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# City of Grand Island



**Tuesday, September 27, 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**

**Invocation - Associate Pastor Cheryl Lamb, First Presbyterian Church, 2103 West Anna Street**

**Pledge of Allegiance**

**Roll Call**

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## **A - SUBMITTAL OF REQUESTS FOR FUTURE ITEMS**

Individuals who have appropriate items for City Council consideration should complete the Request for Future Agenda Items form located at the Information Booth. If the issue can be handled administratively without Council action, notification will be provided. If the item is scheduled for a meeting or study session, notification of the date will be given.

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## **B - RESERVE TIME TO SPEAK ON AGENDA ITEMS**

This is an opportunity for individuals wishing to provide input on any of tonight's agenda items to reserve time to speak. Please come forward, state your name and address, and the Agenda topic on which you will be speaking.

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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, September 27, 2005

Council Session

## Item E1

**Public Hearing on Request of Perez, Inc. dba El Rodeo for Change  
of Location for Liquor License "C-61867" from 106 East 3rd  
Street to 410 East 4th Street**

Staff Contact: RaNae Edwards

# **Council Agenda Memo**

**From:** RaNae Edwards, City Clerk

**Meeting:** September 27, 2005

**Subject:** Public Hearing on Request of Perez, Inc. dba El Rodeo, for Change of Location for Liquor License “C-61867” from 106 East 3<sup>rd</sup> Street to 410 East 4<sup>th</sup> Street

**Item #'s:** E-1 & G-6

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

## **Background**

Perez, Inc. dba El Rodeo, 106 East 3<sup>rd</sup> Street has submitted an application for a change in location to their Class “C-61867” Liquor License from 106 East 3<sup>rd</sup> Street to a new location at 410 East 4<sup>th</sup> Street.

## **Discussion**

City Council action is required and forwarded to the Nebraska Liquor Control Commission for issuance of all licenses. This application has been reviewed by the Building, Fire, Health, and Police Departments. Approval is recommended contingent upon final inspections.

## **Alternatives**

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

1. Approve the request.
2. Forward to the Nebraska Liquor Control Commission with no recommendation.
3. Take no action on the issue.

## **Recommendation**

City Administration recommends that the Council approve this request.

## **Sample Motion**

Move to approve the request of Perez, Inc. dba El Rodeo, for a change of location for Liquor License “C-61867” from 106 East 3<sup>rd</sup> Street to 410 East 4<sup>th</sup> Street.



# **City of Grand Island**

**Tuesday, September 27, 2005**

**Council Session**

## **Item E2**

**Public Hearing on Request of Connie Hartford, 106 Cherokee Avenue for Conditional Use Permit for Temporary Single Wide Trailer Use during Construction of Single Family Dwelling Located at 106 Cherokee Avenue**

**Staff Contact: Craig Lewis**

# **Council Agenda Memo**

**From:** Craig Lewis, Building Department Director

**Meeting:** September 27, 2004

**Subject:** Request of Connie Hartford for a Conditional Use Permit for a Temporary Building at 106 Cherokee Avenue

**Item #'s:** E-2 & G-7

**Presenter(s)** Craig Lewis, Building Department Director

## **Background**

This request is for approval to utilize the existing single wide mobile home proposed to be moved to the back of the property as a dwelling during the construction of a new modular home on the property. The applicant is requesting approval for a one year period.

## **Discussion**

The City code allows for temporary uses if approved by the City council in the form of a conditional use permit. Similar requests have been granted in the past to allow for a temporary dwelling to be utilized on the property during the construction of a new single family dwelling on larger parcels of land that do not appear to negatively impact the neighborhood.

## **Alternatives**

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

1. Approve the Conditional Use Permit.
2. Disapprove or /Deny the Conditional Use Permit.
3. Modify the Conditional Use Permit to meet the wishes of the Council.
4. Table the issue.

## **Recommendation**

City Administration recommends that the Council approve the requested Conditional Use Permit with the following conditions,

- 1). The time limit is for one year from the date of the building permit issued for a new single family dwelling on the property.
- 2). The existing mobile home is connected to all utilities in a manor approved by the City Building Department.

## **Sample Motion**

Approve the Conditional Use Permit to allow for the placement of a temporary mobile home with the recommended two conditions.

## Conditional Use Permit Application

pc: Building, Legal, Utilities  
Planning, Public Works

1. The specific use/construction requested is: SINGLE FAMILY DWELLING
2. The owner(s) of the described property is/are: CONNIE R. HARTFORD AKA CONNIE BOLTZ
3. The legal description of the property is: LT. 2 - DALE ROUSH SUBDIVISION
4. The address of the property is: 106 CHEROKEE AVE
5. The zoning classification of the property is: LARGE LOT RESIDENCE/MFG HOMES
6. Existing improvements on the property is: SINGLE WIDE TRAILER
7. The duration of the proposed use is: 1 YR FROM APPROVAL
8. Plans for construction of permanent facility is: MODULAR HOME ON FOUNDATION
9. The character of the immediate neighborhood is: SINGLE FAMILY DWELLING
10. There is hereby **attached** a list of the names and addresses of all property owners within 200' of the property upon which the Conditional Use Permit is requested.
11. Explanation of request: TO MOVE SINGLE <sup>WIDE</sup> HOME BACK ON LOT TO MAKE ROOM FOR CONSTRUCTION OF FOUNDATION AND INSTALLATION OF MODULAR HOME ON FOUNDATION. TO LIVE IN SINGLE WIDE WHILE CONSTRUCTION IS BEING DONE.

I/We do hereby certify that the above statements are true and correct and this application is signed as an acknowledgement of that fact.

9/11/05  
Date

308-382-9308  
Phone Number

Connie R. Hartford AKA Connie R. Boltz  
Owners(s)

106 CHEROKEE AVE  
Address

GRAND ISLAND, NE. 68803  
City State Zip

**Please Note: Delays May Occur if Application is Incomplete or Inaccurate.**





# **City of Grand Island**

**Tuesday, September 27, 2005**

**Council Session**

## **Item E3**

**Public Hearing on Acquisition of Real Estate for Library Building  
Addition from the Library Facilities Corporation**

**Staff Contact: Doug Walker**

# **Council Agenda Memo**

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

**Meeting:** September 27, 2005

**Subject:** Public Hearing on Acquisition of Real Estate for Library Building Addition from the Grand Island Facilities Corporation

**Item #'s:** E-3 & G-20

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

## **Background**

Nebraska State Statutes require that the acquisition of real property must be approved by the City Council. A public hearing for the acquisition of this property is being done to meet the requirements of Neb. Rev. Stat., §18-1755 and Neb. Rev. Stat., §25-2505. Subsequent to the public hearing, item G-23 will be for approval of a resolution authorizing the acquisition of this property.

## **Discussion**

The Grand Island Facilities Corporation has entered into a contract for the construction of an addition to the Edith Abbott Memorial Library. This addition to the library is to be built on land owned by the city that is west of the current library building. The city has entered into a lease purchase agreement to acquire the addition to the city library building from the Facilities Corporation and this building is considered real estate for statutory purposes. It is therefore necessary for the City Council to hold a public hearing on the acquisition of the building from the Facilities Corporation and approve a resolution authorizing the city to acquire this real property.

## **Alternatives**

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

1. Pass a resolution approving the acquisition of the building addition to the city library.

2. Do not pass a resolution approving the acquisition of the building addition to the city library.
3. Postpone the issue to future date.
4. Take no action on the issue.

### **Recommendation**

City Administration recommends that the Council approve the resolution for the acquisition of the building addition to the city library as set forth above.

### **Sample Motion**

Motion to approve the resolution authorizing the acquisition of the building addition to the city library building.



# **City of Grand Island**

**Tuesday, September 27, 2005**

**Council Session**

## **Item E4**

**Public Hearing Concerning Acquisition of Utility Easement - 401  
N. Eddy - 4th & Eddy Plaza, LLC**

**Staff Contact: Gary R. Mader**

# **Council Agenda Memo**

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

**Meeting:** September 27, 2005

**Subject:** Acquisition of Utility Easement – Behind 401 N. Eddy  
4<sup>th</sup> & Eddy Plaza, LLC

**Item #'s:** E-4 & G-8

**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 4<sup>th</sup> & Eddy Plaza, LLC, located behind Family Eyecare Center in the alley at 401 North Eddy, 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 electrical cable and a pad-mounted transformer to serve the expanded business.

## **Alternatives**

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

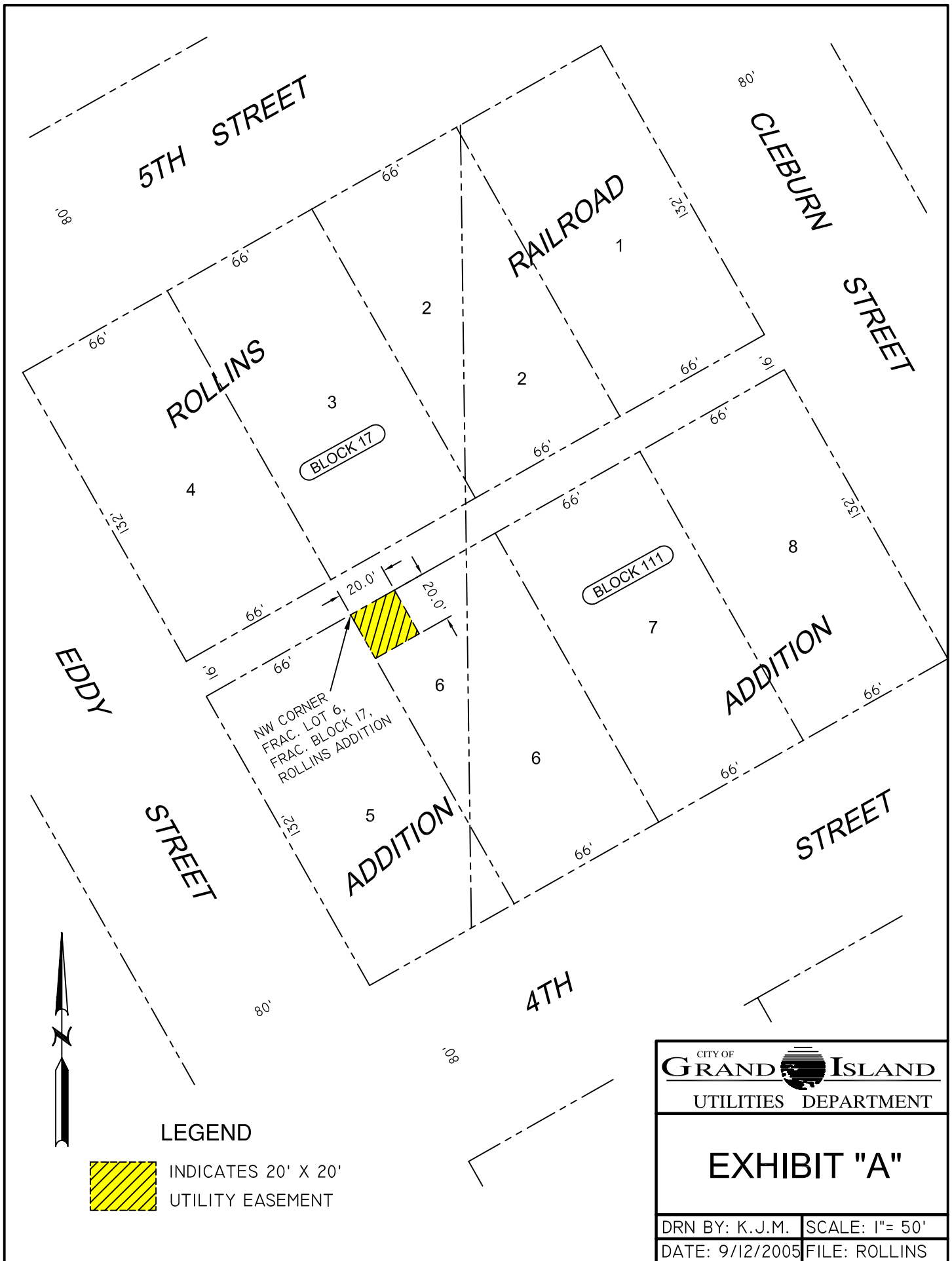
1. Make a motion to approve
2. Refer the issue to a Committee
3. Postpone the issue to future date
4. Take no action on the issue

## **Recommendation**

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

## **Sample Motion**

Motion to approve acquisition of the Utility Easement.





# **City of Grand Island**

**Tuesday, September 27, 2005**

**Council Session**

## **Item E5**

**Public Hearing Concerning Acquisition of Utility Easement 620  
North Diers Avenue - West Faidley Medical Center, LLC**

**Staff Contact: Gary R. Mader**

# **Council Agenda Memo**

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

**Meeting:** September 27, 2005

**Subject:** Acquisition of Utility Easement – 620 North Diers Avenue – West Faidley Medical Center, LLC

**Item #'s:** E-5 & G-9

**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 West Faidley Medical Center, LLC, located at 620 Diers Avenue, 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 install underground cable and a pad-mounted transformer to provide electrical service to the new West Faidley Medical Center.

## **Alternatives**

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

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

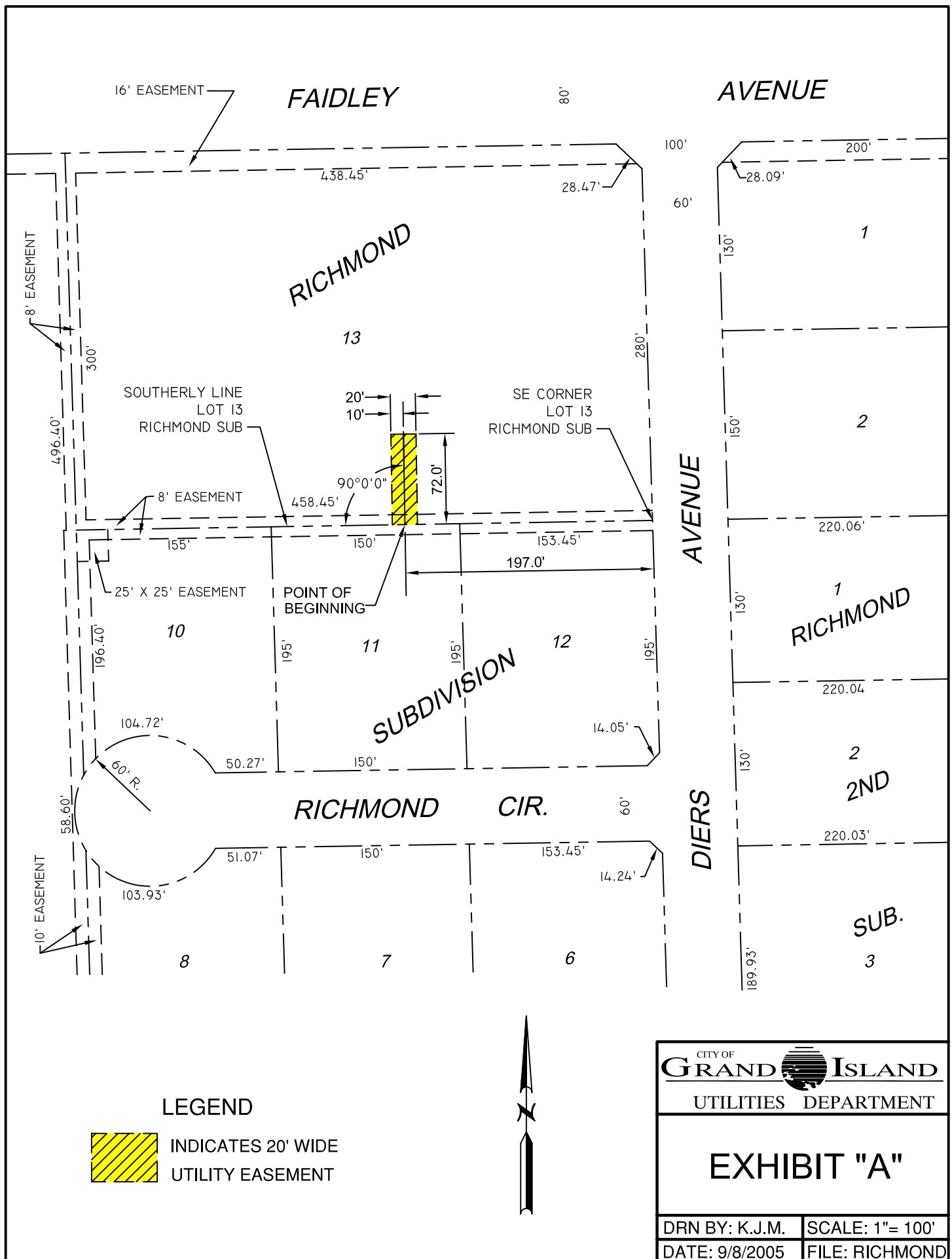
## **Recommendation**

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

## **Sample Motion**

Motion to approve acquisition of the Utility Easement.







