:  
\_\_\_\_\_  
City Attorney

## GENERAL PROVISIONS

These General Provisions are attached to and made a part of a LETTER AGREEMENT, dated March 17, 2005 between the City of Grand Island (CLIENT) and Olsson Associates (OA) working with Water Technology, Inc. (WTI) for professional services in connection with the Aquatic Design, Island Oasis Water Park, Grand Island, Nebraska, (hereinafter called the "Project").

### **SECTION 1—OA's BASIC SERVICES**

See Exhibit "A", attached.

### **SECTION 2—ADDITIONAL SERVICES OF OA**

2.1 Unless otherwise expressly included, OA's normal and customary engineering services described here or in the LETTER AGREEMENT do not include the following categories of work which shall be referred to as Additional Services.

2.2. If CLIENT and OA mutually agree to perform any of the following Additional Services, CLIENT will provide written approval of the agreed upon scope of services, and OA shall perform or obtain from others such services and will be paid therefore as provided in the LETTER AGREEMENT. EITHER CLIENT or OA may elect not to perform all or any of the following Additional Services without cause or explanation:

2.2.1 Preparation of applications and supporting documents for governmental financial support of the Project in addition to those required under Basic Services; preparation or review of environmental studies and related services; and assistance in obtaining environmental approvals.

2.2.2 Services to make measured drawings of or to investigate existing conditions of facilities.

2.2.3 Services resulting from significant changes in the general scope, extent or character of the Project or major changes in documentation previously accepted by CLIENT where changes are due to causes beyond OA's control.

2.2.4 Providing renderings or models.

2.2.5 Preparing documents for alternate bids requested by CLIENT for work which is not executed or for out-of-sequence work.

2.2.6 Detailed consideration of operations, maintenance and overhead expenses; value engineering and the preparation of rate schedules, earnings and expense statements, cash flow and economic evaluations, feasibility studies, appraisals and valuations.

2.2.7 Furnishing the services of independent professional associates or consultants for work other than Basic Services.

2.2.8 If OA's compensation for Basic Services is not on the basis of Direct Labor or Salary Costs, Additional Services shall include services necessary due to the Client's award of more than one prime contract for the Project, services necessary due to the construction contract containing cost plus or incentive-savings provisions, services necessary in order to arrange for performance by persons other than the prime

contractor and those services necessary to administer CLIENT's contract(s).

2.2.9 Services in connection with staking out the work of Contractor(s).

2.2.10 Services during out-of-town travel other than visits to the site.

2.2.11 Preparation of operating and maintenance manuals to supplement Basic Services.

2.2.12 Services to redesign some or all of the Project.

2.2.13 Preparing to serve or serving as a consultant or witness or assisting CLIENT with any litigation, arbitration or other legal or administrative proceeding except where required as part of Basic Services.

2.3 When required by the Agreement or Contract Documents in circumstances beyond OA's control, OA shall perform or obtain from others any of the following Additional Services as circumstances require during construction and without waiting for specific instructions from CLIENT, and OA will be paid therefore as provided in the Letter Agreement:

2.3.1 Services in connection with work directive changes and change orders to reflect the changes requested by CLIENT if the resulting change in compensation for Basic Services is not commensurate with the additional services rendered.

2.3.2 Services in making revisions to Drawings and Specifications occasioned by the acceptance of substitutions proposed by Contractor(s); services after the award of each contract in evaluating and determining the acceptability of an unreasonable or excessive number of substitutions proposed by Contractor; and evaluating an unreasonable or extensive number of claims submitted by Contractor(s) or others in connection with the work.

2.3.3 Services resulting from significant delays, changes or price increases occurring as a direct or indirect result of material, equipment or energy shortages.

2.3.4 Additional or extended services during construction made necessary by (1) work damage by fire or other causes during construction, (2) a significant amount of defective, inefficient or neglected work by any Contractor, (3) acceleration of the progress schedule involving services beyond normal working hours, (4) default by any Contractor.

### **SECTION 3—CLIENT'S RESPONSIBILITIES**

3.1. CLIENT shall provide all criteria and full information as to CLIENT's requirements for the Project; designate and identify in writing a person to act with authority on CLIENT's behalf in respect of all aspects of the Project; examine and respond promptly to OA's submissions; and give prompt written notice to OA whenever CLIENT observes or otherwise becomes aware of any defect in the work.

3.2 If CLIENT fails to make any payment due OA for services and expenses within thirty (30) days after receipt of OA's statement therefore, OA may, after giving seven days' written notice to CLIENT, suspend services to CLIENT under this Agreement until OA has been paid in full all amounts due for services, expenses and charges.

3.3 Payments to OA shall not be withheld, postponed or made contingent on the construction, completion or success of the Project or upon receipt by the CLIENT of offsetting reimbursements or credit from other parties who may have caused Additional Services or expenses. No withholdings, deductions or offsets shall be made from OA's compensation for any reason unless OA has been found to be legally liable for such amounts.

3.4 CLIENT shall also do the following and pay all costs incident thereto:

3.4.1 Furnish to OA any borings, probings and subsurface explorations, hydrographic surveys, laboratory tests and inspections of samples, materials and equipment; appropriate professional interpretations of all of the foregoing; environmental assessment and impact statements; property, boundary, easement, right-of-way, topographic and utility surveys; property descriptions; zoning and deed restrictions; all of which OA may rely upon in performing services hereunder.

3.4.2 Guarantee access to and make all provisions for OA to enter upon public and private property.

3.4.3 Provide such legal, accounting, independent cost estimating and insurance counseling services as may be required for the Project, any auditing service required in respect of Contractor(s)' applications for payment, and any inspection services to determine if Contractor(s) are performing the work legally.

3.4.4 Provide engineering surveys to establish reference points for construction.

3.4.5 Furnish approvals and permits from all governmental authorities having jurisdiction over the Project.

3.4.6 If more than one prime contractor is to be awarded the contract for construction, designate a party to have responsibility and authority for coordinating the activities of the various prime contractors.

3.5 CLIENT shall pay all costs incident to obtaining bids or proposals from Contractor(s).

3.6 CLIENT shall pay all permit application review costs for government authorities having jurisdiction over the Project.

3.7 Contemporaneously with the execution of the LETTER AGREEMENT, CLIENT shall designate in writing an individual to act as its duly authorized Project representative.

**SECTION 4—MEANING OF TERMS**

4.1 As used herein, the term "this Agreement" refers to these General Provisions, the LETTER AGREEMENT to which these General Provisions refer, and any other exhibits or

attachments made a part thereof as if they were part of one and the same document.

4.2 The "construction cost" of the entire Project (herein referred to as "Construction Cost") means the total cost to CLIENT of those portions of the entire Project designed and specified by OA, but it will not include OA's compensation and expenses, the cost of land, rights-of-way, or compensation for or damages to, properties unless this Agreement so specifies, nor will it include CLIENT's legal, accounting, insurance counseling or auditing services, or interest and financing charges incurred in connection with the Project or the cost of other services to be provided by others to CLIENT pursuant to Section 3.

4.3 The "Salary Costs": Used as a basis for payment mean salaries and wages (basic and incentive) paid to all OA's personnel engaged directly on the Project, including, but not limited to, engineers, architects, surveyors, designers, draftsmen, specification writers, estimators, other technical and business personnel; plus the cost of customary and statutory benefits, including, but not limited to, social security contributions, unemployment, excise and payroll taxes, workers' compensation, health and retirement benefits, sick leave, vacation and holiday pay and other group benefits.

4.4 "Reimbursable Expenses: The expenses incurred by OA or OA's independent professional associates or consultants directly or indirectly in connection with the Project, and shall be included in periodic billing as applicable as follows:

<u>Classification</u>	<u>Costs</u>
Automobiles	\$0.41/mile*
Suburbans and Pick-Ups	\$0.60/mile
Duplication	
In-house	Actual Cost
Outside	Actual Cost
Meals	Actual Cost
Postage & Shipping	
Charges for Project	
Related Materials	Actual Cost
Film and Photo	
Developing	Actual Cost
Telephone and	
Fax Transmissions	Actual Cost
Miscellaneous Materials	
& Supplies Applicable	
only to this Project	Actual Cost
Subconsultants	Actual Cost

\* IRS Standard Mileage Rate (Subject to Change)

4.5 "Certify" or "a Certification": A statement of OA's opinion, based on its observation of conditions, to the best of OA's professional knowledge, information and belief. Such statement of opinion does not constitute a warranty, either express or implied. It is understood that OA's certification shall not relieve the CLIENT or the CLIENT's contractors of any responsibility or obligation they may have by industry custom or under any contract.

4.6 "Cost Estimate": An opinion of probable construction cost made by OA. In providing opinions of probable construction cost, it is recognized that neither the CLIENT nor



OA has control over the costs of labor, equipment or materials, or over the Contractor's methods of determining prices or bidding. The opinion of probable construction costs is based on OA's reasonable professional judgment and experience and does not constitute a warranty, express or implied, that the Contractor's bids or the negotiated price of the Work will not vary from the CLIENT's budget or from any opinion of probable cost prepared by OA.

4.7 "Day": A calendar day of 24 hours. The term "days" shall mean consecutive calendar days of 24 hours each, or fraction thereof.

4.8 "Inspect" or "Inspection": The visual observation of construction to permit OA, as an experienced and qualified professional, to determine that the Work when completed by the Contractor, generally conforms to the Contract Documents. In making such inspections, OA makes no guarantees for, and shall have no authority or control over, the Contractor's performance or failure to perform the Work in accordance with the Contract Documents. OA shall have no responsibility for the means, methods, techniques, sequences or procedures selected by the Contractor or for the Contractor's safety precautions and programs nor for failure by the Contractor to comply with any laws or regulations relating to the performance or furnishing of the Work by the Contractor.

4.9 "Record Documents": Drawings prepared by OA upon the completion of construction based upon the drawings and other data furnished to OA by the Contractor and others showing significant changes in the Work made during construction. Because Record Documents are prepared based on unverified information provided by others, OA makes no warranty of the accuracy or completeness of the drawings.

## **SECTION 5—TERMINATION**

5.1 Either party may terminate this Agreement for cause upon giving the other party not less than seven (7) calendar days' written notice for any of the following reasons:

5.1.1 Substantial failure by the other party to perform in accordance with the terms of this Agreement and through no fault of the terminating party;

5.1.2 Assignment of this Agreement or transfer of the Project by either party to any other entity without the prior written consent of the other party;

5.1.3 Suspension of the Project or OA's services by the CLIENT for more than ninety (90) calendar days, consecutive or in the aggregate;

5.1.4 Material changes in the conditions under which this Agreement was entered into, the Scope of Services or the nature of the Project, and the failure of the parties to reach agreement on the compensation and schedule adjustments necessitated by such changes.

5.2 In the event of a "for cause" termination of this Agreement by either party, the CLIENT shall within fifteen (15) calendar days of termination pay OA for all services rendered and all reimbursable costs incurred by OA up to the date of

termination, in accordance with the payment provisions of this Agreement.

5.3 The CLIENT may terminate this Agreement for the CLIENT's convenience and without cause upon giving OA not less than seven (7) calendar days' written notice. In the event of any termination that is not the fault of OA, the CLIENT shall pay OA, in addition to payment for services rendered and reimbursable costs incurred, for all expenses reasonably incurred by OA in connection with the orderly termination of this Agreement, including but not limited to demobilization, reassignment of personnel, associated overhead costs, any fees, costs or expenses incurred by OA in preparing or negotiating any proposals submitted to CLIENT for OA's Basic or Additional Services under this Agreement and all other expenses directly resulting from the termination and a reasonable profit of not less than 10% of OA's actual costs incurred.

## **SECTION 6—DISPUTE RESOLUTION**

### **6.1. Mediation**

6.1.1 All questions in dispute under this Agreement shall be submitted to mediation. On the written notice of either party to the other of the election to submit any dispute under this Agreement to mediation, each party shall designate their representatives and shall meet within ten (10) days after the service of the notice. The parties themselves shall then attempt to resolve the dispute within ten (10) days of meeting.

6.1.2 Should the parties themselves be unable to agree on a resolution of the dispute, then the parties shall appoint a third party who shall be a competent and impartial party and who shall be acceptable to each party, to mediate the dispute. Any third party mediator shall be qualified to evaluate the performance of both of the parties, and shall be familiar with the design and construction progress. The third party shall meet to hear the dispute within ten (10) days of their selection and shall attempt to resolve the dispute within fifteen (15) days of first meeting.

6.1.3 Each party shall pay the fees and expenses of the third party mediator and such costs shall be borne equally by both parties.

## **SECTION 7—MISCELLANEOUS**

### **7.1 Reuse of Documents**

All documents, including Drawings and Specifications prepared or furnished by OA (and OA's independent professional associates and consultants) pursuant to this Agreement, are instruments of service in respect of the Project and OA shall retain an ownership and property interest therein whether or not the Project is completed. CLIENT may make and retain copies for information and reference in connection with the use and occupancy of the Project by CLIENT and others; however, such documents are not intended or represented to be suitable for reuse by CLIENT or others on extensions of the Project or on any other project. Any reuse without written verification or adaptation by OA for the specific purpose intended will be at CLIENT's sole risk and without liability or legal exposure to OA,

or to OA's independent professional associates or consultants, and CLIENT shall indemnify and hold harmless OA and OA's independent professional associates and consultants from all claims, damages, losses and expenses including attorneys' fees arising out of or resulting therefrom. Any such verification or adaptation will entitle OA to further compensation at rates to be agreed upon by CLIENT and OA.