# **City of Grand Island**

**Tuesday, September 27, 2005**

**Council Session**

## **Item F1**

**#9008 - Consideration of Issuing Bonds for the Library Building  
Expansion**

**Staff Contact: Doug Walker**

# **Council Agenda Memo**

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

**Meeting:** September 27, 2005

**Subject:** Consideration of Issuing Bonds for the Library Building Expansion

**Item #'s:** F-1

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

## **Background**

Part of the process of obtaining the necessary financing to proceed with the Grand Island City Library project is the issuance of bonds by the Grand Island Facilities Corporation on behalf of the City of Grand Island so that the addition to the Edith Abbott Memorial Library can be constructed. It is necessary for the Council to pass an ordinance approving the issuance of these bonds for the library building addition. As part of the process of approving the bonds, it is also necessary to approve an addendum to the Lease Purchase Agreement to reflect the final terms for payments on the bonds. The Council also needs to approve the addendum to the design/build contract, the Trust Indenture Security and the Bond Purchase Agreement as part of the process for financing the library project.

## **Discussion**

The Grand Island Facilities Corporation is in the process of obtaining financing for the construction of the addition to the Edith Abbott Memorial Library. The Facilities Corporation has entered into a contract for construction of a 25,000 square foot addition to be located on the west side of the existing city library building. To finance this addition to the city library it will be necessary for the Grand Island Facilities Corporation to issue \$7,000,000 worth of bonds and the bond payments are to be made from the payments made by the city pursuant to the lease purchase agreement. As part of the financing project it is also necessary for the City Council to approve the issuance of the bonds by the Grand Island Facilities Corporation to complete the process of obtaining funds for the construction of the library. The ordinance will also give Council approval to several other documents that are necessary to the financing process.

## **Alternatives**

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

1. Pass the ordinance approving the issuance of bonds for the construction of the addition of the city library.
2. Do not pass the ordinance approving the issuance of bonds for the construction of the addition of the city library.
3. Postpone the issue to future date.
4. Take no action on the issue.

## **Recommendation**

City Administration recommends that the Council pass the ordinance approving the issuance of bonds for the construction of the addition to the Grand Island City Library building.

## **Sample Motion**

Motion to suspend the rules for three separate readings and to pass the ordinance approving the issuance of bonds for the construction of the addition to the library building.

## **Ordinance No. 9008**

AN ORDINANCE PROVIDING FOR THE PURCHASE AND LEASING OF AN ADDITION TO THE CITY'S EXISTING LIBRARY FACILITIES; AUTHORIZING EXECUTION AND DELIVERY OF AN ADDENDUM TO LEASE PURCHASE AGREEMENT WITH GRAND ISLAND FACILITIES CORPORATION, AMENDING AND CONFIRMING THE TERMS OF A LEASE PURCHASE AGREEMENT PREVIOUSLY ENTERED INTO, RELATING TO THE CONSTRUCTION AND ACQUISITION OF SAID LIBRARY ADDITION FOR USE BY THE CITY; APPROVING THE EXECUTION OF DOCUMENTS WITH RESPECT TO SAID ADDENDUM; PROVIDING FOR THE ACCEPTANCE OF TITLE; APPROVING AN APPRAISAL; APPROVING THE TERMS OF A TRUST INDENTURE AND SECURITY AGREEMENT; APPROVING AN ADDENDUM TO CONSTRUCTION CONTRACT; MAKING CERTAIN DETERMINATIONS WITH RESPECT TO BONDS TO BE ISSUED UNDER SUCH INDENTURE; APPROVING THE TERMS OF A BOND PURCHASE AGREEMENT; AND PROVIDING FOR THE PUBLISHING OF THIS ORDINANCE.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA (the "City") as follows:

Section 1. The Mayor and Council hereby find and determine: that the City has previously approved the execution and delivery of that Lease Purchase Agreement dated as of July 12, 2005 (the "Original Lease Purchase Agreement") by and between the City and Grand Island Facilities Corporation (the "Corporation"), a Nebraska nonprofit corporation; that it is advisable and necessary to supplement and amend the terms of the Original Lease Purchase Agreement in order to provide for the final agreed upon terms relating to the acquisition of an addition to the City's existing library facilities to serve the City and its inhabitants (the "Project"); that the Corporation has been formed under the Nebraska nonprofit corporation laws exclusively for purposes permitted by Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code"); that the Original Lease Purchase Agreement provides for the construction and acquisition of the Project pursuant to the provisions of Section 19-2421, R.R.S. Neb. 1997; that it is necessary and advisable for the terms of the Original Lease Purchase Agreement to be modified to set forth the payments required to be made by the City for the purchase of the Project and relating to the financing to be obtained for the Project by the Corporation and to recognize the construction contractor as a third party beneficiary; that the documents necessary for such purposes have been prepared and said documents should be approved and their execution authorized.

Section 2. The City of Grand Island shall enter into the Addendum to Lease Purchase Agreement to be dated as of October 1, 2005, with the Corporation, modifying the terms of the Original Lease Purchase Agreement (the "Addendum" and together with the Original Lease Purchase Agreement, the "Agreement") and whereby the Corporation will construct and acquire the Project in accordance with specifications approved by the City and with a set schedule of payments relating to the acquisition of the Project and that the Addendum in the form presented at this meeting is hereby approved.

Section 3. The Mayor and City Clerk of the City be and they are hereby authorized and directed to execute and deliver on behalf of the City the Addendum, including any necessary counterparts, in substantially the form and content as presented to this meeting, but with such changes or modifications therein as to them seem necessary, desirable or appropriate on behalf of the City; and said Mayor and City Clerk are further authorized and directed to execute and deliver any other documents or certificates and to do all other things necessary or appropriate in connection with the Agreement.

Section 4. The Mayor and Council hereby approve the formation of the Corporation, including the Articles of Incorporation and Bylaws thereof and the five directors thereof; and further approve the Trust Indenture and Security Agreement, dated as of October 1, 2005, (the "Indenture") from the

Corporation in favor of Wells Fargo Bank, National Association, under which Building Bonds (Library Project), Series 2005, in the aggregate principal amount of \$7,000,000 (the "Building Bonds") are to be issued, and the City hereby approves the issuance of the Building Bonds, in such principal amount and bearing interest as set forth in the Indenture and the sale of said bonds to Ameritas Investment Corp. (the "Underwriter") in accordance with the terms of a Bond Purchase Agreement dated September 27, 2005 (the "Bond Purchase Agreement"), at the price of \$\_\_\_\_\_ (which price takes into consideration original issue discount in the amount of \$\_\_\_\_\_, Underwriter's discount in the amount of \$\_\_\_\_\_ and bond insurance premium to be paid by the Underwriter in the amount of \$\_\_\_\_\_), is hereby approved. The Mayor is hereby further authorized to sign the approval form on the Bond Purchase Agreement on behalf of the City and to approve at the time of closing of the purchase of the Building Bonds the final form of the Indenture.

Section 5. In connection with the execution and delivery of the Addendum and the issuance by the Corporation of the Building Bonds, the following determinations and approvals are hereby made by the Mayor and Council:

(a) The Complete Appraisal Report of Edith Abbott Memorial Library Addition Located at 221 ± W. 2nd St. Grand Island, Nebraska (When Completely Built) dated July 25, 2005 made by William C. Fischer, MAI #4722 is hereby approved in accordance with Section 13-403, R.R.S. Neb. 1997.

(b) The City hereby declares, as provided in the Agreement, that it will take title to the Project (including additions) when the Building Bonds are discharged.

(c) The terms of the Addendum to Design/Build Contract Between Owner and Design Builder (the "Contract Addendum") recognizing the contractor as a third party beneficiary of the Agreement are hereby approved and authorized. The Mayor and City Clerk of the City be and they are hereby authorized and directed to execute and deliver the Contract Addendum, including any necessary counterparts, in substantially the form and content as presented to this meeting, but with such changes or modifications therein as to them seem necessary, desirable or appropriate on behalf of the City.

(d) The designation in the Indenture of the City's Library Director and the City Finance Director to act as Project Manager (and alternate) (as defined in the Indenture) is hereby approved.

Section 6. The Mayor and Council hereby state that it is the intention of the City that interest on the Building Bonds issued by the Corporation shall be excludable from gross income under the federal income tax by virtue of Section 103 of the Code and Revenue Ruling 63-20 and Revenue Procedure 82-26 of the Internal Revenue Service and the Mayor and Council hereby authorize the Mayor, the City Clerk and the City Treasurer (Finance Director) (or any one of more of them) to take all actions necessary or appropriate to carry out said intention and for obtaining such interest exclusion. The City hereby covenants with the Corporation for the benefit of the purchasers and holders of the Building Bonds that it will make no use of the proceeds of said issue, including monies held in any sinking fund for the payments set forth in the Addendum or principal and interest on the Building Bonds, which would cause the Building Bonds to be arbitrage bonds within the meaning of Section 103 and 148 and other related sections of the Code and further covenants to comply with said Sections 103 and 148 and related sections and all applicable regulations thereunder throughout the term of said issue, including all requirements with respect to reporting and payment of rebates, if applicable. The Building Bonds, as issued on behalf of the City are hereby designated by the City as "qualified tax-exempt obligations" under Section 265(b)(3)(B)(i)(III) of the Code and the City in connection with entering into the Agreement hereby covenants and warrants that it does not anticipate issuance directly by it or on its behalf of tax-exempt bonds or other tax-exempt interest bearing obligations in an amount exceeding \$10,000,000 in calendar 2005 (taking into consideration the exception for current refunding issues).

Section 7. The Mayor and Council hereby approve the Preliminary Official Statement dated September 12, 2005 with respect to the Building Bonds and hereby authorize the Mayor to approve the final Official Statement for the Building Bonds with appropriate changes to reflect the final terms for the Building Bonds as sold pursuant to the Bond Purchase Agreement.

Section 8. This Ordinance shall be in force and take effect from and after its publication as provided by law.

Passed and approved this 27th day of September, 2005.

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Clerk



# **City of Grand Island**

**Tuesday, September 27, 2005**

**Council Session**

## **Item F2**

**#9009 - Consideration of Amending Chapter 2 of the Grand Island  
City Code Relative to City Council Study Sessions**

**Staff Contact: Doug Walker**



# **Council Agenda Memo**

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

**Meeting:** September 27, 2005

**Subject:** Consideration of Amending Chapter 2 of the Grand Island City Code Relative to City Council Study Sessions

**Item #'s:** F-2

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

## **Background**

Section 2-2.1 sets forth the requirements for City Council study sessions. This section of the code currently requires City Council study sessions to be held on the first and third Tuesdays of each month. The code section as currently drafted also requires these meetings to be held at 7:00 p.m. in the City Council Chambers at City Hall. To allow greater flexibility in scheduling study sessions a revision to Section 2-2.1 of the City Code is being proposed for consideration by the City Council.

## **Discussion**

Section 2-2.1 as currently drafted uses mandatory language requiring study sessions to be held on the first and third Tuesdays of each month at 7:00 p.m. at City Hall. To allow the Council to have more flexibility on the scheduling of study sessions, revisions to Section 2-2.1 have been proposed which makes the study sessions discretionary as needed by the City Council. The revisions to this code section also gives the Council greater flexibility on the time and place where study sessions will be held. The revisions to the code section also require that study sessions be held as public meetings and that notice be given as required by the state statutes.

## **Alternatives**

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

1. Approve the changes to City Code Section 2-2.1 to create greater flexibility in scheduling study sessions.

2. Do not approve the revisions to the City Code which would leave this code section unchanged.
3. Postpone the issue to future date.
4. Take no action on the issue.

### **Recommendation**

City Administration recommends that the Council approve the changes to Section 2-2.1 of the Grand Island City Code.

### **Sample Motion**

Motion to suspend the rule for three separate readings and move to pass the ordinance changing Section 2-2.1 of the City Code regarding study sessions.

## ORDINANCE NO. 9009

An ordinance to amend Chapter 2 of the Grand Island City Code; to amend Section 2-2.1 pertaining to City Council Study Sessions; to repeal Section 2-2.1 as now existing, and any ordinance or parts of ordinances in conflict herewith; and to provide for publication and the effective date of this ordinance.

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

SECTION 1. Section 2-2.1 of the Grand Island City Code is hereby amended to read as follows:

**§2-2.1. City Council; Study Sessions**

The City Council ~~may shall~~ hold a meeting to be referred to as a "Study Session" as needed and at the discretion of the City Council. on the first and third Tuesdays of each month. Regular study sessions shall be held in the City Council Chambers at City Hall commencing at 7:00 p.m. Special study sessions may be called in the same manner as special meetings in §2-2. Study sessions will be public meetings held at the time and place to be determined by the Council for which notice will be published pursuant to Nebraska statutory requirements. Study sessions shall be conducted to facilitate discussion between members of the Council and shall not be subject to formal parliamentary procedure. No motion, action, or vote of any kind shall be taken on any matter during a Study Session, except upon a motion to recess or to adjourn.

SECTION 2. Section 2-2.1 as now existing, and any ordinances or parts of ordinances in conflict herewith be, and hereby are, repealed.

SECTION 3. The validity of any section, subsection, sentence, clause, or phrase of this ordinance shall not affect the validity or enforceability of any other section, subsection, sentence, clause, or phrase thereof.

SECTION 4. That 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.

ORDINANCE NO. 9009 (Cont.)

Enacted: September 27, 2005.

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Jay Vavricek, Mayor

Attest:

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RaNae Edwards, City Clerk



# City of Grand Island

Tuesday, September 27, 2005

Council Session

## Item G1

### **Approving Minutes of September 13, 2005 City Council Regular Meeting**

*The Minutes of September 13, 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

September 13, 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 September 13, 2005. Notice of the meeting was given in the *Grand Island Independent* on September 7, 2005.

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

INVOCATION was given by Pastor Steve Warriner, Abundant Life Christian Center, 3409 West Faidley Avenue followed by the PLEDGE OF ALLEGIANCE.

#### PRESENTATIONS AND PROCLAMATIONS:

Proclamation "Walk to D'Feet ALS" September 18, 2005. Mayor Vavricek proclaimed September 18, 2005 as "Walk to D'Feet ALS". Steve Langan, Awareness & Development Coordinator for the ALS Association and Steve White were present to receive the proclamation.

Proclamation "Hispanic Heritage Month" September 15, 2005 through October 15, 2005. Mayor Vavricek proclaimed the month of September 15, 2005 through October 15, 2005 as "Hispanic Heritage Month". Yolanda Nunzio was present to receive the proclamation.

ADJOURN TO BOARD OF EQUALIZATION: Motion by Hornady, second by Pielstick, carried unanimously to adjourn to the Board of Equalization.

#2005-BE-5 – Consideration of Determining Benefits for Business Improvement District #3. Finance Director David Springer stated that the City Council in its' capacity as the Board of Equalization was required to determine the benefits for BID #3. Special assessments were for the amount of \$34,314.47.

#2005-BE-6 – Consideration of Determining Benefits for Business Improvement District #4. Finance Director David Springer stated that the City Council in its' capacity as the Board of Equalization was required to determine the benefits for BID #4. Special assessments were for the amount of \$17,349.05.

#2005-BE-7 – Consideration of Determining Benefits for Business Improvement District #5. Finance Director David Springer stated that the City Council in its' capacity as the Board of Equalization was required to determine the benefits for BID #5. Special assessments were for the amount of \$80,007.27. Comments were made concerning the parking ramp and a letter of protest received from The Arter Group Ltd. owners of the Yancey Hotel. Cindy Johnson, President of the Chamber of

Commerce commented on the history of the parking ramp and the board looking into this. Doug Walker, City Attorney explained the City Code.

#2005-BE-8 – Consideration of Determining Benefits for 2004 Weed Abatement Program. Doug Walker, City Attorney reported that under Chapter 17 of the Grand Island City Code, the City had several properties which were not mowed of which the City contracted to have taken care of. The City Council in its' capacity as the Board of Equalization was required to determine the benefits for the 2004 Weed Abatement Program.

Motion by Pielstick, second by Whitesides to approve Resolutions #2005-BE-5, #2005-BE-6, #2005-BE-7, and #2005-BE-8 carried unanimously. Motion adopted.

RETURN TO REGULAR SESSION: Motion by Hornady, Second by Pielstick, carried unanimously to return to Regular Session.

PUBLIC HEARINGS:

Public Hearing on Request of H & H Catering, Inc. dba H & H Catering, 700 East Stolley Park Road for a Class "CK" Liquor License. City Clerk RaNae Edwards reported that H & H Catering, Inc. dba H & H Catering, 700 East Stolley Park Road had submitted an application with the City Clerk's Office for a Class "CK" Liquor License. Ms. Edwards presented the following exhibits for the record: application submitted to the Liquor Control Commission and received by the City on August 18, 2005; notice to the applicant of date, time, and place of hearing mailed on August 26, 2005; notice to the general public of date, time, and place of hearing published on September 3, 2005; and Chapter 4 of the City Code. No public testimony was heard.