## **7.2 Electronic Files**

By accepting and utilizing any electronic file of any drawing, report or data transmitted by OA, the CLIENT agrees for itself, its successors, assigns, insurers and all those claiming under or through it, that by using any of the information contained in the attached electronic file, all users agree to be bound by the following terms. All of the information contained in any electronic file is the work product and instrument of service of OA, who shall be deemed the author, and shall retain all common law, statutory law and other rights, including copyrights, unless the same have previously been transferred in writing to the CLIENT. The information contained in any electronic file is provided for the convenience to the CLIENT and is provided in "as is" condition. The CLIENT is aware that differences may exist between the electronic files transferred and the printed hard-copy original signed and stamped drawings or reports. In the event of a conflict between the signed original documents prepared by OA and the electronic files which may be transferred, the signed and sealed original documents shall govern. OA specifically disclaims all warranties, expressed or implied, including without limitation, any warranty of merchantability or fitness for a particular purpose with respect to any electronic files. It shall be CLIENT's responsibility to confirm the accuracy of the information contained in the electronic file and that it accurately reflects the information needed by the CLIENT. CLIENT shall not retransmit any electronic files, or any portion thereof, without including this disclaimer as part of any such transmissions. In addition, CLIENT agrees, to the fullest extent permitted by law, to indemnify and hold harmless OA, its officers, directors, employees and sub consultants against any and all damages, liabilities, claims or costs, including reasonable attorney's and expert witness fees and defense costs, arising from any changes made by anyone other than OA or from any reuse of the electronic files without the prior written consent of OA.

## **7.3 Opinions of Cost**

Since OA has no control over the cost of labor, materials, equipment or services furnished by others, or over the Contractor(s)' methods of determining prices, or over competitive bidding or market conditions, OA's opinions of probable Total Project Costs and Construction Cost provided for herein are to be made on the basis of OA's experience and qualifications and represent OA's best judgment as an experienced and qualified professional engineer, familiar with the construction industry; but OA cannot and does not guarantee that proposals, bids or actual Total Project or Construction Costs will not vary from opinions of probable cost prepared by OA. If prior to the Bidding or Negotiating Phase CLIENT wishes greater assurance as to Total Project or Construction Costs, CLIENT shall employ an independent cost estimator as provided in paragraph 3.4.3. OA's services to modify the Contract Documents to bring the Construction Cost

within any limitation established by CLIENT will be considered Additional Services and paid for as such by CLIENT.

## **7.4 Controlling Law and Venue**

7.4.1 The parties agree that this Agreement and any legal actions concerning its validity, interpretation or performance shall be governed by the laws of the State of Nebraska.

7.4.2 Any legal action between OA and CLIENT arising out of this AGREEMENT shall be brought in a court of competent jurisdiction located in Lancaster County, Nebraska.

## **7.5 Subconsultants**

OA may utilize as necessary in its discretion Subconsultants and other subcontractors. OA will be paid for all services rendered by its subconsultants and other subconsultants as set forth in this Agreement.

## **7.6 Assignment**

7.6.1 CLIENT and OA each is hereby bound and the partners, successors, executors, administrators and legal representatives of CLIENT and OA (and to the extent permitted by paragraph 7.6.2 the assigns of CLIENT and OA) are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements and obligations of this Agreement.

7.6.2. Neither CLIENT nor OA shall assign, sublet or transfer any rights under or interest in (including, but without limitation, moneys that may become due or moneys that are due) this Agreement without the written consent of the other, except to the extent that any assignment, subletting or transfer is mandated by law or the effect of this limitation may be restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement. Nothing contained in this paragraph shall prevent OA from employing such subconsultants and other subcontractors as OA may deem appropriate to assist in the performance of services under this Agreement.

7.6.3 Nothing under this Agreement shall be construed to give any rights or benefits in this Agreement to anyone other than CLIENT and OA, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of CLIENT and OA and not for the benefit of any other party. There are no third-party beneficiaries of this Agreement.

## **7.7 Indemnity**

OA and the CLIENT mutually agree, to the fullest extent permitted by law, to indemnify and hold each other harmless from any and all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, arising from their own negligent acts, errors or omissions in the performance of their services under this Agreement, to the

extent that each party is responsible for such damages, liabilities or costs on a comparative basis of fault.

#### **7.8 Limitation on Damages**

Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, neither the CLIENT nor OA, their respective officers, directors, partners, employees, contractors or subconsultants shall be liable to the other or shall make any claim for any incidental, indirect or consequential damages arising out of or connected in any way to the Project or to this AGREEMENT. This mutual waiver of consequential damages shall include, but is not limited to, loss of use, loss of profit, loss of business, loss of income, loss of reputation or any other consequential damages that either party may have incurred from any cause of action including negligence, strict liability, breach of contract and breach of strict or implied warranty. Both the CLIENT and OA shall require similar waivers of consequential damages protecting all the entities or persons named herein in all contracts and subcontracts with others involved in this Project.

#### **7.9 Entire Agreement**

This Agreement supersedes all prior communications, understandings and agreements, whether oral or written. Amendments to this Agreement must be in writing and signed by the CLIENT and OA.

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EXHIBIT "A" to GENERAL PROVISIONS attached to  
LETTER AGREEMENT BETWEEN CONSULTANT AND CLIENT  
FOR PROFESSIONAL SERVICES, dated March 17, 2005

DESCRIPTION OF BASIC PROFESSIONAL SERVICES AND RELATED MATTERS

This Exhibit A is attached to and made a part of the Letter Agreement for Professional Services between the City of Grand Island, Nebraska, (CLIENT) and Olsson Associates and Water Technology, Inc., (ENGINEER) dated March 17, 2005 in connection with the Aquatic Design – Island Oasis Water Park.

This Exhibit A sets forth the scope of services to be performed by the ENGINEER in connection with the referenced project. The work included pertains to the preliminary planning and conceptual design, final design, and construction services for the Aquatic Design, Island Oasis-Grand Island, Nebraska.

**PHASE 1. PRELIMINARY PLANNING AND CONCEPTUAL DESIGN**

ENGINEER shall assist the CLIENT in regard to planning for the project. This phase will include the development of the conceptual design of the Aquatic features, preliminary grading and the overall site layout and landscaping. The work will also include a site topographic survey to allow the project to move forward as quickly as possible once the Final Concept is completed and approved. Tasks performed under this phase of the work shall include:

- Task 1.1: Project Kick-off /Programming Meetings with CLIENT** - ENGINEER will meet with the City staff to discuss the trends in aquatic planning and prioritize activities and outline the intended uses and space required to support these uses. While this meeting will result in bringing all program objective together through a design charette. Within this charette we will discuss, test, argue and compose a "preferred plan" that achieves the best combination of existing and proposed objectives and conditions. A total of one meeting is anticipated.
- Task 1.2: Topographical Survey** - ENGINEER shall perform a topographical survey of the project area and adjacent area of the existing pool facility, establishing permanent control for construction and locate existing utilities.
- Task 1.3: Develop Concept Design** - ENGINEER will develop, based on existing concepts and input from the City staff, a concept design for the proposed expansion of the Aquatic Facilities at the Island Oasis Water Park facility. The concept will demonstrate the locations and relationships between elements.
- Task 1.4: Prepare Preliminary Opinion of Cost**- Engineer will develop a preliminary opinion of probable construction cost for phase one development, based upon the information developed in the Concept Design.
- Task 1.5: Preliminary Concept Meeting with CLIENT** - ENGINEER will meet with the City staff to discuss the concept design and to build consensus on the concept for the future development of the Aquatic Facilities at the Island Oasis Water Park and establish a final budget for the Phase 1 development. A total of one meeting is anticipated.

**Task 1.6: Develop a Design Memorandum** - ENGINEER shall define and describe elements considered in the concept design, including identifying the location, size and character of the proposed products to be specified, and probable construction costs. A final colored master plan for the Aquatic Facility will be included.