Public Hearing on Request of Rona Rae Kucera dba The Flight Deck Restaurant, 3773 Sky Park Road, Suite 5 for a Class "T" Liquor License. City Clerk RaNae Edwards reported that Ronad Rae Kucera dba The Flight Deck Restaurant, 3773 Sky Park Road, Suite 5 had submitted an application with the City Clerk's Office for a Class "T" Liquor License. Ms. Edwards presented the following exhibits for the record: application submitted to the Liquor Control Commission and received by the City on August 22, 2005; notice to the applicant of date, time, and place of hearing mailed on August 26, 2005; notice to the general public of date, time, and place of hearing published on September 3, 2005; and Chapter 4 of the City Code. No public testimony was heard.

Public Hearing on Request of Edwin D. Bolanos dba La Zona Rosa, 613 West 4<sup>th</sup> Street for a Class "C" Liquor License. City Clerk RaNae Edwards reported that Edwin D. Bolanos dba La Zona Rosa, 613 West 4<sup>th</sup> Street had submitted an application with the City Clerk's Office for a Class "C" Liquor License. Ms. Edwards presented the following exhibits for the record: application submitted to the Liquor Control Commission and received by the City on August 29, 2005; notice to the applicant of date, time, and place of hearing mailed on August 29, 2005; notice to the general public of date, time, and place of hearing published on September 3, 2005; and Chapter 4 of the City Code. No public testimony was heard.

Public Hearing on Request of Dora, Inc. dba Copas d'Oro Bar, 413 West 4<sup>th</sup> Street for a Class "C" Liquor License. City Clerk RaNae Edwards reported that Dora, Inc. dba Copas d'Oro Bar, 413 West 4<sup>th</sup> Street had submitted an application with the City Clerk's Office for a Class "C" Liquor License. Ms. Edwards presented the following exhibits for the record: application submitted to the Liquor Control Commission and received by the City on August 31, 2005; notice to the applicant of date,

time, and place of hearing mailed on August 31, 2005; notice to the general public of date, time, and place of hearing published on September 3, 2005; and Chapter 4 of the City Code. No public testimony was heard.

Public Hearing on Request of Pastor D. Randolph Brehms on behalf of the Seventh Day Adventist Church for a Conditional Use Permit for a Telecommunications Tower Located at 636 Shady Bend Road. Craig Lewis, Building Department Director reported that this request was to allow for the construction of an 80 foot telecommunications tower located at 636 Shady Bend Road for the broadcast of a low power FM station. Jeff Greer, 514 Shady Bend Road spoke in opposition. No further public testimony was heard.

Public Hearing on Acquisition of Utility Easements (Heartland Events Center – Fonner Park). Bob Smith, Assistant Utilities Director reported that acquisition of utility easements located at the Heartland Events Center at Fonner Park were required in order to have access to install, upgrade, maintain, and repair power appurtenances, including lines and transformers. These easements would be used to locate primary electrical cable and a pad-mounted transformer to provide electricity to the Heartland Events Center. No public testimony was heard.

Public Hearing on Acquisition of Public Utility Easement Located at 1212 Johnstown Road. (Diamond Plastics) Bud Buettner, Assistant Public Works Director reported that acquisition of a public utility easement located at 1212 Johnstown Road was required in order to have access to install, upgrade, maintain, and repair public utilities. The easement would be used for sanitary sewer service to Diamond Plastics. No public testimony was heard.

Public Hearing on Acquisition of Sanitary Sewer Easement Located at 3411 W. Faidley Avenue. (Abundant Life Christian Church) Bud Buettner, Assistant Public Works Director reported that acquisition of a sanitary sewer easement located at 3411 W. Faidley Avenue was required in order to have access to install, upgrade, maintain, and repair public utilities. The easement would be used to extend sanitary sewer from the existing sanitary sewer main on west North Front Street west of Webb Road to the church on Faidley. No public testimony was heard.

Public Hearing on General Property, Parking District #2 (Ramp), and Community Redevelopment Authority Tax Request. David Springer, Finance Director reported that state statutes requires the City to conduct a public hearing if the property tax request changes from one year to the next. Property tax request for the general property tax was \$5,212,064, Parking District No. 2 at \$13,000, and the Community Redevelopment Authority property tax at \$492,540. No public testimony was heard.

#### ORDINANCES:

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

- #9001 – Consideration of Assessments for Business Improvement District #3
- #9002 – Consideration of Assessments for Business Improvement District #4
- #9003 – Consideration of Assessments for Business Improvement District #5
- #9004 – Consideration of Amending Chapter 13 of the Grand Island City Code Relative to Downtown Improvement and Parking District No. 1 Taxes
- #9005 – Consideration of Amending Chapter 21 of the Grand Island City Code Relative to Recreational Vehicles and Mobile Home Parks



#9006 – Consideration of Assessments for 2004 Weed Abatement Program

#9007 – Consideration of Vacating Right of Way at 722 East 7<sup>th</sup> Street

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 Hornady seconded the motion. Upon roll call vote, all voted aye. Motion adopted.

David Springer, Finance Director stated Ordinances #9001, #9002, and #9003 related to the action taken earlier during the Board of Equalization. Ordinance #9004 set the tax rate for the FY 2005-2006 budget.

Craig Lewis, Building Department Director reported that Ordinance #9005 would amend the City Code to allow for a reduction in the amount of space provided by Manufactured Home Parks when providing recreational vehicle spaces.

Doug Walker, City Attorney stated Ordinance #9006 related to the action taken earlier during the Board of Equalization.

Bud Buettner, Assistant Public Works Director reported that Ordinance #9007 would vacate excess right-of-way along 7<sup>th</sup> Street in front of 722 East 7<sup>th</sup> Street retaining an easement for an existing water main.

Motion by Pielstick, second by Whitesides to approve Ordinances #9001, #9002, #9003, #9004, #9005, and #9006.

City Clerk: Ordinances #9001, #9002, #9003, #9004, #9005, and #9006 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 #9001, #9002, #9003, #9004, #9005, and #9906 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.

Mayor Vavricek: By reason of the roll call votes on first reading and then upon final passage, Ordinances #9001, #9002, #9003, #9004, #9005, and #9006 are declared to be lawfully adopted upon publication as required by law.

Motion by Walker, second by Whitesides to approve Ordinance #9007.

City Clerk: Ordinance #9007 on first reading. All those in favor of the passage of this ordinance on first reading, answer roll call vote. Upon roll call vote, Councilmember’s Meyer, Whitesides, Gilbert, Nickerson, Pauly, Hornady, Walker, and Haase voted aye. Councilmember Pielstick abstained. Motion adopted.

City Clerk: Ordinance #9007 on final passage. All those in favor of the passage of this ordinance on final passage, answer roll call vote. Upon roll call vote, Councilmember’s Meyer, Whitesides, Gilbert, Nickerson, Pauly, Hornady, Walker, and Haase voted aye. Councilmember Pielstick abstained. Motion adopted.

Mayor Vavricek: By reason of the roll call votes on first reading and then upon final passage, Ordinance #9007 is declared to be lawfully adopted upon publication as required by law.

CONSENT AGENDA: Consent items G-9, G-18, G-26, G-29, and G-30 were pulled for further discussion. Motion by Hornady, second by Nickerson to approve the Consent Agenda excluding items G-9, G-18, G-26, G-29, and G-30. Upon roll call vote, all voted aye. Motion adopted.

Approving Minutes of August 23, 2005 City Council Regular Meeting.

Approving Request of H & H Catering, Inc. dba H & H Catering, 700 East Stolley Park Road for a Class "CK" Liquor License.

Approving Request of Donita Hagemeyer, R. R. 1, Box 190 East Hwy. 70, Arcadia, Nebraska for Liquor Manager Designation for H & H Catering, 700 East Stolley Park Road.

Approving Request of Rona Rae Kucera dba The Flight Deck Restaurant, 3773 Sky Park Road, Suite 5 for a Class "I" Liquor License.

Approving Request of Edwin D. Bolanos dba La Zona Rosa, 613 West 4<sup>th</sup> Street for a Class "C" Liquor License.

Approving Request of Dora, Inc. dba Copas d'Oro Bar, 413 West 4<sup>th</sup> Street for a Class "C" Liquor License.

Approving Request of Mateo Martinez, 110 West 11<sup>th</sup> Street for a Liquor Manager Designation for Copas d'Oro Bar, 413 West 4<sup>th</sup> Street.

Approving Request of Matthew Carr, 3720 West State Street for Liquor Manager Designation for Old Chicago, 3404 West 13<sup>th</sup> Street.

Approving Preliminary Plat for Kaaar Subdivision.

#2005-244 – Approving Final Plat and Subdivision Agreement for Luzenac Fourth Subdivision. It was noted that the County of Hall, owner had submitted the final plat for Luzenac Subdivision for the purpose of re-subdividing lot 1 Luzenac Third Subdivision into 2 lots.

#2005-245 – Approving Final Plat and Subdivision Agreement for Northview Second Subdivision. It was noted that Melvin & Dorothy Zichek, owners had submitted the final plat for Northview Second Subdivision for the purpose of creating 21 lots on a parcel of land located in the E 1/2 NE 1/4 Section 2-11-10.

#2005-246 – Approving Annexation Plan for Properties Located South of Case New Holland, West of US Highway 281 and South of Sandra Road and East of South Locust Street and Scheduling Public Hearing.

#2005-247 – Approving Acquisition of Utility Easements (Heartland Events Center – Fonner Park).

#2005- 248 – Approving Appointment of Tim Luchsinger as Board Member from the City of Grand Island Utilities Department to the Public Power Generation Agency.

#2005-249 – Approving Extension of Interlocal Agreement with Hall County School District No. 40-002 for School Resource Officers and Crossing Guards.

#2005-250 – Approving Certificate of Final Completion with The Diamond Engineering Company of Grand Island, Nebraska for Street Improvement Project 2005-P-1, Claude Road between Old Highway 30 and New Highway 30.

#2005-252 – Approving Acquisition of Sanitary Sewer Easement Located at 3411 W. Faidley Avenue (Abundant Life Church).

#2005-253 – Approving Changing the Name of the Beltline Hike/Bike Trail to the John Brownell Hike/Bike Trail.

#2005-254 – Approving Change Order No. 1 to the Contract with Rathman & Manning Corp. of Chapman, Nebraska for an increase of \$650.00 and a Revised Contract Amount of \$105,050.00.

#2005-255 – Approving Change Order No. 1 to the Contract with The Diamond Engineering Company of Grand Island, Nebraska for Sanitary Sewer District Nos. 510 and 514; American Independence Subdivision, Western Heights Fourth and Fifth Subdivisions, and Bockman Subdivision for an increase of \$3,180.60 and a Revised Contact Amount of \$355,237.75.

#2005-256 – Approving Certificate of Final Completion with The Diamond Engineering Company of Grand Island, Nebraska for Sanitary Sewer District Nos. 510 and 514; American Independence Subdivision, Western Heights Fourth and Fifth Subdivisions, and Bockman Subdivision.

#2005-257 – Approving Bid Award for Concrete Ditch Lining Between Arizona and Nevada from Independence to East of Idaho; 2005-D-2 with The Diamond Engineering Company of Grand Island in an Amount of \$48,234.75.

#2005-258 – Approving Down Payment Assistance Program Subordination Agreement. (David M. Job)

#2005-260 – Approving Annual Agreements for Operating System and Database Administration; and Licensing and Support with MUNIS of \$18,063.90 and \$68,298.43 respectively.

#2005-261 – Approving Changes to Parking Restrictions on the North Side of 3<sup>rd</sup> Street West of Oak Street; in Front of the Senior Center.

#2005-264 – Approving Certificate of Final Completion for the Transfer Station Storage Building with Rathman-Manning Corp. of Chapman, Nebraska.

Approving Request of Pastor D. Randolph Brehms on behalf of the Seventh Day Adventist Church for a Conditional Use Permit for a Telecommunications Tower Located at 636 Shady Bend Road.  
Craig Lewis, Building Department Director answered questions of where the tower would be located.

Motion by Nickerson, second by Meyer to approve the request of Pastor D. Randolph Brehms for a Conditional Use Permit. Upon roll call vote, all voted aye. Motion adopted.

#2005-251 – Approving Acquisition of Utility Easement at 1212 Johnstown Road (Diamond Plastics). Bud Buettner, Assistant Public Works Director answered questions concerning contaminants going into the sewer system.

Motion by Meyer, second by Gilbert to approve Resolution #2005-251. Upon roll call vote, Councilmember's Meyer, Whitesides, Pielstick, Gilbert, Nickerson, Hornady, Walker, and Haase voted aye. Councilmember Pauly voted no. Motion adopted.

#2005-259 – Approving Heartland Family Visitation Center MOU Revision and Grant Extension Request. Discussion was held regards to the Safe Havens grant funds and the size of the building.

Motion by Hornady, second by Pielstick to approve Resolution #2005-259. Upon roll call vote, all voted aye. Motion adopted.

#2005-262 – Approving Continuation of Sanitary Sewer No. 519, Lots 10 through 21 Westwood Park Second Subdivision.

#2005-263 – Approving Discontinuation of Sanitary Sewer No. 520, Lots 1 through 18 and Lots 29 through 47 Westwood Park Subdivision.

Discussion was held regarding Resolutions #2005-262 and #2005-263 and the costs of the sewer districts and the pay back from 10 to 20 years.

Motion by Hornady, second by Nickerson to approve Resolutions #2005-262 and #2005-263. Upon roll call vote, all voted aye. Motion adopted.

#### REQUESTS AND REFERRALS:

Consideration of Request from Ray and Dianne Stahla to Amend Mobile Home Park Plan for Stahla Mobile Home Park Located in the 2200 Block of South Engleman Road. Craig Lewis, Building Department Director reported that this request was to modify the park plan for Stahla Mobile Home Park. Mr. & Mrs. Stahla requested the addition of two additional recreational vehicle sites on lots 59 and creating four new recreational vehicle spaces on lot 58.

Motion by Hornady, second by Walker to approve the request from Mr. & Mrs. Stahla. Upon roll call vote, all voted aye. Motion adopted.

#### RESOLUTIONS:

#2005-265 – Approving General Property, Parking District #2 (Ramp), and Community Redevelopment Authority Tax Request. David Springer, Finance Director reported this item referred to the aforementioned Public Hearing.

Motion was made by Pielstick, second by Walker to approve Resolution #2005-265. Upon roll call vote, all voted aye. Motion adopted.

#2005-266 – Consideration of Resolution Supporting Enabling Legislation for the Creation of a Storm Water Funding Mechanism. Bud Buettner, Assistant Public Works Director reported that the City of Grand Island had been designated as a National Pollutant Discharge Elimination System (NPDES) Phase II Storm Water community. An application for a storm water permit had been submitted to the NDEQ which would require the city to develop a Storm Water Management Program (SWMP). As this was an un-funded federal mandate with an estimated cost of over \$300,000 proposed “enabling” legislation would allow a municipality to decide at the local level how to fund the SWMP.

Motion by Hornady, second by Pielstick to approve Resolution #200-266. Upon roll call vote, all voted aye. Motion adopted.

PAYMENT OF CLAIMS:

Motion by Hornady, second by Haase to approve the Claims for the period of August 24, 2005 through September 13, 2005, for a total amount of \$4,180,446.76. Motion adopted unanimously. Councilmember Pauly abstained from voting on claim #108056.

ADJOURNMENT: The meeting was adjourned at 8:15 p.m.

RaNae Edwards  
City Clerk



# City of Grand Island

Tuesday, September 27, 2005

Council Session

## Item G2

### **Approving Minutes of September 20, 2005 City Council Study Session**

*The Minutes of September 20, 2005 City Council Study Session are submitted for approval.  
See attached MINUTES.*

Staff Contact: RaNae Edwards

## OFFICIAL PROCEEDINGS

### CITY OF GRAND ISLAND, NEBRASKA

#### MINUTES OF CITY COUNCIL STUDY SESSION

September 20, 2005

Pursuant to due call and notice thereof, a Study Session 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 September 20, 2005. Notice of the meeting was given in the *Grand Island Independent* on September 14, 2005.

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

INVOCATION was given by Pastor Josh Sikes, Third City Christian Church, 4100 West 13<sup>th</sup> Street followed by the PLEDGE OF ALLEGIANCE.

Presentation by the Multicultural Coalition. Odalys Perez, Coordinator for the Multicultural Coalition reported on the great strides in providing services to Grand Island's immigrant, migrant, non-English speaking, and low-income residents. Presented was a history of the Multicultural Coalition (MCC). MCC Board members present were Lynn Cronk, Kari Nazarena, Paul Bresino, and Councilmember Carole Cornelius.

Formed in 2001, MCC responds to the needs of Grand Island's increasingly culturally diverse community. The primary objective of MCC is to provide a one stop comprehensive service delivery center that serves new immigrants, reduces duplication of services, better utilizes the time of clients and service providers, eliminates barriers to services, and stretches limited financial resources of service providers.

MCC is located at the recently renovated Old Walnut Building located close to a high percentage of new and established immigrants that live in the area. MCC is collocated with the Grand Island Public Schools Outreach Center where services include school registrations, school physicals, academic assessments and survival English for student's grades 6 to 12, support group for Hispanic Moms, and translation and interpretation services for school related needs through a Spanish interpreter.

Ms. Perez mentioned the funding sources of several contributors throughout Grand Island. The Nebraska Finance Authority (NIFA) had committed \$120,000 over a four-year period. The coalition had to provide a \$90,000 annual local match. Presented was the budget for FY 2005-2006. Mentioned were activities and projects that took place in 2004-2005.

Discussion was had on how immigrants knew where to go. Ms. Perez stated most was by word-of-mouth, Spanish newspaper, and radio. The owner of the property had agreed to put up signs in Spanish. Mentioned was that the coalition was open from 8:00 a.m. to 5:00 p.m. Language barriers were discussed relative to local business and within the community as a whole.

Ms. Perez invited the Mayor and City Council to a One Day Conference on October 4, 2005 at College Park.

ADJOURNMENT: The meeting was adjourned at 8:45 p.m.

Respectfully submitted,

RaNae Edwards  
City Clerk





# City of Grand Island

Tuesday, September 27, 2005

Council Session

## Item G3

### **Approving Re-Appointment of Lee Elliott to the Community Redevelopment Advisory (CRA) Board**

*The Mayor has submitted the reappointment of Lee Elliott to the Community Redevelopment Advisory (CRA) Board. The appointment would become effective October 1, 2005, upon approval by city council and would expire September 30, 2010. Approval is recommended.*

Staff Contact: Mayor Vavricek



# City of Grand Island

Tuesday, September 27, 2005

Council Session

## Item G4

### **Approving Re-Appointment of Bob Loewenstein to the Animal Advisory Board**

*The Mayor has submitted the reappointment of Bob Loewenstein to the Animal Advisory Board. The appointment would become effective October 9, 2005, upon approval by city council and would expire October 8, 2008. Approval is recommended.*

Staff Contact: Mayor Vavricek



# **City of Grand Island**

**Tuesday, September 27, 2005**

**Council Session**

## **Item G5**

**Approving Garbage and Refuse Permits**

**Staff Contact: RaNae Edwards**

# **Council Agenda Memo**

**From:** RaNae Edwards, City Clerk  
**Meeting:** September 27, 2005  
**Subject:** Approving Garbage and Refuse Haulers Permits  
**Item #'s:** G-5  
**Presenter(s):** RaNae Edwards, City Clerk

## **Background**

Grand Island City Code Section 17-15 allows for the Collection, Transportation, and Disposal of Garbage and/or Refuse. These permits are effective October 1 through September 30 of each calendar year.

## **Discussion**

The following businesses have submitted applications for renewal for 2004/2005:

Central Waste Disposal, 147 East Roberts	Garbage
Clark Brothers Sanitation, 3080 West 2 <sup>nd</sup> Street	Garbage
Heartland Disposal, 2423 W. Old Lincoln Hwy.	Garbage
Mid-Nebraska Disposal, Inc., 3080 West 2 <sup>nd</sup> Street	Garbage
Full Circle, Inc., 3719 Westgate Road	Refuse
Scott's Hauling, 3230 Westside Street	Refuse

All City Code requirements have been met by these businesses.

## **Alternatives**

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

1. Approve the renewal for garbage/refuse permits.
2. Disapprove or deny the renewals.
3. Modify the renewals to meet the wishes of the Council.
4. Table the issue

### **Recommendation**

City Administration recommends that the Council approve the renewals for garbage/refuse permits for 2005/2006.

### **Sample Motion**

Approve the renewal for garbage/refuse permits for 2005/2006.



# City of Grand Island

Tuesday, September 27, 2005

Council Session

## Item G6

**Approving Request of Perez, Inc. dba El Rodeo for Change of Location for Liquor License "C-61867" from 106 East 3rd Street to 410 East 4th Street**

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

Staff Contact: RaNae Edwards



# City of Grand Island

Tuesday, September 27, 2005

Council Session

## Item G7

**Approving Request of Connie Hartford, 106 Cherokee Avenue for  
Conditional Use Permit for Temporary Single Wide Trailer Use  
during Construction of Single Family Dwelling Located at 106  
Cherokee Avenue**

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

Staff Contact: Craig Lewis



# City of Grand Island

Tuesday, September 27, 2005

Council Session

## Item G8

**#2005-267 - Approving Acquisition of Utility Easement - 401 N.  
Eddy - 4th & Eddy Plaza, LLC**

*This item relates to the aforementioned Public Hearing Item E-4.*

Staff Contact: Gary R. Mader



RESOLUTION 2005-267

WHEREAS, a public utility easement is required by the City of Grand Island, from 4<sup>th</sup> & Eddy Plaza, LLC, a limited liability company, to install, upgrade, maintain, and repair public utilities; and

WHEREAS, a public hearing was held on September 27, 2005, for the purpose of discussing the proposed acquisition of an easement and right-of-way through a part of Fractional Lot Six (6) in Fractional Block Seventeen (17) Rollins Addition to the city of Grand Island, Hall County, Nebraska; the utility easement and right-of-way being more particularly described as follows:

The northerly twenty (20.0) feet of the westerly twenty (20.0) feet of Fractional Lot Six (6) in Fractional Block Seventeen (17) Rollins Addition to the City of Grand Island.

The above-described easement and right-of-way containing 400.0 square feet more or less, as shown on the plat dated 9/12/2005, 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 4<sup>th</sup> & Eddy Plaza, LLC, a limited liability company, on the above-described tract of land.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, September 27, 2005.

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RaNae Edwards, City Clerk

Approved as to Form	☐ _____
September 22, 2005	☐ City Attorney



# City of Grand Island

Tuesday, September 27, 2005

Council Session

## Item G9

**#2005-268 - Approving Acquisition of Utility Easement - 620 North  
Diers Avenue - West Faidley Medical Clinic**

*This item relates to the aforementioned Public Hearing Item E-5.*

Staff Contact: Gary R. Mader

RESOLUTION 2005-268

WHEREAS, a public utility easement is required by the City of Grand Island, from West Faidley Medical Center, LLC, a limited liability company, to install, upgrade, maintain, and repair public utilities; and

WHEREAS, a public hearing was held on September 27, 2005, for the purpose of discussing the proposed acquisition of an easement and right-of-way through a part of Lot Thirteen (13), Richmond Subdivision in the city of Grand Island, Hall County, Nebraska; the centerline of the twenty (20.0) foot wide utility easement and right-of-way being more particularly described as follows:

Commencing at the southeast corner of Lot Thirteen (13) Richmond Subdivision; thence westerly along the southerly line of said Lot Thirteen (13), a distance of One Hundred Ninety Seven (197.0) feet to the Actual Point of Beginning; thence northerly, perpendicular to the southerly line of said Lot Thirteen (13), a distance of Seventy Two (72.0) feet.

The above-described easement and right-of-way containing 0.033 acres more or less, as shown on the plat dated 9/8/2005, 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 West Faidley Medical Center, LLC, a limited liability company, on the above-described tract of land.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, September 27, 2005.

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RaNae Edwards, City Clerk



# City of Grand Island

Tuesday, September 27, 2005

Council Session

## Item G10

**#2005-269 - Approving Certificate of Final Completion and Setting  
BOE Date for Water Main District 443**

Staff Contact: Gary R. Mader

# **Council Agenda Memo**

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

**Meeting:** September 27, 2005

**Subject:** Water Main District 443 – American Independence Subdivision

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

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

## **Background**

District 443 was created by Council to provide municipal water service to the properties along Independence Avenue, Shanna Street, Lariat Lane, and Branding Iron Lane. These streets are within the American Independence Subdivision, American Independence 2<sup>nd</sup> Subdivision and part of Grand West Subdivision. Attached for reference is a copy of the District Plat showing the project area.

To provide for the most economical installation of infrastructure in the area, the Utilities Department and Public Works Department designed and prepared specifications for a joint project to include installation of both water main and sanitary sewer under a single construction project. Water main installation has been completed as per the contract requirements and in accordance with the project specifications.

## **Discussion**

The Water Main construction was done as an Assessment District, which is the Department's standard process for water main installation at the request of the property owners in developed areas. The total assessable cost of Water Main District 443 was \$70,025.92. The computation of assessments is based on the cost of construction. That cost is apportioned to each of the properties within the district based upon a combination of front footage and lot size to determine the assessment amount.

Assessments may be financed with the Water Department over five years, with 7% simple interest on the outstanding balance. The first payment is due 50 days after the Council sets the assessments at the Board of Equalization (BOE) Hearing.

## **Alternatives**

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

1. Move to approve the Certificate of Final Completion for Water Main District 443 and set the date of the Board of Equalization to determine benefits for the properties within the boundary of the District.
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 Certificate of Final Completion for Water Main District 443 be issued and that the Board of Equalization be set for October 25, 2005 to consider the benefits and assessments for the district.

## **Sample Motion**

Motion to approve the Certificate of Final Completion for Water Main District 443 and set the Board of Equalization for this district for October 25, 2005.



**WATER MAIN DISTRICT 443**

OWNER & ADDRESS	LOT	SUBDIVISION	\$15.582837 F / F	\$0.124726 SQ FT	1/2 FF + 1/2 SF ASSESSMENT
Gary E Valasek & Mary G Valasek H/W	1	American Independence Subdivision	98.61	9,870.64	2,767.75
4228 W 13th Street, Grand Island, NE 68803	2	American Independence Subdivision	99.57	10,596.15	2,873.21
" "	5	American Independence Subdivision	96.50	12,044.13	3,005.96
" "	6	American Independence Subdivision	96.50	12,044.18	3,005.96
Brian D & Kellie E Haynes					
3206 Langenheder Dr, Grand Island, NE 68803	7		105.00	12,356.61	3,177.39
Gary E Valasek & Mary G Valasek H/W	8	American Independence Subdivision	174.55	37,168.82	7,355.90
" "	9	American Independence Subdivision	101.72	13,021.52	3,209.21
" "	10	American Independence Subdivision	100.40	11,310.78	2,975.27
" "	11	American Independence Subdivision	100.00	11,185.05	2,953.36
" "	12	American Independence Subdivision	100.00	11,182.30	2,953.01
" "	13	American Independence Subdivision	100.00	11,179.46	2,952.66
" "	14	American Independence Subdivision	100.00	11,176.62	2,952.31
" "	15	American Independence Subdivision	110.00	12,291.11	3,247.13
" "	16	American Independence Subdivision	115.00	13,055.84	3,420.43
" "	17	American Independence Subdivision	105.00	11,921.86	3,123.17
" "	18	American Independence Subdivision	105.00	11,923.11	3,123.32
" "	19	American Independence Subdivision	105.00	11,924.36	3,123.49
" "	20	American Independence Subdivision	104.82	11,965.75	3,125.83
Scott C Kuehl & Kenora R Kuehl H/W					
4357 Manchester Rd, Grand Island, NE 68803	21	American Independence Subdivision	113.54	17,166.99	3,910.45
Gary E Valasek & Mary G Valasek H/W	1	American Independence 2nd Subdivision	99.95	14,123.84	3,319.11
Rodney E Valasek & Julie R Valasek H/W					
4240 Norseman Ave, Grand Island, NE 68803	2	American Independence 2nd Subdivision	101.82	14,947.59	3,451.00
District 443 Front Footage			2,232.98		
District 443 Square Footage				282,456.71	
TOTAL TO DISTRICT 443					\$70,025.92



R E S O L U T I O N    2005-269

WHEREAS, the City Engineer and the Utilities Director of the City of Grand Island have issued a Certificate of Final Completion for Water Main District 443 located in Independence Avenue, Shanna Street and Lariat Lane in Grand Island, Nebraska, certifying that the Diamond Engineering Company of Grand Island, Nebraska, has completed such project according to the terms, conditions, and stipulations for such improvements; and

WHEREAS, the City Engineer and the Utilities Director recommend the acceptance of the final completion; and

WHEREAS, the Mayor concurs with such recommendations.

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

1.     The Certificate of Final Completion for Water Main District 443 is hereby confirmed and approved.
2.     The City Council will sit as a Board of Equalization on October 25, 2005 to determine benefits and set assessments for Water Main District 443.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, September 27, 2005.

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RaNae Edwards, City Clerk



# City of Grand Island

Tuesday, September 27, 2005

Council Session

## Item G11

**#2005-270 - Approving Certificate of Final Completion and Setting  
BOE Date for Water Main District 447T**

Staff Contact: Gary R. Mader

# **Council Agenda Memo**

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

**Meeting:** September 27, 2005

**Subject:** Water Main District 447T – Grand West Subdivision

**Item #'s:** G-11

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

## **Background**

District 447T was constructed in conjunction with Water Main District 443. Water Main District 443 was created at the request of area property owners to provide municipal water service along Independence Avenue.

During the development of construction plans for District 443, there was an opportunity to economically extend a water main in Shanna Street, between Independence and Mansfield Road. The interconnection provides increased reliability and capacity to the area as a whole, and would provide water service to properties on the south side of Shanna. Therefore Water Main District 447T was created and combined for construction and bid with District 443. A map of the district is attached for reference.

## **Discussion**

The area on the north side of this District is adjacent to a City detention cell. The lots on the south side are owned by the Third City Christian Church and are undeveloped at this time. The District's construction was done as a Tap District, which is the Department's standard method for water main extensions through undeveloped areas. The total assessable cost for Water Main District 447T was \$19,950.94

That cost is apportioned to each of the properties within the district based upon a combination of front footage and lot size to determine the connection fee. That fee is collected when the properties are connected to receive City water service.

## **Alternatives**

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

1. Issue the Certificate of Final Completion for District 447T and set the date of the Board of Equalization to determine benefits for the properties within the boundary of the District.
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 Certificate of Final Completion for Water Main District 447T be issued and that the Board of Equalization be set for October 25, 2005.

## **Sample Motion**

Motion to approve the Certificate of Final Completion for Water Main District 447T and set the Board of Equalization for this district for October 25, 2005.

WESTERN HEIGHTS

3RD SUBDIVISION

DOUBLE R  
SUBDIVISION

SHANNA

LARIAT LN

SOUTHERLY LINE OF  
WESTERN HEIGHTS  
3RD SUB.

DETENTION CELL  
WATER MAIN  
DISTRICT 447T  
BOUNDARY

WATER MAIN  
DISTRICT 443  
BOUNDARY

POINT OF BEGINNING

R & B 2ND SUB.

MANSFIELD ROAD

Lot 1

GRAND WEST SUB.