**Task 1.7: Submittal of Concept Plans to CLIENT** - ENGINEER shall submit the finalized Concept to the City staff for approval and authorization to move to final design.

## **PHASE 2. PRELIMINARY AND FINAL DESIGN**

ENGINEER shall prepare a detailed set of plans and specifications that can be used as bid and construction documents that will allow the proposed project to be competitively bid and constructed. The tasks performed as part of the final design shall include:

**Task 2.1: Geotechnical Exploration** - ENGINEER shall perform a geotechnical exploration of the project site. Geotechnical work will include up to three (3) borings, associated testing and development of bearing capacities of the soil. (Additional Services)

**Task 2.2: Develop preliminary design parameters** - ENGINEER shall prepare the final design parameters for the Aquatic Facility. These will include the design of the:

- Decks, walks and features
- Wet play area
- Filter and piping systems
- Wet well and pump station
- Chemical systems with controls
- Building for electrical and chemical containment
- Pool deck w/appurtenances
- Recreation play elements
- Planting Area

**Task 2.3: Prepare Preliminary Design Sheets** - ENGINEER shall prepare detailed plan sheets for the proposed project. ENGINEER will provide progress reports to CLIENT at 50%, 75%, and 95% completion points.

**Task 2.4: Prepare Specifications** - ENGINEER shall prepare technical specifications and contract documents for the project.

**Task 2.5: Quality Control Review** - ENGINEER shall perform an in-house quality control review to evaluate the construction documents.

**Task 2.6: Submittal of Plans and Specifications to CLIENT** - ENGINEER shall submit said Plans, Specifications and Engineer's Opinion of Probable Cost to the CLIENT for review and approval.

**Task 2.7:** **Submittal of Plans and Specifications to Regulatory Agencies** - ENGINEER shall submit required information to Regulatory Agencies for Approval. ENGINEER shall respond to review comments of Regulatory Agencies. CLIENT will be responsible for the review fee.

### **PHASE 3. CONSTRUCTION SERVICES**

**3.1** ENGINEER shall assist the CLIENT in bidding the project. The tasks shall include:

**Task 3.1.1: Prepare and Distribute Bid Documents** - ENGINEER shall arrange for preparation and distribution of bid documents to prospective bidders. ENGINEER shall maintain a list of current holders of bid documents. The ENGINEER shall be allowed to recover reproduction costs thereof.

**Task 3.1.2: Answer Bidder Questions** - ENGINEER shall answer bidder's questions regarding the construction documents.

**Task 3.1.3: Prepare Addenda** - ENGINEER shall prepare and distribute addenda to the bidders that may be needed during the bid phase.

**Task 3.1.4: Attend Bid Opening** - ENGINEER shall attend bid opening to assist CLIENT in opening bids.

**Task 3.1.5: Evaluate Bids** - ENGINEER shall evaluate the bids and qualifications of the bidders.

**Task 3.1.6: Recommend Award** - Based upon the results of the bid evaluation, ENGINEER shall provide a Recommendation of Award to CLIENT.

**3.2.** ENGINEER shall assist the CLIENT in the Administration of the project during the construction phase of the project. ENGINEER shall perform the tasks listed below:

**Task 3.2.1: Prepare Conforming Copies of Contracts** - ENGINEER shall assist the CLIENT in the preparation and distribution of conforming copies of the executed contracts.

**Task 3.2.2: Attend Preconstruction Meeting** - ENGINEER shall attend the preconstruction meeting, assist in preparing the meeting agenda, and shall prepare and distribute to all attendees (narrative style) minutes of the preconstruction meeting.

**Task 3.2.3: Review Progress Payments** - ENGINEER shall review the Contractor's monthly progress payment applications for general conformance with the progress of the work and mathematical accuracy.

**Task 3.2.4: Attend Monthly Progress Meetings** - ENGINEER will attend monthly progress meetings during construction. ENGINEER shall prepare and distribute (narrative style) meeting minutes for construction progress meetings.

**3.3** ENGINEER shall assist the CLIENT as requested by the CLIENT, during the construction phase of the project.

**Task 3.3.1: Construction Observation Services** - ENGINEER shall perform construction observation services on behalf of the CLIENT during the construction of the project. The extent of the Construction Observation Services will be discussed with the CLIENT.

**Task 3.3.2: Interpret Contract Documents** - ENGINEER shall interpret the contract documents as requested by the Contractor or the CLIENT.

**Task 3.3.3: Review Submittal Data** - ENGINEER shall review the Contractor's submittal data on materials for general conformance with the intent of the design.

### **3.4 PROJECT CLOSE OUT**

ENGINEER shall assist the CLIENT in the Closing out of the project. ENGINEER shall perform the tasks listed below.

**Task 3.4.1: Attend Facility Start-up** - ENGINEER shall attend the Startup of the Facility. ENGINEER shall also be present for the training of the CLIENTS representatives on the operation and maintenance of the equipment.

**Task 3.4.2: Attend Final Inspection** - ENGINEER shall attend the final inspection of the project with the Client's personnel and provide written comments to the CLIENT.

**Task 3.4.3: Review Final Application for Payment** - ENGINEER shall review the Contractor's final application for payment and the accompanying documentation for compliance with the contract requirements.

**Task 3.4.4: Review Contractor's Records** - ENGINEER shall review the Contractor's record drawings for completeness and legibility. ENGINEER shall identify additional information that may be required to complete the project record drawings and request the information from the Contractor.

**Task 3.4.5: Prepare Record Drawings** - Using the Contractor's and ENGINEER's Resident Project Representative's record drawings, ENGINEER shall revise the construction documents to reflect the construction records for the project. ENGINEER shall provide the CLIENT with one (1) reproducible set of record drawings.

**Task 3.4.6: Attend Winter Shut Down** - ENGINEER shall attend a meeting with the CLIENT, Contractor, and Subcontractors to perform training for CLIENT on proper winterization of the pool facilities.

**Task 3.4.7: One Year Warranty Inspection** - ENGINEER shall attend a meeting with the CLIENT, and Contractor to review the performance of the facility and identify any deficiencies. The Contractor will correct under the one-year warranty clause of the contract.

**EXHIBIT "B"**  
**A LISTING OF THE DUTIES, RESPONSIBILITIES  
AND LIMITATIONS OF AUTHORITY OF THE  
RESIDENT PROJECT REPRESENTATIVE**

ENGINEER shall furnish a Resident Project Representative (RPR), assistants and other field staff to assist ENGINEER in observing performance of the work of Contractor.

Through more extensive on-site observations of the work in progress and field checks of materials and equipment by the RPR and assistants, ENGINEER shall endeavor to provide further protection for OWNER against defects and deficiencies in the work of CONTRACTOR; but, the furnishing of such services will not make ENGINEER responsible for or give ENGINEER control over construction means, methods, techniques, sequences or procedures or for safety precautions or programs, or responsibility for CONTRACTOR's failure to perform the Work in accordance with Contract Documents and in particular the specific limitations set forth in the Agreement as applicable.