CITY OF  
GRAND ISLAND  
UTILITIES DEPARTMENT

1/30/2004 SCALE: 1"=200'

DEDICATED 50' ROAD RIGHT OF WAY

20' EASEMENT

10' EASEMENT

WESTERN HEIGHTS

FIFTH SUBDIVISION

INDEPENDENCE

INDEPENDENCE AVE

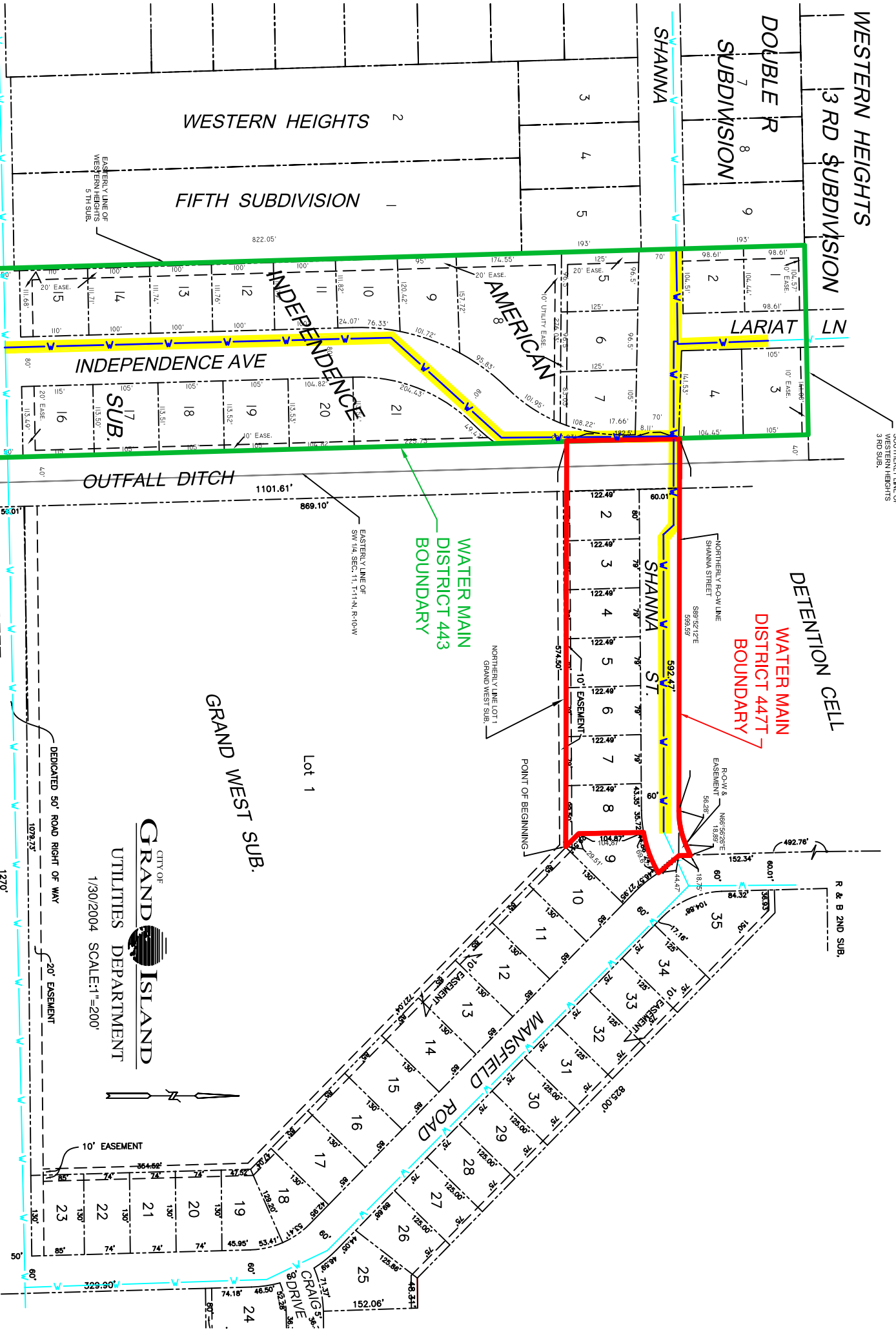
17 SUB.

OUTFALL DITCH

STREET

13TH

SOUTHERLY LINE OF  
SEC. 11, T-14N, R-10W



**WATER MAIN DISTRICT 447T**

WATER MAIN DISTRICT 447T			\$15.582837	\$0.124726	1/2 FF + 1/2 SF
OWNER & ADDRESS	LOT	SUBDIVISION	F/F	SQ/FT	ASSESSMENT
Third City Christian Church	2	Grand West Subdivision	80.00	9,799.20	2,468.84
A Nebraska Non-Profit Corp	3	Grand West Subdivision	79.00	9,676.71	2,437.98
4100 W 13th Street, Grand Island, NE 68803	4	Grand West Subdivision	79.00	9,676.71	2,437.98
" "	5	Grand West Subdivision	79.00	9,676.71	2,437.98
" "	6	Grand West Subdivision	79.00	9,676.71	2,437.98
" "	7	Grand West Subdivision	79.00	9,676.71	2,437.98
" "	8	Grand West Subdivision	79.07	10,060.00	2,486.87
City of Grand Island - Public Works Dept	Detension Cell, PT N 1/2, SE 1/4, Sec 11-11-10		100.00	10,000.00	2,805.33
			District 447T Front Footage	654.07	
			District 447T Square Footage	78,242.75	
			TOTAL TO DISTRICT 447T		\$19,950.94

R E S O L U T I O N    2005-270

WHEREAS, the City Engineer and the Utilities Director of the City of Grand Island have issued a Certificate of Final Completion for Water Main District 447T located in Shanna Street from Mansfield Road to Independence Avenue in Grand Island, Nebraska, certifying that the Diamond Engineering Company of Grand Island, Nebraska, has completed such project according to the terms, conditions, and stipulations for such improvements; and

WHEREAS, the City Engineer and the Utilities Director recommend the acceptance of the final completion; and

WHEREAS, the Mayor concurs with such recommendations.

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

1.     The Certificate of Final Completion for Water Main District 447T is hereby confirmed and approved.
2.     The City Council will sit as a Board of Equalization on October 25, 2005 to determine benefits and set connection fees for Water Main District 447T.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, September 27, 2005.

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RaNae Edwards, City Clerk



# **City of Grand Island**

**Tuesday, September 27, 2005**

**Council Session**

## **Item G12**

**#2005-271 - Approving Capital Financing Options for the  
Nebraska City #2 Power Plant Project - Utilities Department**

**Staff Contact: Gary R. Mader**



# **Council Agenda Memo**

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

**Meeting:** September 27, 2005

**Subject:** Nebraska City Unit #2; Capital Costs

**Item #'s:** G-12

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

## **Background**

The City of Grand Island is a participant in a new coal fired power plant project being built by the Omaha Public Power District (OPPD) at the site of their existing Nebraska City Plant. The new unit will be the second on that site and is generally referred to as NC#2. All environmental permitting and state agency approvals have been completed, and the project is proceeding to the point that major capital expenditures are pending for construction. The methods of project funding are included in the Power Participation Agreement (PPA) between the City and OPPD.

The Project is a 600 MW power plant with OPPD having 300MW committed to their system and 300MW dedicated to seven Project Participants; public power utilities in Nebraska, Missouri and Minnesota. Grand Island's Participation Share is 30MW. The financing of the project is structured such that OPPD will issue their bonds for their share and will also issue the bonds for the Participant's share. The Participant's costs to service that debt are to be billed monthly over the 40 year life of the plant. Participants are obligated under the PPA to begin Capital Cost payments at the time the unit goes into commercial operation in 2009. The bond issue for the Participants Share of the Capital Costs is referred to as the Separate System Bonds.

## **Discussion**

The Power Participation Agreement does include provisions whereby each Participant may opt to provide its own share of the Project Capital Costs separately from the group. City staff from the Utilities, Legal and Finance Departments have met with OPPD staff to consider this option. City staff has also discussed this option with our bond agents from Ameritas Investment Corporation and our bond council, Baird Holm. It is the consensus from this evaluation that the City should provide its share of the Project Capital Costs via the Separate System Bond Issue as provided in the Power Participation Agreement with

OPPD. The City's share of Project Capital Cost is estimated at \$30,000,000, to be paid over the life of the NC#2 power plant.

### **Alternatives**

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

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

### **Recommendation**

City Administration recommends that the financing of Grand Island's share of the NC#2 project be included in the Separate System Bonds as provided in the NC#2 Power Participation Agreement between the City of Grand Island and Omaha Public Power District, and that the Utilities Director be directed to formally notify OPPD of that decision.

### **Sample Motion**

Motion authorizing OPPD to issue the Separate System Bonds for the City of Grand Island's share of the Capital Cost of construction of the Nebraska City Unit #2 Power Plant Project, in accordance with the Power Participation Agreement between the parties and directing the Utilities Director to formally notify OPPD of that election.

RESOLUTION 2005-271

WHEREAS, on October 14, 2003, by Resolution 2003-279, the City Council of the City of Grand Island approved a Power Participation Agreement between the City of Grand Island and Omaha Public Power District (OPPD) to obtain up to 30 MW of energy from Omaha Public Power District after its Nebraska City Unit #2 plant is constructed and operational; and

WHEREAS, all environmental permitting and state agency approvals have been completed, and the project is proceeding to the point that major capital expenditures are pending for construction; and

WHEREAS, the financing of the project is outlined in the Power Participation Agreement and is structured such that OPPD will issue their bonds for their share and will also issue the bonds for the Participant's share; and

WHEREAS, the Participant's costs to service that debt are to be billed monthly over the 40 year life of the power plant, with the Participants obligated to begin Capital Cost payments at the time the unit goes into commercial operation in 2009; and

WHEREAS, after reviewing its options, City staff recommends providing its share of the Project Capital Costs via the Separate System Bond issue as provided in the Power Participation Agreement with OPPD; and

WHEREAS, the City's share of Project Capital Cost is estimated at \$30,000,000, to be paid over the life of the Nebraska City Unit #2 power plant.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that Omaha Public Power District is hereby authorized to issue Separate System Bonds for the City of Grand Island's share of the Capital Cost of construction of the Nebraska City Unit #2 Power Plant Project, in accordance with the Power Participation Agreement.

BE IT FURTHER RESOLVED, that the Utilities Director is hereby authorized to notify Omaha Public Power District of this election.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, September 27, 2005.

RaNae Edwards, City Clerk

Approved as to Form	☐ _____
September 22, 2005	☐ City Attorney



# **City of Grand Island**

**Tuesday, September 27, 2005**

**Council Session**

## **Item G13**

**#2005-272 - Approving Wireline Crossing Agreement between the  
City of Grand Island and the Union Pacific Railroad**

**Staff Contact: Gary R. Mader**

# **Council Agenda Memo**

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

**Meeting:** September 27, 2005

**Subject:** Wireline Crossing Agreement between the City of Grand Island and the Union Pacific Railroad

**Item #'s:** G-13

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

## **Background**

Grand Island Utilities Department is working with CXT to support the expansion of their existing manufacturing plant in Grand Island. As part of the expansion, nearly a mile of new rail spur line will be constructed by CXT to serve the increased capacity of their plant. A fifty foot tall gantry crane will be used along the new rails to load concrete ties on to rail cars.

The existing CXT plant and the planned expansion are located in the Union Pacific rail yards on the east side of Grand Island. The Utilities Department has a 115,000 volt (115kV) transmission line crossing the area. This line will have to be raised to provide safe clearance for the gantry crane.

## **Discussion**

Since this line work is being done on railroad property, a Wireline Crossing Agreement is required by Union Pacific for access to and construction on their property.

The Utilities Department made application for the revised agreement to UP earlier this year after design of the reconfigured transmission line was completed. Union Pacific has approved the application. A copy of the Wireline Crossing Agreement is attached.

## **Alternatives**

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

1. Move to approve the Wireline Crossing 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 Wireline Crossing Agreement.

### **Sample Motion**

Motion to approve the Wireline Crossing Agreement with Union Pacific Railroad for 115,000 volt transmission line reconstruction project.

## **WIRELINE CROSSING AGREEMENT**

Mile Post: 145.37, Kearney Subdivision/Branch  
Location: Grand Island, Hall County, Nebraska

**THIS AGREEMENT** is made and entered into as of September 15, 2005, by and between **UNION PACIFIC RAILROAD COMPANY**, a Delaware corporation, (hereinafter the "Licensor") and **CITY OF GRAND ISLAND UTILITIES DEPARTMENT**, to be addressed at P O Box 1968, Grand Island, Nebraska 68802-1968 (hereinafter the "Licensee").

**IT IS MUTUALLY AGREED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS:**

### **Article I. LICENSE FEE**

Upon execution of this Agreement, the Licensee shall pay to the Licensor a one-time License Fee of **Two Thousand Four Hundred Forty Four Dollars (\$2,444.00)**.

### **Article II. LICENSOR GRANTS RIGHT.**

In consideration of the covenants and agreements herein contained to be by the Licensee kept, observed and performed, the Licensor hereby grants to the Licensee the right to construct and thereafter, during the term hereof, to maintain and operate

one overhead 115kv wireline crossing only

(hereinafter the "Wireline") in the location shown and in conformity with the dimensions and specifications indicated on the attached print dated June 23, 2005, marked Exhibit "A". Under no circumstances shall Licensee modify the use of the Wireline for a purpose other than the above-mentioned, and said Wireline shall not be used for any other use, whether such use is currently technologically possible, or whether such use may come into existence during the life of this Agreement.

### **Article III. CONSTRUCTION, MAINTENANCE AND OPERATION.**

The grant of right herein made to the Licensee is subject to each and all of the terms, provisions, conditions, limitations and covenants set forth herein and in Exhibit B, hereto attached.

### **Article IV. IF WORK IS TO BE PERFORMED BY CONTRACTOR.**

If a contractor is to do any of the work performed on the Wireline (including initial construction and subsequent relocation or substantial maintenance and repair work), then the Licensee shall require its contractor to execute the Licensor's form Contractor's Right of Entry Agreement. Licensee acknowledges receipt of a copy of the Contractor's Right of Entry Agreement and understands its terms, provisions, and requirements, and will inform its contractor of the need to execute the Agreement. Under no

circumstances will Licensee's contractor be allowed onto Licensors premises without first executing the Contractor's Right of Entry Agreement.

**Article V. INSURANCE**

A. The Licensee, at its expense, shall obtain the insurance described in Exhibit B-1, hereto attached. The Licensee will also provide to the Licensors a Certificate of Insurance, **identifying Folder No. 02330-28**, issued by its insurance carrier confirming the existence of such insurance and that the policy or policies contain the following endorsement:

UNION PACIFIC RAILROAD COMPANY is named as an additional insured with respect to all liabilities arising out of the existence, use or any work performed on or associated with the 'Wireline' located on Railroad right-of-way at Mile Post 145.37, on the Kearney Subdivision/Branch, at or near Grand Island, Hall County, Nebraska.

B. If the Licensee named in this Agreement is a public entity subject to any applicable statutory tort laws, the limits of insurance described in Exhibit B-1 shall be the limits the Licensee then has in effect or which is required by applicable current or subsequent law, whichever is greater, a portion of which may be self-insured with the consent and approval of the Licensors

C. All insurance correspondence shall be directed to:

Ernestine W. Burtley  
Folder No. 02330-28  
Union Pacific Railroad Company  
Real Estate Department  
1400 Douglas Street STOP 1690  
Omaha, NE 68179-1690

**Article VI. TERM.**

This Agreement shall take effect as of the date first herein written and shall continue in full force and effect until terminated as herein provided.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed as of the date first herein written.

**UNION PACIFIC RAILROAD COMPANY**

**CITY OF GRAND ISLAND UTILITIES  
DEPARTMENT**

By: \_\_\_\_\_  
Manager - Contracts

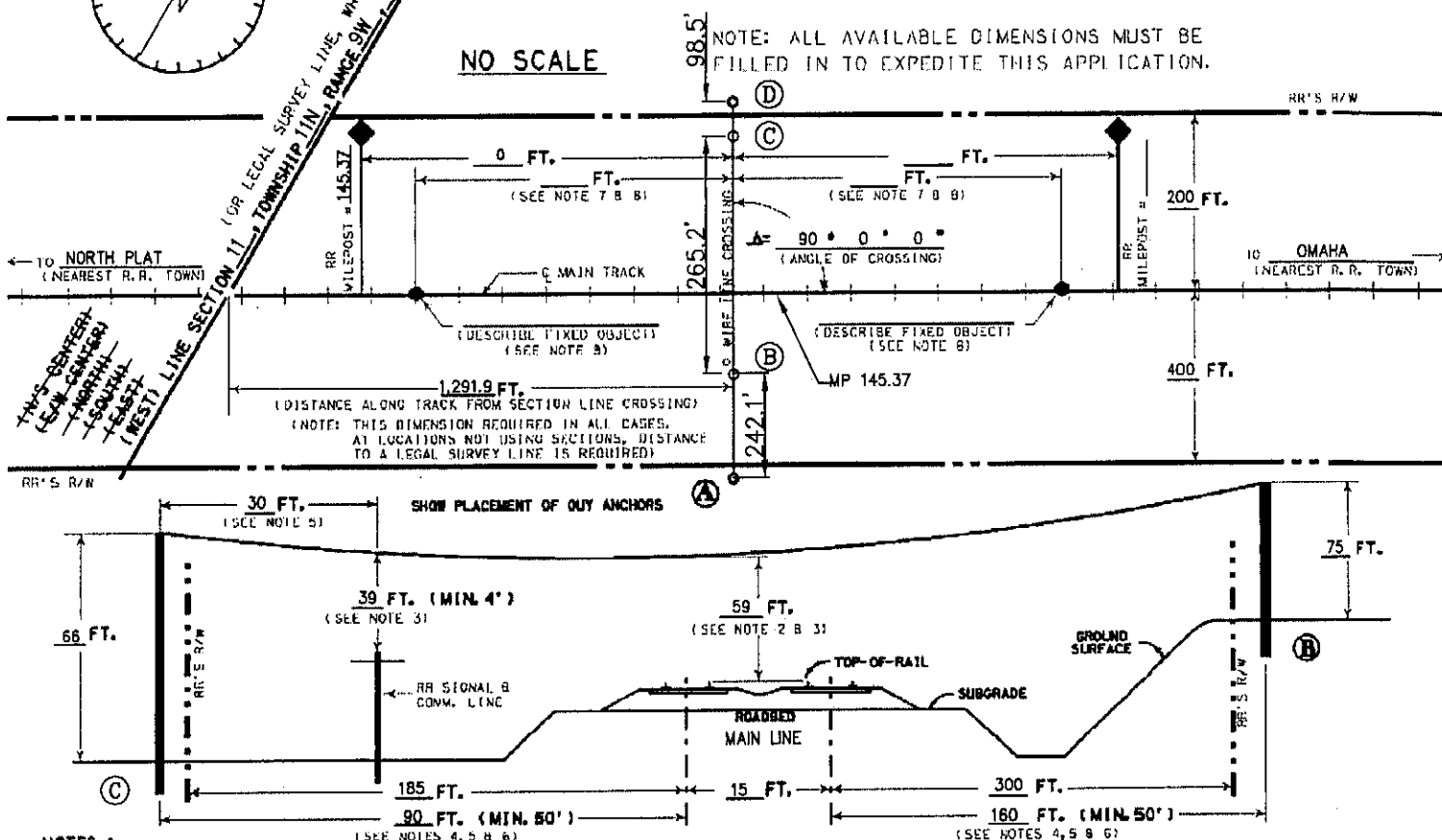
By: \_\_\_\_\_  
Title: \_\_\_\_\_

Note: Cancels Agreement CD16614-4, Audit 214275 dated June 19, 1976. Same.



FORM DR-0404-H  
REV. 10-23-00  
www.uprr.com

## OVERHEAD WIRELINE CROSSING OVER 750 VOLTS



NOTES :

- 1) ALL HORIZONTAL DISTANCES TO BE MEASURED AT RIGHT ANGLES FROM C 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 C 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 C 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 C OF ANY CULVERT.
- 8) ALLOWABLE FIXED OBJECTS INCLUDE: BACKWALLS OF BRIDGES; C OF ROAD CROSSINGS & OVERHEAD VIADUCTS (GIVE ROAD NAME), OR C OF CULVERTS.

A) IS WIRELINE CROSSING WITHIN DEDICATED STREET ? \_\_\_\_\_ YES;  X  NO;

B) IF YES, NAME OF STREET

C) DISTRIBUTION LINE \_\_\_\_\_ OR TRANSMISSION LINE  X

D) IS THERE A SIGNAL OR COMMUNICATION POLELINE NEAR THE TRACKS? YES

E) MAXIMUM GROUND CURRENT AT FEED: \_\_\_\_\_ AMPS. AT LOAD: \_\_\_\_\_ AMPS.

F) WHAT TYPE OF FACILITY WILL LINE BE SERVING? 115KV TRANSMISSION LOOP

Q) IF A NEW POWER SUBSTATION IS TO BE BUILT WITHIN 1/2 MILE OF RR, WHAT IS MAX:

OPERATING CURRENT TO GROUND? \_\_\_\_\_ AMPS; RESISTANCE TO GROUND? \_\_\_\_\_ OHMS;

FAULT CURRENT TO GROUND? \_\_\_\_\_ AMPS.

#### H) CIRCUITS TO BE CARRIED ON PROPOSED WIRELINE:

NO. CIRCUITS	VOLTAGE TO GROUND	VOLTAGE	PHASE	NO. OF WIRES	GAGE	MATERIAL	SOLID OR STRANDED
1	70KV	115KV	3#	3	T-2 336	ACSR	STRANDED

GROUND WIRE : SIZE .507" MATERIAL OPGW : SOLID OR STRANDED STRANDED.

1) CROSSING SPAN LENGTH 265.2 FT.; NORMAL CONDUCTOR SAG 59 IN. AT 60 °F.

J) ADJOINING SPANS: LENGTH 98.5 FT.; NORMAL CONDUCTOR SAG 9 IN. AT 60 °F.

LENGTH 242.1 FT.; NORMAL CONDUCTOR SAG 49 IN. AT 60

K) POLES: TIMBER STEEL LENGTH 105/115 FT. DEPTH OF SETTING 12.6/13.6 FT.  
HEIGHT ABOVE GROUND 82.5/101.5 FT.

HEIGHT ABOVE GROUND 25/101.5 FT.  
CLASS OR BUTT AND TOP DIMENSIONS

(IF STEEL TOWERS ARE EMPLOYED, FURNISH DETAIL DRAWINGS)

(L) HEAD GUYS: NUMBER ON EACH POLE \_\_\_\_\_; SIZE OR STRENGTH \_\_\_\_\_; LEAD \_\_\_\_\_

U) SIDE GUYS: NUMBER EACH WAY SINGLE; SIZE OR STRENGTH STEEL; LEAD

N) CROSSARMS: SINGLE OR DOUBLE SINGLE; MATERIAL STEEL; SIZE \_\_\_\_\_ BY \_\_\_\_\_

D) INSULATORS: PIN OR SUSPENSION SUSP.; MANUFACTURER'S AND CATALOGUE NO.

P) CONDUCTOR ATTACHMENT: TIES OR CLAMPS CLAMPS

B) IF POWER LINE PARALLELS TRACK WITHIN 1/2 MILE, INCLUDE DIAGRAM SHOWING S

87 APPLICANT HAS CONTACTED 1-800-338-3193, U.F. COMMUNICATION DEPARTMENT, AND  
 X DOES: DOES NOT: EXIST IN VICINITY OF WORK TO BE PERFORMED. T

~~WEST~~ DOES NOT EXIST IN VICINITY OF HOME TO BE FURTHER SEARCHED.

**EXHIBIT "A"**

FOR RAILROAD USE ONLY - DO NOT WRITE IN THIS BOX

UNION PACIFIC RAILROAD CO.

KEARNEY

### SUBMISSIONS

M. P. 145.37 E. S. 8156+72

## OVERHEAD WIRELINE CROSSING

GRAND ISLAND	HALL	NE
(NEAREST RR STATION)	(COUNTY)	(STATE)

FOR CITY OF GRAND ISLAND  
(APP) (CONT)

RR FILE NO. 2330-28 DATE 6-27-05

## 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

CONFIGURATION OF WIRES INCLUDING SHIELD WIRES.  
RUMIN FIBER OPTIC CABLE  
005-0531-014

## **EXHIBIT B**

### Section 1. LIMITATION AND SUBORDINATION OF RIGHTS GRANTED.

(a) The foregoing grant of right is subject and subordinate to the prior and continuing right and obligation of the Licensor to use and maintain its entire property including the right and power of the Licensor to construct, maintain, repair, renew, use, operate, change, modify or relocate railroad tracks, signal, communication, fiber optics, or other wirelines, pipelines and other facilities upon, along or across any or all parts of its property, all or any of which may be freely done at any time or times by the Licensor without liability to the Licensee or to any other party for compensation or damages.

(b) The foregoing grant is also subject to all outstanding superior rights (including those in favor of licensees and lessees of the Licensor's property, and others) and the right of the Licensor to renew and extend the same, and is made without covenant of title or for quiet enjoyment.

### Section 2. CONSTRUCTION, MAINTENANCE AND OPERATION.

(a) If the Wireline or any part thereof is to be located above the top of the rails of any track or communication and signal lines, including static wires, overhead clearance provided by the Wireline shall be no less than that shown on Exhibit A. The Wireline shall be constructed, operated, maintained, repaired, renewed, modified and/or reconstructed by the Licensee in strict conformity with the Specifications prescribed in the current issue of the National Electrical Safety Code of the American National Standards Institute. In the event such Specifications conflict in any respect with the requirements of any federal, state or municipal law or regulation, such requirements shall govern on all points of conflict, but in all other respects the Specifications shall apply.

(b) All work performed on property of the Licensor in connection with the construction, maintenance, repair, renewal, modification or reconstruction of the Wireline shall be done to the satisfaction of the Licensor.

(c) If the Wireline is an existing one not conforming in its construction to the above provisions of this Section 2, the Licensee shall, within ninety (90) days after the date hereof, reconstruct it so as to conform therewith.

(d) The Wireline shall be constructed, maintained and operated by the Licensee in such manner as not to be or constitute a hazard to aviation. With respect to the Wireline the Licensee, without expense to the Licensor, will comply with all requirements of law and of public authority, whether federal, state or local, including but not limited to aviation authorities.

(e) In the operation of the Wireline, the Licensee shall not transmit electric current at a difference of potential in excess of the voltage indicated on Exhibit A. If the voltage indicated is in excess of seven hundred fifty (750) volts, and the Wireline is, or is to be, buried at any location on the property of the Licensor outside track ballast sections or roadbed, the Licensee shall install metallic conduit, or non-metallic conduit encased in a minimum of three (3) inches of concrete with a minimum of four (4) feet of ground cover the entire length of the Wireline on the property of the Licensor. A Wireline buried by removal of the soil shall have, at a depth of one (1) foot beneath the surface of the ground directly above the Wireline, a six (6) inch wide warning tape bearing the warning, "Danger-High Voltage," or equivalent wording. A Wireline encased in conduit, jacked or bored under the property of the Licensor, must be identified by placing warning signs, to be installed and properly maintained at the expense of the Licensee, at each edge of the Licensor's property. The Licensee shall not utilize the signs in lieu of the warning tape where portions of the casing are installed by direct burial.

Section 3. NOTICE OF COMMENCEMENT OF WORK.

If an emergency should arise requiring immediate attention, the Licensee shall provide as much notice as practicable to Licensor before commencing any work. In all other situations, the Licensee shall notify the Licensor at least ten (10) days (or such other time as the Licensor may allow) in advance of the commencement of any work upon property of the Licensor in connection with the construction, maintenance, repair, renewal, modification, reconstruction, relocation or removal of the Wireline. All such work shall be prosecuted diligently to completion.

Section 4. LICENSEE TO BEAR ENTIRE EXPENSE.

The Licensee shall bear the entire cost and expense incurred in connection with the construction, maintenance, repair and renewal and any and all modification, revision, relocation, removal or reconstruction of the Wireline, including any and all expense which may be incurred by the Licensor in connection therewith for supervision or inspection, or otherwise.

Section 5. REINFORCEMENT, RELOCATION OR REMOVAL OF WIRELINE.

(a) The license herein granted is subject to the needs and requirements of the Licensor in the operation of its railroad and in the improvement and use of its property, and the Licensee shall, at the sole expense of the Licensee, reinforce or encase the Wireline (if it is an underground facility) to the satisfaction of the Licensor, or move all or any portion of the Wireline to such new location, as the Licensor may designate, whenever in the furtherance of its needs and requirements, the Licensor shall find such action necessary or desirable.

(b) All the terms, conditions and stipulations herein expressed with reference to the Wireline on property of the Licensor in the location hereinbefore described shall, so far as the Wireline remains on the property, apply to the Wireline as modified, changed or relocated within the contemplation of this section.

Section 6. INTERFERENCE.

In the operation and maintenance of the Wireline the Licensee shall take all suitable precaution to prevent any interference (by induction, leakage of electricity, or otherwise) with the operation of the signal, communication lines or other installations or facilities of the Licensor or of its tenants; and if, at any time, the operation or maintenance of the Wireline results in any electrostatic effects which the Licensor deems undesirable or harmful, or causes interference with the operation of the signal, communication lines or other installations or facilities, as now existing or which may hereafter be provided by the Licensor and/or its tenants, the Licensee shall, at the sole expense of the Licensee, immediately take such action as may be necessary to eliminate such interference.

Section 7. PROTECTION OF FIBER OPTIC CABLE SYSTEMS.

(a) Fiber optic cable systems may be buried on the Licensor's property. Protection of the fiber optic cable systems is of extreme importance since any break could disrupt service to users resulting in business interruption and loss of revenue and profits. Licensee shall telephone the Licensor at 1-800-336-9193 (a 24-hour number) to determine if fiber optic cable is buried anywhere on the Licensor's premises to be used by the Licensee. If it is, Licensee will telephone the telecommunications company(ies) involved, arrange for a cable locator, make arrangements for relocation or other protection of the fiber optic cable, all at Licensee's expense, and will commence no work on the right of way until all such protection or relocation has been accomplished. Licensee shall indemnify and hold the Licensor harmless from and against all costs, liability and expense whatsoever (including, without limitation, attorneys' fees, court costs and expenses) arising out of or caused in any way by Licensee's failure to comply with the provisions of this paragraph.

(b) In addition to other indemnity provisions in this Agreement, the Licensee shall indemnify and hold the Licensor harmless from and against all costs, liability and expense whatsoever (including, without limitation, attorneys' fees, court costs and expenses) caused by the negligence of the Licensee, its contractor, agents and/or employees, resulting in (1) any damage to or destruction of any telecommunications system on Licensor's property, and/or (2) any injury to or death of any person employed by or on behalf of any telecommunications company, and/or its contractor, agents and/or employees, on Licensor's property, except if such costs, liability or expenses are caused solely by the direct active negligence of the Licensor. Licensee further agrees that it shall not have or seek recourse against Licensor for any claim or cause of action for alleged loss of profits or revenue or loss of service or other consequential damage to a telecommunication company using Licensor's property or a customer or user of services of the fiber optic cable on Licensor's property.

Section 8. CLAIMS AND LIENS FOR LABOR AND MATERIAL.

(a) The Licensee shall fully pay for all materials joined or affixed to and labor performed upon property of the Licensor in connection with the construction, maintenance, repair, renewal, modification or reconstruction of the Wireline, and shall not permit or suffer any mechanic's or materialman's lien of any kind or nature to be enforced against the property for any work done or materials furnished thereon at the instance or request or on behalf of the Licensee. The Licensee shall indemnify and hold harmless the Licensor against and from any and all liens, claims, demands, costs and expenses of whatsoever nature in any way connected with or growing out of such work done, labor performed, or materials furnished.

(b) The Licensee shall promptly pay or discharge all taxes, charges and assessments levied upon, in respect to, or on account of the Wireline, to prevent the same from becoming a charge or lien upon property of the Licensor, and so that the taxes, charges and assessments levied upon or in respect to such property shall not be increased because of the location, construction or maintenance of the Wireline or any improvement, appliance or fixture connected therewith placed upon such property, or on account of the Licensee's interest therein. Where such tax, charge or assessment may not be separately made or assessed to the Licensee but shall be included in the assessment of the property of the Licensor, then the Licensee shall pay to the Licensor an equitable proportion of such taxes determined by the value of the Licensee's property upon property of the Licensor as compared with the entire value of such property.

Section 9. RESTORATION OF LICENSOR'S PROPERTY.

In the event the Licensor authorizes the Licensee to take down any fence of the Licensor or in any manner move or disturb any of the other property of the Licensor in connection with the construction, maintenance, repair, renewal, modification, reconstruction, relocation or removal of the Wireline, then in that event the Licensee shall, as soon as possible and at Licensee's sole expense, restore such fence and other property to the same condition as the same were in before such fence was taken down or such other property was moved or disturbed, and the Licensee shall indemnify and hold harmless the Licensor, its officers, agents and employees, against and from any and all liability, loss, damages, penalties, claims, demands, costs and expenses of whatsoever nature, including court costs and attorneys' fees, which may result from injury to or death of persons whomsoever, or damage to or loss or destruction of property whatsoever, when such injury, death, damage, loss or destruction grows out of or arises from the taking down of any fence or the moving or disturbance of any other property of the Licensor.

Section 10. INDEMNITY.

(a) As used in this Section, "Licensor" includes other railroad companies using the Licensor's property at or near the location of the Licensee's installation and their officers, agents, and employees; "Loss" includes loss, damage, claims, demands, actions, causes of action, penalties, costs, and expenses of whatsoever nature, including court costs and attorneys' fees, which may result from: (a) injury to or death of persons whomsoever (including the Licensor's officers, agents, and employees, the Licensee's officers, agents, and employees, as well as any other person); and/or (b) damage to or loss or destruction of property whatsoever (including Licensee's property, damage to the roadbed, tracks, equipment, or other property of the Licensor, or property in its care or custody).

(b) As a major inducement and in consideration of the license and permission herein granted, the Licensee agrees to indemnify and hold harmless the Licensor from any Loss which is due to or arises from:

1. The prosecution of any work contemplated by this Agreement including the installation, construction, maintenance, repair, renewal, modification, reconstruction, relocation, or removal of the Wireline or any part thereof; or

2. The presence, operation, or use of the Wireline or electric current conducted thereon or escaping therefrom,

except to the extent that the Loss is caused by the sole and direct negligence of the Licensor.

Section 11. REMOVAL OF WIRELINE UPON TERMINATION OF AGREEMENT.

Prior to the termination of this Agreement howsoever, the Licensee shall, at Licensee's sole expense, remove the Wireline from the property of the Licensor and restore such property to as good a condition as it was in before the Wireline was originally constructed, all to the satisfaction of the Licensor. If the Licensee fails to do the foregoing, the Licensor may perform the work of removal and restoration at the expense of the Licensee. The Licensor shall not be liable to the Licensee for any damage sustained by the Licensee as a result of the removal of the Wireline by the Licensor as in this section provided, nor shall such action prejudice or impair any right of action for damages or otherwise that the Licensor may, at the time of such removal, have against the Licensee.

Section 12. WAIVER OF BREACH.

The waiver by the Licensor of the breach of any condition, covenant or agreement herein contained to be kept, observed and performed by the Licensee shall in no way impair the right of the Licensor to avail itself of any remedy for any subsequent breach thereof.