The duties and responsibilities of the RPR are limited to those of ENGINEER in ENGINEER's agreement with the OWNER and in the construction Contract Documents, and are further limited and described as follows:

**A. General**

RPR is ENGINEER's agent at the site, will act as directed by and under the supervision of ENGINEER, and will confer with ENGINEER regarding RPR's actions, RPR's dealing in matters pertaining to the on-site work shall in general be with ENGINEER and CONTRACTOR keeping OWNER advised as necessary. RPR's dealing with subcontractor shall only be through or with the full knowledge and approval of CONTRACTOR. RPR shall generally communicate with OWNER with the knowledge of and under the direction of ENGINEER.

**B. Duties and Responsibilities of RPR**

1. **Schedules:** Review the progress schedule, schedule of Shop Drawing submittals and schedule of values prepared by CONTRACTOR and consult with ENGINEER concerning acceptability.
2. **Conferences and Meetings:** Attend meeting with CONTRACTOR, such as preconstruction conferences, progress meetings, job conferences and other project-related meetings, and prepare and circulate copies of minutes thereof.
3. **Liaison:**
  - a. Serve as ENGINEER's liaison with CONTRACTOR, working principally through CONTRACTOR's superintendent and assist in understanding the intent of the Contract Documents; and assist the ENGINEER in serving as OWNER's liaison with CONTRACTOR when CONTRACTOR's operations affect OWNER's on-site operations.
4. **Shop Drawings and Samples:**
  - a. Record date of receipt of Shop Drawings and samples.
  - b. Receive samples which are furnished at the site by CONTRACTOR, and notify ENGINEER of availability of samples for examination.
  - c. Advise ENGINEER and CONTRACTOR of the commencement of any Work requiring a Shop Drawing or sample if the submittal has not been approved by ENGINEER.
5. **Review of Work, Rejection of Defective Work, Inspections and Tests:**
  - a. Conduct on-site observations of the Work in progress to assist ENGINEER in determining if the Work is in general proceeding in accordance with the Contract Documents.



- b. Report to ENGINEER whenever RPR believes that any Work is unsatisfactory, faulty or defective or does not conform to the Contract Documents, or has been damaged, or does not meet the requirements of any inspection, test or approval required to be made; and advise ENGINEER of Work that RPR believes should be corrected or rejected or should be uncovered for observation, or requires special testing, inspection or approval.
  - c. Verify that tests, equipment and systems startups and operating and maintenance training are conducted in the presence of appropriate personnel, and that CONTRACTOR maintains adequate records thereof; and observe record and report to ENGINEER appropriate details relative to the test procedures and startups.
  - d. Accompany visiting inspectors representing public or other agencies having jurisdiction over the Project, record the results of these inspections and report to ENGINEER.
6. Interpretation of Contract Documents: Report to ENGINEER when clarifications and interpretations of the Contract Documents are needed and transmit to CONTRACTOR clarifications and interpretations as issued by ENGINEER.
7. Modifications: Consider and evaluate CONTRACTOR's suggestions for modifications in Drawings and Specifications and report with RPR's recommendations to ENGINEER. Transmit to CONTRACTOR decisions as issued by ENGINEER.
8. Records:
- a. Maintain at the job site orderly files for correspondence, reports of job conferences, Shop Drawings and samples, reproductions of original Contract documents including all Work Directive Changes, Addenda, Change Orders, Field Orders, additional Drawings issued subsequent to the execution of the Contract, ENGINEER's clarifications and interpretations of the Contract Documents, progress reports, and other Project related documents.
  - b. Keep a diary or log book, recording CONTRACTOR hours on the job site, weather conditions, data relative to questions of Work Directive Changes, Change Orders or changed conditions, list of job site visitors, daily activities, decisions, observations in general, and specific observations in more detail as in the case of observing test procedures; and send copies to ENGINEER.
9. Reports:
- a. Furnish ENGINEER periodic reports as required of progress of the Work and of CONTRACTOR's compliance with the progress schedule and schedule of Shop Drawing and sample submittals.
  - b. Consult with ENGINEER in advance of scheduled major tests, inspections or start of important phases of the Work.
  - c. Draft proposed Change Orders and Work Directive Changes, obtaining backup material from CONTRACTOR and recommended to ENGINEER Change Orders, Work Directive Changes, and Field Orders.
  - d. Report immediately to ENGINEER and OWNER upon the occurrence of any accident.
10. Payment Requests: Review applications for payment with CONTRACTOR for compliance with the established procedure for their submission and forward with recommendations to ENGINEER, noting particularly the relationship of the payment requested to the schedule of values, Work completed and materials and equipment delivered at the site but not incorporated in the Work.

11. Certificates, Maintenance and Operation Manuals: During the course of the Work, verify that certificates, maintenance and operation manuals and other data required to be assembled and furnished by CONTRACTOR are applicable to the items actually installed and in accordance with the Contract Documents, and have this material delivered to ENGINEER for review and forwarding to OWNER prior to final payment for the Work.
12. Completion:
  - a. Before ENGINEER issues a Certificate of Substantial Completion, submit to CONTRACTOR a list of observed items requiring completion or correction.
  - b. Conduct final inspection in the company of ENGINEER, OWNER, and CONTRACTOR and prepare a final list of items to be completed or corrected.
  - c. Observe that all items on final list have been completed or corrected and make recommendations to ENGINEER concerning acceptance.

C. Limitations of Authority

Resident Project Representative:

1. Shall not authorize any deviation from the Contract Documents or substitution of materials or equipment, unless authorized by ENGINEER.
2. Shall not exceed limitations of ENGINEER's authority as set forth in the Agreement or the Contract Documents.
3. Shall not undertake any of the responsibilities of CONTRACTOR, subcontractors or CONTRACTOR's superintendent.
4. Shall not advise on, issue directions relative to or assume control over any aspect of the means, methods, techniques, sequences or procedures of construction unless such advice or directions are specifically required by the Contract Documents.
5. Shall not advise on, issue directions regarding or assume control over safety precautions and programs in connection with the Work.
6. Shall not accept Shop Drawing or sample submittals from anyone other than CONTRACTOR.
7. Shall not authorize OWNER to occupy the Project in whole or in part.
8. Shall not participate in specialized field or laboratory tests or inspections conducted by others except as specifically authorized by ENGINEER.

END OF SECTION

**EXHIBIT "C" to GENERAL PROVISIONS attached to  
LETTER AGREEMENT BETWEEN CONSULTANT AND CLIENT  
FOR PROFESSIONAL SERVICES, dated March 17, 2005**

**DESCRIPTION OF BASIC PROFESSIONAL SERVICES AND RELATED MATTERS**

This Exhibit A is attached to and made a part of the Letter Agreement for Professional Services between the City of Grand Island, Nebraska, (CLIENT) and Olsson Associates and Water Technology, Inc., (ENGINEER) dated March 17, 2005 in connection with the Aquatic Design – Island Oasis Water Park.

This Exhibit C sets forth the hourly rates for additional services in connection with the referenced project. The additional work may pertain to the preliminary planning and conceptual design, final design, and construction services for the Aquatic Design, Island Oasis-Grand Island, Nebraska.

**BILLING RATES**

**OA HOURLY RATES**

Team Leader	\$125.00
Project Engineer	\$ 85.00
Assistant Engineer	\$ 65.00
CAD Operator	\$ 55.00
Administrative	\$ 45.00
Licensed Surveyor	\$ 75.00
Surveyor Crew Chief	\$ 50.00
Surveyor Helper	\$ 40.00

**WTI HOURLY RATES**

Principal	\$150.00
Project Manger	\$105.00
Project Designer	\$ 95.00
CAD Operator	\$ 65.00
Administrative	\$ 55.00

Reimbursables are in addition to the Hourly Rates, and consist of normal project-related business costs as shown in the General Provisions.

RESOLUTION 2005-93

WHEREAS, the City of Grand Island invited proposals for Design and Engineering Services for Children's Wet Play Area at Island Oasis Water Park, in accordance with a Request for Proposal on file with the City Clerk; and

WHEREAS, on January 13, 2005, proposals were received, reviewed and evaluated in accordance with established criteria; and

WHEREAS, Olsson Associates of Grand Island, Nebraska, submitted a proposal in accordance with the terms of the request for proposals and all statutory requirements contained therein and the City Procurement Code, such proposal being for an amount not to exceed \$42,700 based on a total project cost of \$500,000; and

WHEREAS, in the event the scope of the project expands, Olsson Associates has agreed to provide additional design and engineering services at their standard hourly rate as set out in the schedule attached to the contract for such project; and

WHEREAS, the City Attorney's office has reviewed and approved the proposed contract for such project.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the proposal of Olsson Associates of Grand Island, Nebraska, for design and engineering services for Children's Wet Play Area with the necessary infrastructure for future attractions at Island Oasis Water Park for an amount not to exceed \$42,700 based on a \$500,000 total project cost is hereby approved.

BE IT FURTHER RESOLVED, that in the event the scope of the project is expanded, additional design and engineering services will be provided by Olsson Associates at their standard hourly rate as set out in the schedule attached to the contract for this project.

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

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, March 22, 2005.

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

Approved as to Form	☐ _____
March 17, 2005	☐ City Attorney



# City of Grand Island

Tuesday, March 22, 2005

Council Session

## Item I1

**#2005-94- Approving Acceptance of Site and Need Study and City Administration Recommendation for Fire Station #1.**

*This item Relates to Resolution Item I-2*

Staff Contact: Gary Greer

# **Council Agenda Memo**

**From:** Gary D. Greer, City Administrator

**Meeting:** March 22, 2005

**Subject:** Accept Fire Station #1 and Fire Training Center Site and Needs Study and Authorize the City to proceed with Administration Recommendations

**Item #'s:** I-1 and I-2

**Presenter(s):** Gary D. Greer, City Administrator

## **Background**

Over the last few months, the City has moved forward with plans to replace Fire Station #1 and to begin the process of developing property for a Fire Training Facility. These projects were identified during the ½ % sales tax election as priority facility improvements. Since the election the City has engaged in several processes to explore the best way to bring about the two projects. A committee was formed to manage the process and guide the public discussion. The culmination of the Committee's work resulted in a Site and Needs Study being presented by RDG Schutte Wilscam Birge, Inc, BKV Group, and Emergency Services Consulting, Inc. at the March 1<sup>st</sup> study session.

## **Discussion**

The Group looked at many alternatives and presented a recommendation for the replacement of Fire Station # 1 and the Fire Training Facility. The consultants recommended a strategy that would build 2 smaller stations in order to create the best possible response times as Grand Island grows. They indicated that a station should be build on Fonner Park property and on the land that is currently Lions Park. They also suggested that current Station # 2 be converted to an EMS station to serve the entire City.

RDG/BKV/ESC also recommended that the City pursue property adjacent to the Central Community College/College Park campuses for the Fire Training Facility. The Group recommended that a business plan be completed to guide the development of the facility to maximize the opportunities for the project.

At the conclusion of the report City Administration provided a recommendation for the implementation of the consultant's recommendations. Following is the recommendation from City Administration:

## City Administration's Recommendation

This recommendation is the opinion of City Administration after reviewing the March 1, 2005 Site and Needs Study presented by RDG.

### **Fire Station # 1 replacement recommendation**

1. Build a replacement fire station without headquarters
2. Build in the Fonner Park area
3. Pay cash for the facility (see attached budget)
4. Do not build a station at Lion's Park location
5. Continue to study the need for a fire station in the North East portion of the City
6. Closely look at redevelopment area for station in future as build out happens

### **Fire Training Facility**

1. Pursue property east of Central Community College for Fire Training Facility.
2. Continue on a long term, pay as you go approach.
3. Pursue connections with CCC and College Park for facilities and Curriculum
4. Put together a business Plan for the Fire Training facility.
5. Evaluate the possibility of the Fire Administration being located at the Fire Training Facility long term.

Estimate for Budget for replacement for Fire Station #1 based on assumptions in RDG Report:

### **ADMINISTRATION**

Land Acquisition	\$0
Soil Borings	\$5,000
Survey	\$3,500

### **CONSTRUCTION COSTS**

Site work	\$56,000
Pavement/Landscape	\$280,000
Building Construction (New)	\$1,325,390

## **FEES**

A/E Design/Bidding	\$132,539
Civil Engineering	\$6,500
Landscape Architect	\$5,200
Reimbursable expenses	\$19,104
Plan review fees & permits	\$29,966
Special inspections & testing	\$7,492
City SAC/WAC	\$27,000
Furnishings, Fixtures & Equipment	\$118,000
Kitchen Equipment Allowance	\$15,000
Laundry Equipment Allowance	\$12,000
FF&E Design Fees	\$11,644

## **TECHNOLOGY**

Data/Telephone	\$5,000
Security/Video Systems	\$47,000

**SUBTOTAL** **\$2,106,335**

## **CONTINGENCY**

Estimating (5%)	\$105,316
Project (10%)	\$210,633

**TOTAL** **\$2,422,284**

After reviewing the consultant's report and considering City Administration's recommendation the Council is asked to provide policy direction for action in the future on these important City projects.

Two resolutions have been prepared to allow for separate consideration of the two issues.

- Resolution 2005-94 Accepts the Site and Needs Study and Directs City Administration to pursue the development of a new Fire Station on Fonner Park property as recommended, and,
- Resolution 2005-95 directs City Administration to pursue acquisition of property east of Central Community College for the development of a Fire Training Facility.



## **Alternatives**

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

1. Make a motion to approve Resolutions # 2005-94 and/or # 2005-95
2. Modify either resolution to meet the needs of the Council
3. Postpone the issue to a further date
4. Take no action on the issue

## **Recommendation**

City Administration recommends that the Council approve Resolutions # 2005-94 and # 2005-95.

## **Sample Motion**

Move to approve Resolutions # 2005-94 and # 2005-95

## EXECUTIVE SUMMARY

The City of Grand Island engaged RDG Planning & Design of Omaha, Nebraska, and its associates from ESCI (Wilsonville, Oregon) and BKV Group (Minneapolis, Minnesota) to provide an independent report regarding the planned site acquisition, design, and construction of a new fire station and fire-training center.

The report that follows includes a fire-station and training-center location analysis. The training-center requires preparation of a business plan as well.