Section 13. TERMINATION.

(a) If the Licensee does not use the right herein granted or the Wireline for one (1) year, or if the Licensee continues in default in the performance of any covenant or agreement herein contained for a period of thirty (30) days after written notice from the Licensor to the Licensee specifying such default, the Licensor may, at its option, forthwith immediately terminate this Agreement by written notice.

(b) In addition to the provisions of subparagraph (a) above, this Agreement may be terminated by written notice given by either party hereto to the other on any date in such notice stated, not less, however, than thirty (30) days subsequent to the date upon which such notice shall be given.

(c) Notice of default and notice of termination may be served personally upon the Licensee or by mailing to the last known address of the Licensee. Termination of this Agreement for any reason shall not affect any of the rights or obligations of the parties hereto which may have accrued, or liability, accrued or otherwise, which may have arisen prior thereto.

Section 14. AGREEMENT NOT TO BE ASSIGNED.

The Licensee shall not assign this Agreement, in whole or in part, or any rights herein granted, without the written consent of the Licensor, and it is agreed that any transfer or assignment or attempted transfer or assignment of this Agreement or any of the rights herein granted, whether voluntary, by operation of law, or otherwise, without such consent in writing, shall be absolutely void and, at the option of the Licensor, shall terminate this Agreement.

Section 15. SUCCESSORS AND ASSIGNS.

Subject to the provisions of Section 14 hereof, this Agreement shall be binding upon and inure to the benefit of the parties hereto, their heirs, executors, administrators, successors and assigns.

## **EXHIBIT B-1**

### **Union Pacific Railroad Company Insurance Provisions For Pipeline / Wireline / Drainage License Agreements**

Licensee shall, at its sole cost and expense, procure and maintain during the life of this Agreement the following insurance coverage:

A. **Commercial General Liability** insurance. This insurance shall contain broad form contractual liability with a single limit of at least \$2,000,000 each occurrence or claim and an aggregate limit of at least \$4,000,000. Coverage must be purchased on a post 1998 ISO or equivalent form, including but not limited to coverage for the following:

- Bodily injury including death and personal injury
- Property damage
- Fire legal liability (Not less than the replacement value of the portion of the premises occupied)
- Products and completed operations

The policy shall also contain the following endorsements **which shall be indicated on the certificate of insurance:**

- The employee and worker's compensation related exclusions in the above policy apply only to Licensee's employees
- The exclusions for railroads (except where the Job site is more than fifty feet (50') from any railroad including but not limited to tracks, bridges, trestles, roadbeds, terminals, underpasses or crossings), and explosion, collapse and underground hazard shall be removed
- Waiver of subrogation

B. **Business Automobile Coverage** insurance. This insurance shall contain a combined single limit of at least \$2,000,000 per occurrence or claim, including but not limited to coverage for the following:

- Bodily injury and property damage
- Any and all motor vehicles including owned, hired and non-owned

The policy shall also contain the following endorsements **which shall be indicated on the certificate of insurance:**

- The employee and worker's compensation related exclusions in the above policy apply only to Licensee's employees
- The exclusions for railroads (except where the Job site is more than fifty feet (50') from any railroad including but not limited to tracks, bridges, trestles, roadbeds, terminals, underpasses or crossings), and explosion, collapse and underground hazard shall be removed
- Motor Carrier Act Endorsement- Hazardous materials clean up (MCS-90) if required by law.

**C. Workers Compensation and Employers Liability insurance including but not limited to:**

- Licensee's statutory liability under the workers' compensation laws of the state(s) affected by this Agreement
- Employers' Liability (Part B) with limits of at least  
\$500,000 each accident, \$500,000 disease policy limit  
\$500,000 each employee

If Workers Compensation insurance will not cover the liability of Licensee in states that require participation in state workers' compensation fund, Licensee shall comply with the laws of such states. If Licensee is self-insured, evidence of state approval must be provided along with evidence of excess workers compensation coverage. Coverage shall include liability arising out of the U. S. Longshoremen's and Harbor Workers' Act, the Jones Act, and the Outer Continental Shelf Land Act, if applicable.

The policy shall also contain the following endorsement which shall be indicated on the certificate of insurance:

- Alternate Employer Endorsement

**D. Umbrella or Excess Policies In the event Licensee utilizes Umbrella or excess policies, these policies shall "follow form" and afford no less coverage than the primary policy.**

**Other Requirements**

- E. Punitive damage exclusion must be deleted, which deletion shall be indicated on the certificate of insurance.**
- F. Licensee agrees to waive its right of recovery, and its insurers, through policy endorsement, agree to waive their right of subrogation against Licensor. Licensee further waives its right of recovery, and its insurers also waive their right of subrogation against**
- G. Licensor for loss of its owned or leased property or property under its care, custody and control. Licensee's insurance shall be primary with respect to any insurance carried by Licensor. All waivers of subrogation shall be indicated on the certificate of insurance.**
- H. All policy(ies) required above (excluding Workers Compensation) shall provide severability of interests and shall name Licensor as an additional insured. Severability of interest and naming Licensor as additional insured shall be indicated on the certificate of insurance.**
- I. Prior to commencing the Work, Licensee shall furnish to Licensor original certificate(s) of insurance evidencing the required coverage, endorsements, and amendments. The certificate(s) shall contain a provision that obligates the insurance company(ies) issuing such policy(ies) to notify Licensor in writing of any cancellation or material alteration. Upon request from Licensor, a certified duplicate original of any required policy shall be furnished.**
- J. Any insurance policy shall be written by a reputable insurance company acceptable to Licensor or with a current Best's Insurance Guide Rating of A- and Class VII or better, and authorized to do business in the state(s) in which the service is to be provided.**



- K. Licensee **WARRANTS** that this Agreement has been thoroughly reviewed by Licensee's insurance agent(s)/broker(s), who have been instructed by Licensee to procure the insurance coverage required by this Agreement and acknowledges that Licensee's insurance coverage will be primary.
- L. The fact that insurance is obtained by Licensee or Licensor on behalf of Licensee shall not be deemed to release or diminish the liability of Licensee, including, without limitation, liability under the indemnity provisions of this Agreement. Damages recoverable by Licensor shall not be limited by the amount of the required insurance coverage.

RESOLUTION 2005-272

WHEREAS, the Grand Island Utilities Department is working with CXT Incorporated to support the expansion of their existing manufacturing plant in Grand Island; and

WHEREAS, as part of the expansion, nearly a mile of new rail spur line will be constructed by CXT to serve the increased capacity of their plant; and

WHEREAS, a fifty foot tall gantry crane will be used along the new rails to load concrete ties on to rail cars; and

WHEREAS, the existing CXT plant and the planned expansion are located in the Union Pacific rail yards on the east side of Grand Island; and

WHEREAS, the City Utilities Department has a 115,000 volt (115kV) transmission line crossing the area, which will need to be raised to provide safe clearance for the gantry crane; and

WHEREAS, since the power line work is being done on railroad property, and crosses the rail yard, Union Pacific Railroad Company requires a Wireline Crossing Agreement to allow access to and construction on their property; and

WHEREAS, the City Attorney has reviewed the proposed agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that a Wireline Crossing Agreement is hereby approved between the City and the Union Pacific Railroad Company to raise and rebuild the City's 115,000 (115kV) transmission line to provide safe clearance for the use of a fifty foot tall gantry crane by CXT Incorporated to load concrete ties on to rail cars.

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

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, September 27, 2005.

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RaNae Edwards, City Clerk

Approved as to Form	☐ _____
September 22, 2005	☐ City Attorney



# **City of Grand Island**

**Tuesday, September 27, 2005**

**Council Session**

## **Item G14**

**#2005-273 - Approving Bid Award for Contracted Snow Removal Services on City Streets for the 2005/2006 Winter Season**

**Staff Contact: Steve Riehle, City Engineer/Public Works Director**

# **Council Agenda Memo**

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

**Meeting:** September 27, 2005

**Subject:** Approving Bid Award for Snow Removal Services for the 2005/2006 Winter Season

**Item #'s:** G-14

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

## **Background**

On September 7, 2005 the Street and Transportation Division of the Public Works Department advertised for bids for Snow Removal Services for the 2005/2006 Winter Season.

## **Discussion**

One bid was received and opened on September 20, 2005. The Street and Transportation Division of the Public Works Department and the Purchasing Division of the City Attorney's Office reviewed the bid that was received. The bid was submitted in compliance with the bid request form with no exceptions. The bid is shown below.

<i><b>Bidder</b></i>	<i><b>Exceptions</b></i>	<i><b>Bid Security</b></i>	<i><b>Total Bid</b></i>
The Diamond Engineering Co. Grand Island, NE	None	NA	Trucks for Hauling Snow - \$95.00/HR Front End Loaders - \$125.00/HR Motor Graders - \$145.00/HR

There are sufficient funds in Account No. 10033502-85213 for these services.

## **Alternatives**

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

1. Approve awarding the contract for snow removal services.
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 snow removal services to The Diamond Engineering Company, of Grand Island, Nebraska.

### **Sample Motion**

Move to approve awarding contract to The Diamond Engineering Company.

*Purchasing Division of Legal Department*  
**INTEROFFICE MEMORANDUM**



Dale M. Shotkoski, Assistant City Attorney

*Working Together for a  
Better Tomorrow, Today*

**BID OPENING**

**BID OPENING DATE:** September 20, 2005 at 11:00 a.m.

**FOR:** Snow Removal Services

**DEPARTMENT:** Public Works

**ESTIMATE:**

a. Trucks for Hauling Snow	\$125.00 per hour each
b. Front End Loaders	\$125.00 per hour each
c. Motor Graders	\$145.00 per hour each

**FUND/ACCOUNT:** 10033502-85213

**PUBLICATION DATE:** September 7, 2005

**NO. POTENTIAL BIDDERS:**

**SUMMARY**

**Bidder:** The Diamond Engineering Co.  
Grand Island, NE

**Exceptions:** None

**Bid Price:**

Trucks for Hauling Snow	\$ 95.00 per hour each
Front End Loaders	\$125.00 per hour each
Motor Graders	\$145.00 per hour each

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

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

**P1017**

R E S O L U T I O N    2005-273

WHEREAS, the City of Grand Island invited sealed bids for Snow Removal Services, according to the plans and specifications on file in the office of the Public Works Department; and

WHEREAS, on September 20, 2005, one bid was received, opened and reviewed; and

WHEREAS, The Diamond Engineering Company of Grand Island, Nebraska, submitted the only bid in accordance with terms of the advertisement of bids and the plans and specifications and all other statutory requirements contained therein, such bid being as follows:

	<u>Cost Per Hour</u>
Front End Loaders	125.00
Motor Graders	145.00
Hauling Snow	95.00

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, for snow removal services in the amounts identified above is hereby approved as the lowest responsible bid submitted.

BE IT FURTHER RESOLVED, that a contract between the City and such contractor for such snow removal services be entered into, and the Mayor is hereby authorized and directed to execute such contract on behalf of the City of Grand Island.

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Adopted by the City Council of the City of Grand Island, Nebraska, September 27, 2005.

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RaNae Edwards, City Clerk



# City of Grand Island

Tuesday, September 27, 2005

Council Session

## Item G15

**#2005-274 - Approving Bid Award for Concrete Pavement Repair  
Project 2005-P-8, Northbound Lanes of US Hwy 281 - Old Potash  
to Capital Ave**

Staff Contact: Steven P. Riehle, Public Works Director



# **Council Agenda Memo**

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

**Meeting:** September 27, 2005

**Subject:** Approving Bid Award for Concrete Pavement Repair Project; 2005-P-8, Northbound Lanes of US HWY 281 from Old Potash HWY to Capital Avenue

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

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

## **Background**

The Northbound lanes of US HWY 281 from Old Potash HWY to Capital Avenue are rough and in need of repair. On July 26, 2005 the Council approved an agreement between the City of Grand Island and the Nebraska Department of Roads for these repairs. The agreement allows for the Department of Roads to be responsible for 50 percent of the repair costs up to a maximum cost of \$150,000. On September 12, 2005 the Engineering Division of the Public Works Department advertised for bids for the Concrete Pavement Repair Project, 2005-P-8.

## **Discussion**

One bid was received and opened on September 22, 2005. The Engineering Division of the Public Works Department and the Purchasing Division of the City Attorney's Office reviewed the bid that was received. The bid was submitted in compliance with the bid request form with no exceptions. The bid tabulation is shown below.

<i><b>Bidder</b></i>	<i><b>Exceptions</b></i>	<i><b>Bid Security</b></i>	<i><b>Total Bid</b></i>
The Diamond Engineering Co.	None	Universal Surety Co.	\$288,000.00

The Engineers Estimate for the project was \$300,000.00.

There are sufficient funds in Account No. 10033506-85351/85354 to fund these repairs.

## **Alternatives**

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

1. Approve awarding the contract for the concrete pavement repair project.
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 2005-P-8 to The Diamond Engineering Co., of Grand Island, Nebraska.

## **Sample Motion**

Move to approve awarding the contract to The Diamond Engineering Company.

*Purchasing Division of Legal Department*  
**INTEROFFICE MEMORANDUM**



Dale M. Shotkoski, Assistant City Attorney

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Better Tomorrow, Today*

**BID OPENING**

**BID OPENING DATE:** September 22, 2005 at 11:00 a.m.

**FOR:** Concrete Pavement Repair Project 2005-P-8

**DEPARTMENT:** Public Works

**ESTIMATE:** \$300,000.00

**FUND/ACCOUNT:** 10033506-85351 \$150,000.00  
NDOR will Cost Share at 50% \$150,000.00

**PUBLICATION DATE:** September 12, 2005

**NO. POTENTIAL BIDDERS:** 14

**SUMMARY**

**Bidder:** The Diamond Engineering Co.  
Grand Island, NE

**Bid Security:** Universal Surety Company

**Exceptions:** None

**Bid Price:** \$288,000.00

cc: Steve Riehle, Public Works Director Bud Buettner, Assist. Public Works Director  
Danelle Collins, Admin. Public Works Assist. Gary Greer, City Administrator  
Dale Shotkoski, Purchasing Agent Laura Berthelsen, Legal Assistant

**P1023**

R E S O L U T I O N    2005-274

WHEREAS, the City of Grand Island invited sealed bids for Concrete Pavement Repair Project 2005-P-8 for the northbound lanes of U.S. Highway 281 from Old Potash Highway to Capital Avenue, according to plans and specifications on file with the City Engineer; and

WHEREAS, on September 22, 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 \$288,000; and

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

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 \$288,000 for Concrete Pavement Repair Project 2005-P-8 for the northbound lanes of U.S. Highway 281 from Old Potash Highway to Capital Avenue is hereby approved as the lowest responsible bid.

BE IT FURTHER RESOLVED, that a contract between the City and such contractor for such project be entered into, and 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, September 27, 2005.

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RaNae Edwards, City Clerk

Approved as to Form <input type="checkbox"/> _____ September 22, 2005 <input type="checkbox"/> City Attorney
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# **City of Grand Island**

**Tuesday, September 27, 2005**

**Council Session**

## **Item G16**

**#2005-275 - Approving Off-Road Diesel Fuel Purchase for the  
Solid Waste Division Landfill**

**Staff Contact: Steve Riehle, City Engineer/Public Works Director**

# **Council Agenda Memo**

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

**Meeting:** September 27, 2005

**Subject:** Approving Off-Road Diesel Fuel Purchase for the Solid Waste Division Landfill

**Item #'s:** G-16

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

## **Background**

On September 7, 2005 the Solid Waste Division of the Public Works Department obtained three quotes for 10,000 gallons of off-road diesel fuel. The price of the diesel at the time the quotes were received exceeded the \$20,000 purchase order approval limit.

## **Discussion**

Three vendors were solicited: Sapp Brothers & Aurora Coop of Grand Island and Fauscer Energy of Lincoln, NE. The quotes that were received were:

Sapp Brothers \$2.29/gallon  
Aurora Coop was \$2.308/gallon  
Fauscer Energy did not submit a bid

## **Alternatives**

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

1. Approve the purchase of the off-road fuel.
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 purchasing off-road fuel from Sapp Brothers.

## **Sample Motion**

Move to approve purchasing the off-road fuel.

RESOLUTION 2005-275

WHEREAS, the Solid Waste Division of the Public Works Department solicited quotes for 10,000 gallons of off-road diesel fuel; and

WHEREAS, Sapp Brothers of Grand Island, Nebraska, submitted a quote for such fuel, such quote being in the amount of \$2.29 per gallon; and

WHEREAS, it is recommended that Sapp Brothers be approved to provide such diesel fuel at the above-stated price.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the quote of Sapp Brothers of Grand Island, Nebraska for 10,000 gallons of off-road diesel fuel is hereby approved as the best quote received.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, September 27, 2005.