Through charrette workshops and other means, the RDG team:

- Collected data from the fire department.
- Interviewed representatives of the fire department, city administration, city planning, the community, and other interested parties.
- Toured the city of Grand Island.
- Toured existing fire stations in Grand Island.
- Developed a preliminary program for the fire station and training center.
- Recommended strategies for the fire station and training center, taking into account (a) GIS modeling, (b) Grand Island's comprehensive plan, (c) growth projections, (d) a windshield survey of the city and its immediate surroundings, and (e) the data gathered through charrettes and interviews.
- Translated the programs into sample graphic footprint block diagrams and tested them on potential sites.
- Analyzed each potential site according to its strengths, weaknesses, and cost impact.

Drawing on the process described above and on team members' expertise in city planning and fire-facility planning, the team developed the report that follows. This report is intended to help decision-makers in their deliberations on the planned headquarters fire station and training center.

The rest of this executive summary and the report itself address the fire station and the training center separately. Fire-station strategies are identified by letter and training-site strategies by number. Depending on the site selected, the two programs may combine as a single project at a single site.

### Fire Station

In the long run, upon full development and buildout of its response territory and through continued use of its existing location deployment scheme, the Grand Island Fire Department will be able to maintain the city's response-time objective—six minutes or less—for first-due company arrival. After anticipated real-estate development, response times could increase by about 3 percent.

Performance Projection on Future Development and Service Demand		
Deployment Strategy	Percent of Service Demand <6:00	Percent of Road Segments <6:00
Status Quo at Full Future Buildout	92%	73%
Strategy "A"	93%	82%
Strategy "B"	91%	82%
Strategy "C"	93%	82%
Strategy "D"	92%	85%
Strategy "E"	90%	81%
Strategy "F"	94%	84%

### Deployment Strategy Performance Projection Summary

As indicated by the table above, Site Strategy F is projected to offer the greatest improvement over continued use of the current deployment locations.

Site Strategies A and C could offer slight performance improvement, though all six deployment site strategies are projected to vary only a little in performance. Accordingly, the city could adopt any one of the site strategies and maintain service levels; that is, each site strategy would accommodate a first-unit arrival of six minutes or less.

Because each site strategy meets the fire department's 90-percent response-time standard, the fire department—after reviewing an early draft of this report—concluded that Site Strategy D could be eliminated as an option: any growth in service need could be accommodated on the airport. Thus Site Strategy D would not be reviewed as part of the architectural analysis.

Site Strategy C was seen as having operational limitations for response times when the Heartland Events Center was in use. Site Strategy C was included in the architectural review, however, since response-time delays would occur primarily during events, and since these delays could be alleviated through traffic planning, traffic-control technology, and public/private involvement.

Thus, the team evaluated Site Strategies A, B, C, E, and F. Because of the existing coverage percentages, ESCI determined that the station should be located within one-quarter mile of the intersections recommended in the operational analysis.

The RDG team proceeded to identify several potential sites within the recommended location envelope. We found that:

- Site Strategies B, C, E, and F have no architectural limitations that would eliminate them from consideration.
- Site F would require the city to use Lyons Park for the proposed Station 2.
- Site Strategies A and E would involve site-acquisition costs.
- Site Strategy C has operational limitations.

As part of the review of site locations, we divided the fire station program into two components: administration and operations. If administration could be located at the training center or another facility, then the team could consider smaller sites for the fire station, making site acquisition less of a hurdle.

*Based on site reviews, strengths, weaknesses, and costs, we recommend that Site Strategy F be implemented for the fire station.*

## **Training Center**

Training-center programming was done in the same way as that for the fire station, though operational issues played a smaller role. Response times for potential training center sites were considered. Business planning for the training center, however, should be completed before any location is selected.

The principal factors in training-center location appear to be operational and business models. Answers to the following questions would be determined by the business plan procedures. Without these answers it is impossible to program the training center in detail for its use as a regional or state fire-training asset or to determine its cost.

1. How many students would use the training center?
2. How many classes would be held?
3. How many and what types of departments would use the training center?
4. How would the Nebraska Fire Marshal and other interested entities (including educational institutions) use the training center?
5. How would training be funded?
6. How would funding influence the number of classrooms and training props?
7. How would the training center be operated (for example, by a facility manager)?

This information was not available to the design team and thus is not a factor in this report. Programming was based on assumptions made by the design team and on information provided by the Grand Island Fire Department. Accordingly, the recommended square footage is based on the fire departments stated needs and will be impacted once a business plan is completed.

For example, our programming calls for three classrooms in addition to the proposed training room in the new fire station. If our assumptions are incorrect and the training center is instead programmed to accommodate only the Grand Island Fire Department, one additional classroom would be sufficient, and that classroom could be accommodated in the College Park facility (per a discussion with College Park's executive director); the two additional classrooms might never be used.

All potential sites meet the architectural and planning criteria. The team ranked potential training center sites based on the following criteria:

- Cost of land
- Impact on neighbors
- Response time/depth of coverage during training
- Impact of prevailing winds
- Availability of infrastructure
- Ability to co-locate the fire station
- Ability to co-locate fire department administration
- Access to the interstate
- Availability of existing teaching infrastructure (classrooms)
- Availability of existing high bay
- Availability of EVOC
- Capital cost of facilities
- Potential of site to allow growth
- Willingness of site owner to sell or allow use of property

Based on these factors, the site's ability to accommodate the architectural program, and input from property owners, the team has ranked potential sites as follows:

1. Site #1, land adjacent to Central Community College and College Park
2. Site #3, land adjacent to the proposed law enforcement center
3. Site #4, the northern farm property along Capital Avenue E
4. Site #2, land available at Fonner Park

*This study recommends that training center site #1 be implemented in conjunction with fire station Site Strategy F.*

RESOLUTION 2005-\_\_

WHEREAS, on November 9, 2004, by Resolution 2004-289, the City Council of the City of Grand Island approved the proposal of RDG Schutte Wilscam Birge, Inc. of Omaha, Nebraska (hereafter "RDG") to prepare a Site and Needs Study for the Fire Department for a new Headquarters Fire Station and a new Fire Training Center; and

WHEREAS, on March 1, 2005, at the Grand Island City Council Study Session, RDG presented such study for review and discussion; and

WHEREAS, at the conclusion of such presentation, City Administration recommended (a) that a replacement fire station be built without headquarters on donated land on Fonner Park property, (2) that such fire station be constructed and purchased in cash, (3) that the fire station located in the northeast portion of the City be studied further, and (4) that city staff pursue the acquisition of land east of Central Community College for the construction of a fire training facility; and

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

1. The City hereby accepts the Site and Needs Study prepared by RDG Schutte Wilscam Birge, Inc. of Omaha, Nebraska, outlining the future facility needs of the Grand Island Fire Department.
2. City staff is hereby authorized to pursue the acquisition and development of a fire station without headquarters to be located on donated land on Fonner Park property to replace Fire Station No. 1.

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Adopted by the City Council of the City of Grand Island, Nebraska, March 22, 2005.

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RaNae Edwards, City Clerk

Approved as to Form	□ _____
March 11, 2005	□ City Attorney



# City of Grand Island

Tuesday, March 22, 2005

Council Session

## Item I2

**#2005-95- Approving Acceptance of Site and Need Study and City Administration Recommendation for Fire Training Center Facility**

*This item relates to Resolution Item I-1.*

Staff Contact: Gary Greer

RESOLUTION 2005-95

WHEREAS, on November 9, 2004, by Resolution 2004-289, the City Council of the City of Grand Island approved the proposal of RDG Schutte Wilscam Birge, Inc. of Omaha, Nebraska (hereafter "RDG") to prepare a Site and Needs Study for the Fire Department for a new Headquarters Fire Station and a new Fire Training Center; and

WHEREAS, on March 1, 2005, at the Grand Island City Council Study Session, RDG presented such study for review and discussion; and

WHEREAS, at the conclusion of such presentation, City Administration recommended (a) that a replacement fire station be built without headquarters on donated land on Fonner Park property, (2) that such fire station be constructed and purchased in cash, (3) that the fire station located in the northeast portion of the City be studied further, and (4) that city staff pursue the acquisition of land east of Central Community College for the construction of a fire training facility.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that city staff is hereby authorized to pursue the acquisition of property east of Central Community College for the construction of a fire training facility.

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Adopted by the City Council of the City of Grand Island, Nebraska, March 22, 2005.

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RaNae Edwards, City Clerk





# City of Grand Island

Tuesday, March 22, 2005

Council Session

## Item I3

**#2005-96- Approving Date for Personnel Hearing**

Staff Contact: Doug Walker

# **Council Agenda Memo**

**From:** Douglas R. Walker, City Attorney  
**Meeting:** March 22, 2005  
**Subject:** Misconduct Charges Against Howard Maxon  
**Item #'s:** I-3  
**Presenter(s):** Douglas R. Walker, City Attorney

## **Background**

Written charges of misconduct against the Emergency Management Director have been signed, verified and filed with the City Clerk as required by Grand Island Code Section 2-22. This section of the City Code also requires that a resolution be passed by the City Council to establish a hearing on the charges of misconduct if requested by a department director as defined in Section 2-21 of the City Code. The Emergency Management Director, Howard Maxon, has requested a hearing and a resolution setting a hearing date has been prepared for consideration of the City Council.

## **Discussion**

The Emergency Management Director is one of the positions listed under Section 2-21 of the Grand Island City Code as being subject to a process wherein if written charges of misconduct are filed against a director, then that director is entitled to a hearing before the City Council pursuant to the provisions of City Code Section 2-22. Section 2-22 of the City Code further requires that a hearing be established by resolution of the City Council and that the hearing take place not less than five days nor more than ten days after the passage of the resolution. The resolution before the City Council for consideration would establish a hearing for March 29<sup>th</sup>, which would be seven days after the passage of the resolution if the Council chooses at 9:00 AM do so at the March 22, 2005 meeting.

## **Alternatives**

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

1. Move to approve the resolution which will establish a hearing on March 29, 2005, for the Council to determine whether or not the charges that have been filed against Howard Maxon are valid and warrant termination of employment.
2. Disapprove or deny the resolution setting a hearing in which case a hearing could not proceed and the process of terminating the employment of Howard Maxon could not proceed.
3. Postpone the issue to future date.
4. Take no action on the issue.

### **Recommendation**

City Administration recommends that the Council pass the resolution establishing a hearing date on the charges of misconduct that have been brought against Howard Maxon on March 29, 2005.

### **Sample Motion**

Motion to approve the resolution establishing a hearing date on March 29, 2005.

**Charges of Misconduct  
Against  
Howard Maxon, Emergency Management Director**



The following is a list of the charges that I am filing with Grand Island City Clerk RaNae Edwards against Howard Maxon, Emergency Management Director.

1. **Unsatisfactory Performance.** Your evaluation dated April 28, 2004, indicated that your performance was substandard as an employee. Your evaluation indicated that you needed improvement in the areas of dependability, productivity, initiative, attitude, self-improvement, leadership and training. As a result of these deficiencies, you were placed on probation and given an opportunity to correct these problems. The job performance deficiencies noted in your April 28, 2004, evaluation were also reflected in your evaluation dated February 9, 2005, thus indicating that you have not made satisfactory improvement.

2. **Incompetence.** One of the duties of your position is to oversee the 911 revenues on the surcharge fees from local phone service providers. An audit of the 911 revenues conducted in November and December, 2004, disclosed that these monies were not handled properly and that lack of oversight caused the county to lose a substantial sum of money, estimated to be well in excess of \$100,000 due to phone service surcharge fees that were not collected when an increase was implemented from .50¢ per land line to \$1.00 per land line for the period of January 1, 2002 until January 3, 2003. City employees who conducted the audit also indicated that you were uncooperative during the process of reviewing the records of 911 revenue.


3. **Demeaning, Disruptive and Uncooperative Conduct in the Work Place.** City Administration and Human Resource Departments have received feedback from personnel in your department that your conduct has been demeaning to employees of the Emergency

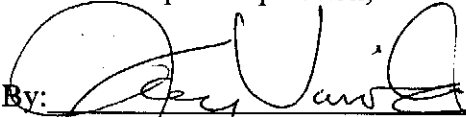
Management Center. Employees have also indicated that you are not cooperative in working with them and in assisting them with performing their duties. The city has specifically received information from a recently retired employee indicating that she was ridiculed and embarrassed by your actions while working in your department. As a result of these actions, you are hereby charged with demeaning conduct in the workplace.

4. **Insubordination.** City Administration and the Human Resources Director met with employees of your department to evaluate and find solutions to the poor work environment. A June 8, 2004 memo was issued to you summarizing the comments of problems in your department along with recommendations to correct these problems. The memo required that you implement the changes to improve the working environment and to share the memo with your staff. You did not fully implement, follow through or sustain the required improvements. You also did not share the information in this memo with your entire staff until your supervisor verbally reprimanded you for not doing so. You have therefore, been insubordinate in the handling of your department.

As Mayor of the City of Grand Island, I am submitting these charges pursuant to the requirements of Section 2-22 of the Grand Island City Code, which are all offenses set forth in the City Employee Handbook which may result in discharge from employment.

Attest:

  
RaNae Edwards, City Clerk

CITY OF GRAND ISALND, NEBRASKA,  
A Municipal Corporation,  
By:   
Jay Vavricek, Mayor

RESOLUTION 2005-96

WHEREAS, written charges of misconduct against the Emergency Management Director, Howard Maxon, have been signed, verified and filed with the City Clerk; and

WHEREAS, Grand Island City Code Section 2-22 requires that the City Council by resolution set a time for hearing on such charges, not less than five days nor more than ten days subsequent to the passage of such resolution,

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that a hearing on the written charges against Howard Maxon, Emergency Management Director, which have been signed, verified and filed with the City Clerk, shall be held on March 29, 2005, at 9:00 a.m.

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Adopted by the City Council of the City of Grand Island, Nebraska, March 22, 2005.

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RaNae Edwards, City Clerk



# City of Grand Island

Tuesday, March 22, 2005

Council Session

## Item J1

### **Approving Payment of Claims for the Period of March 9, 2005 through March 22, 2005**

*The Claims for the period of March 9, 2005 through March 22, 2005 for a total amount of \$3,633,868.46. A MOTION is in order.*

Staff Contact: RaNae Edwards