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RaNae Edwards, City Clerk



# City of Grand Island

Tuesday, September 27, 2005

Council Session

## Item G17

**#2005-276 - Approving Amendment No. 3 to the Agreement with Olsson Associates for Consulting Engineering Services on the Westridge Detention Cell**

Staff Contact: Steven P. Riehle, City Engineer/Public Works Direc



# **Council Agenda Memo**

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

**Meeting:** September 27, 2005

**Subject:** Approving Amendment No. 3 to the Agreement with Olsson Associates for Consulting Engineering Services on the Westridge Detention Cell

**Item #'s:** G-17

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

## **Background**

Any amendments to the agreement must be approved by the City Council. An agreement with Olsson Associates was approved by the City Council on October 23, 2001. The agreement was for performing design services related to the construction of the Westridge Detention Cell and the extension of Independence Avenue from Manchester Avenue down to 13<sup>th</sup> Street.

## **Discussion**

The Westridge Detention Cell was excavated by the contractor for the developer of the Grand West Subdivisions. Street Improvement District No. 1255 will pave Independence Avenue between 13<sup>th</sup> Street and Shanna Street as well as the unpaved sections of Shanna Street. The completion of District 1255 will help traffic flow in the neighborhood by improving the inter-connectivity of the streets. The project to pave Independence Avenue between Shanna Street and Manchester Avenue (behind Westridge Middle School) is currently planned for the 2007 fiscal year. The cell is currently scheduled for improvements as part of the 2007 project.

The planning and design of improvements to the cell needs to proceed. This will ensure the detention cell will be a neighborly friendly cell with improvements such as drainage channel improvements, sprinkler system, landscaping, etc.

An amendment to the agreement based on actual costs with a maximum dollar amount of \$36,520 was negotiated with Olsson Associates to perform design engineering and construction observation work on the detention cell.

## **Alternatives**

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

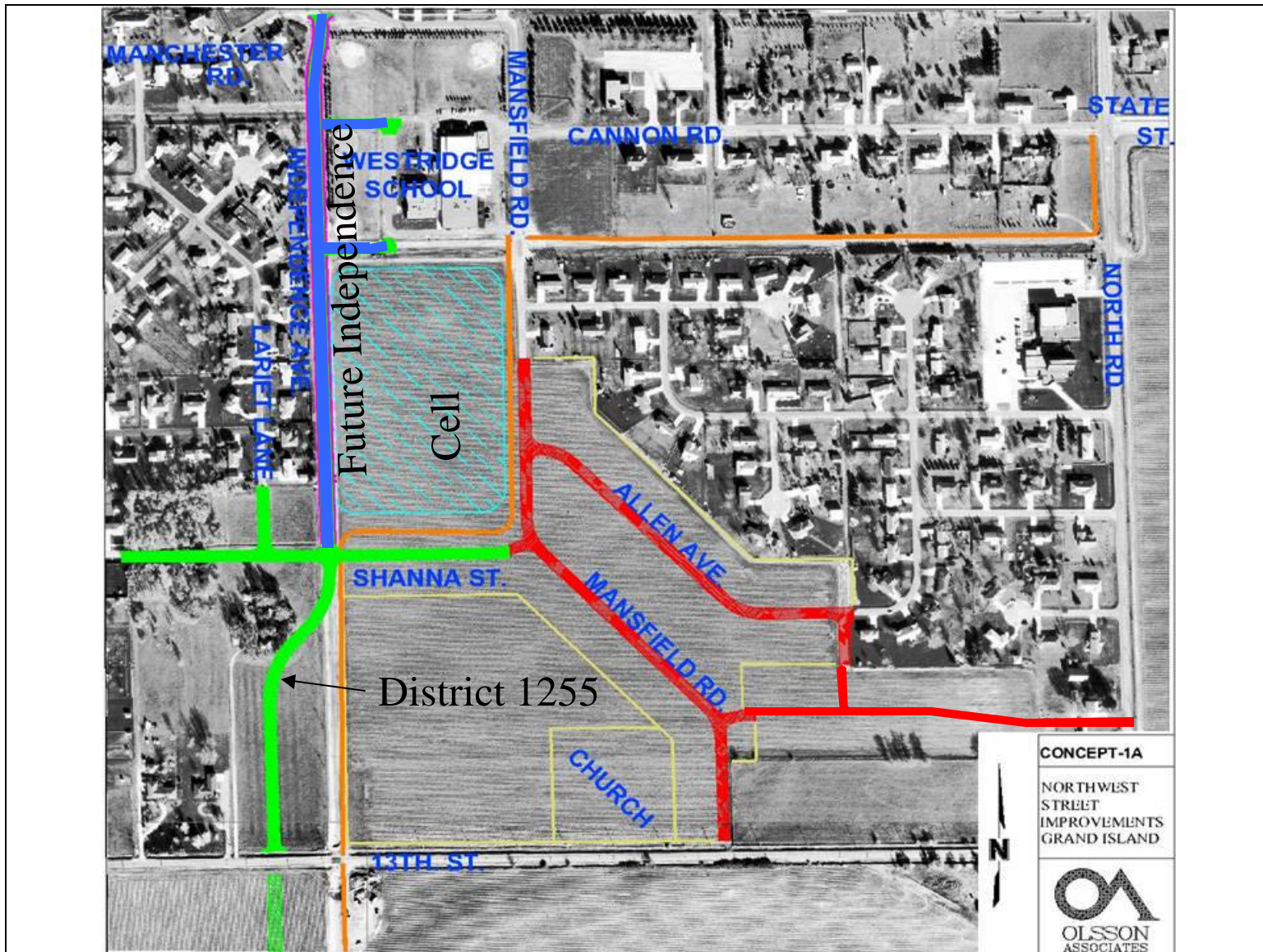
1. Make a motion to approve Amendment No. 3 to the agreement with Olsson Associates.
2. Refer the issue to a Committee.
3. Postpone the issue to future date.
4. Take no action on the issue.

## **Recommendation**

City Administration recommends that the Council pass a resolution authorizing the Mayor to execute the Amendment to the Agreement.

## **Sample Motion**

Approve Amendment No. 3 to the Agreement with Olsson Associates for Consulting Engineering Services on the Westridge Detention Cell





**OLSSON ASSOCIATES**  
ENGINEERS • PLANNERS • SCIENTISTS • SURVEYORS

### 3rd AMENDMENT TO CONTRACT FOR ENGINEERING SERVICES

THIS AMENDMENT TO LETTER AGREEMENT, made as of the 20th day of September 2005, by and between the City of Grand Island, Nebraska (Client) and Olsson Associates (OA), WITNESSETH, That whereas the Client intends to complete the Design Modifications and Construction Management for which services were provided under the contract between the City of Grand Island and Olsson Associates dated 23 October 2001, amended 11 June 2002 and 8 March 2005. Fees for the Design Modifications on the Westridge Detention Cell and Construction Administration Services for the Project are hereby added to the agreement in accordance with the letter of agreement and Phases IV & VI, of Exhibit A. Said Additional Services shall be provided as set forth in the Letter Agreement.

#### **Scope of Services:**

1. OA has acquainted itself with the information provided by Client relative to the Project and based upon such information, offers to provide the services described for the Project.

The Scope of Services will include:

#### **Phase IV: Design Services**

- OA will coordinate with the Representatives of the City of Grand Island in the development of the design modifications and construction services of the detention cell.
- OA shall complete the design modifications of the proposed Westridge Detention Cell upon the selection of the preferred option by the City and accepted by the Grand Island School District.
- OA shall prepare detailed drawings and contract documents completely describing the items of work required for the construction of the detention Cell. Construction Plans and Contract Documents will be submitted to the City for review and approval.

#### **Phase VI: Construction Services**

The Scope of Services as outlined in Phase VI of Exhibit "A" shall include construction staking, construction observation, material testing, and contract administration for construction of Westridge Detention Cell. This work shall also include shop drawing review, and preparation of record drawings following completion of construction.

## **Compensation**

### 1. Estimated Fee:

Design Modifications	\$10,940
Construction Staking	\$5,160
Construction Administration	\$5,275
Construction Observation	\$13,395
Construction Testing	\$1,750

Fees are based on our Direct Labor Costs times a factor of 2.5 for services rendered by our principals, and employees engaged directly on the Project, not to exceed the maximum limits stated above.

### 2. Billings will be submitted and payable monthly in accordance with the original agreement.

## **SCHEDULE FOR OA'S SERVICES:**

Unless otherwise agreed, OA would expect to begin performing its services under this Agreement promptly upon your signing.

Anticipated Start Date: October 1, 2005

Anticipated Completion Date: July 30, 2006

Accepted this \_\_\_\_\_ day of

\_\_\_\_\_, 2005

**OLSSON ASSOCIATES**

By   
Kevin L. Prior

Vice President

**CITY OF GRAND ISLAND**

By \_\_\_\_\_  
Jay Vavricek

Title Mayor

ATTEST:

APPROVED AS TO FORM:

By \_\_\_\_\_  
RaNae Edwards

\_\_\_\_\_  
Doug Walker

Title City Clerk

Title City Attorney

G:\Office\PROPOSAL\Grand Island\IndependenceAve\Construction\westridge Detention Cell Design09-2005.doc

Date: 19-Sep-05  
Job: Independence-Const. Management  
File: F:\Office\Proposal\Grandstand\Independence\Construction\Westridge\DetentionConst05-05

Phase/ Task	Description of Work	TOTAL MAN- DAYS	LABOR (Hrs)										EXPENSES (\$)										TOTAL EXPENSE FEE	TOTAL FEE																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																														
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RESOLUTION 2005-276

WHEREAS, on October 23, 2001, by Resolution 2001-296, the City Council for the City of Grand Island awarded the proposal for conceptual engineering design work on street and safety improvements in the northwest area of Grand Island to Olsson Associates of Grand Island, Nebraska; and

WHEREAS, such work including the design services related to the construction of the Westridge Detention Cell and the extension of Independence Avenue from Manchester Avenue to 13<sup>th</sup> Street; and

WHEREAS, it is suggested that the City proceed with the planning and design of improvements to the Westridge Detention Cell which will include drainage channel improvements, sprinkler system, landscaping, etc.; and

WHEREAS, due to Olsson Associates' knowledge and experience working on this project, it is recommended that they continue providing engineering work to final completion of the project; and

WHEREAS, Olsson Associates is willing to perform design engineering and construction observation work on the detention cell for this phase of the project at a cost not to exceed \$36,520; and

WHEREAS, the Amendment to Contract for Engineering 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 Mayor be, and hereby is, authorized and directed to execute Amendment No. 3 to Contract for Engineering Services between the City of Grand Island and Olsson Associates to provide design engineering services and construction observation work on the Westridge Detention Cell for an amount not to exceed \$36,520.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska on September 27, 2005.

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RaNae Edwards, City Clerk

Approved as to Form	☐ _____
September 22, 2005	☐ City Attorney



# City of Grand Island

Tuesday, September 27, 2005

Council Session

## Item G18

**#2005-277 - Approving Contract with McCarthy Group Advisors,  
L.L.C. for Management Services on Police and Fire Administration**

Staff Contact: David Springer



# **Council Agenda Memo**

**From:** Dave Springer, Finance Director

**Meeting:** September 27, 2005

**Subject:** Approving Contract with McCarthy Group Advisors,  
L.L.C. for Investment Advisory Services

**Item #'s:** G-18

**Presenter(s):** Dave Springer, Finance Director

## **Background**

The City has investments with Smith Hayes Financial Services in Omaha which serve as reserves for pre 1984 police and fire employees who participate in a defined benefit retirement plan. The management of these investments has been done by Rod Cerny of Kirkpatrick Pettis Investment Management (KPIM). KPIM has recently merged with Davidson Investment Advisors. Mr. Cerny has left KPIM to take a similar position with McCarthy Group Advisors.

## **Discussion**

Under Mr. Cerny's stewardship, the City's investments have appreciated nearly 8% a year through the last five years, for a net return of over three million dollars, while the S&P500 average was negative. Thus, the value investment disciplines Mr. Cerny employs have substantially out performed the peer group and marketplace. The City's investment consultant at Smith Hayes, Terence Millard, has done due diligence and met with both the Davidson investment team and the McCarthy Group. While very capable, the performance history of the Davidson firm does not match that of Mr. Cerny. As our consultant with Smith Hayes, Mr. Millard recommends that the City continue to utilize Rod Cerny's services at the McCarthy Group and is making that recommendation to all their other clients as well. Whether Mr. Cerny is retained or not, the City's account will continue to be administered under the custody of Smith Hayes.

## **Alternatives**

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

1. Approve the contract with McCarthy Group Advisors.
2. Disapprove the contract.
3. Table the issue

### **Recommendation**

City Administration recommends that the Council approve the contract with the McCarthy Group Advisors and retain Rod Cerny as investment manager.

### **Sample Motion**

Approve the contract with McCarthy Group Advisors.

RESOLUTION 2005-277

WHEREAS, the City has investments with Smith Hayes Financial Services in Omaha, Nebraska, which serve as reserves for pre-1984 police and fire employees who participate in a defined benefit retirement plan; and

WHEREAS, the management of the investments has been done by Rod Cerny or Kirkpatrick Pettis Investment Management; and

WHEREAS, Kirkpatrick Pettis Investment Management was recently merged with Davidson Investment advisors; and

WHEREAS, Mr. Cerny left Kirkpatrick Pettis Investment Management to take a similar position with McCarthy Group Advisors; and

WHEREAS, due to Mr. Cerny's knowledge, expertise, and success in managing the City's investments, it is recommended that Mr. Cerny continue to be retained by the City for such services.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that Rod Cerny of McCarthy Group Advisors is hereby retained as investment manager to manage the investments for the pre-1984 police and fire employees who participate in a defined benefit retirement plan.

BE IT FURTHER RESOLVED, that a contract with McCarthy Group Advisors be entered into for such investment advisory services, and 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, September 27, 2005.

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RaNae Edwards, City Clerk



# **City of Grand Island**

**Tuesday, September 27, 2005**

**Council Session**

## **Item G19**

**#2005-278 - Approving Amendment to the Cafeteria Plan with  
McDermott & Miller**

**Staff Contact: Brenda Sutherland**

# **Council Agenda Memo**

**From:** Brenda Sutherland, Human Resources Director

**Meeting:** September 27, 2005

**Subject:** Cafeteria Plan Amendment

**Item #'s:** G-19

**Presenter(s):** Brenda Sutherland, Human Resources Director

## **Background**

The City of Grand Island provides a section 125 cafeteria plan for its employees to set pre-tax dollars aside for reimbursable medical expenses. Currently the cafeteria plan is administered by McDermott & Miller, P.C.

## **Discussion**

Due to a recent change in tax legislation, the City is able to allow its employees a grace period for the medical and dependent care reimbursement portion of the City's cafeteria plan. An amendment to the plan would allow City employees a grace period that would extend until March 15<sup>th</sup> of the following plan year. Currently, if an employee has any money left in their account that they have not used by the December 31, 2005, they would lose those dollars. This amendment would allow employees more time to get their cafeteria dollars spent.

## **Alternatives**

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

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

## **Recommendation**

City Administration recommends that the Council approve the amendment to the current cafeteria contract.

## **Sample Motion**

Motion to approve the amendment to the current cafeteria plan.

RESOLUTION 2005-278

WHEREAS, on June 14, 1999, by Resolution 99-191, the City of Grand Island approved McDermott & Miller of Grand Island, Nebraska of being the Section 125 Plan Administrator for the Cafeteria Plan Services; and

WHEREAS, the current plan covers both health insurance premiums and medical and dependent care reimbursement; and

WHEREAS, due to a recent change in tax legislation, the City is able to allow its employees a grace period of the medical and dependent care reimbursement portion of the City's cafeteria plan; and

WHEREAS, an amendment to the plan would allow City employees a grace period that would extend until March 15<sup>th</sup> of the following plan year, and would allow more time for employees to spend money set aside in their cafeteria plan; and

WHEREAS, the proposed amendment 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 proposed amendment to the Cafeteria Plan is hereby approved to allow a grace period until March 15<sup>th</sup> of the following plan year to spend money set aside in employee cafeteria plans.

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

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, September 27, 2005.

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RaNae Edwards, City Clerk



# City of Grand Island

Tuesday, September 27, 2005

Council Session

## Item G20

**#2005-279 - Approving Acquisition of Library Building Addition  
from the Library Facilities Corporation**

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

Staff Contact: Doug Walker



RESOLUTION 2005-279

BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, as follows:

Section 1. The Mayor and Council hereby find and determine that the City proposes to acquire from Grand Island Facilities Corporation an addition to its existing library facilities pursuant to a Lease Purchase Agreement and has pursuant to the requirements of Section 18-1755, R.R.S., Neb. 1997, as amended, published notice and held a hearing on such acquisition.

Section 2. The Mayor and Council hereby further find and determine, after hearing all persons desiring to be heard concerning such acquisition, that the City should proceed with such acquisition.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, September 27, 2005.

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RaNae Edwards, City Clerk



# City of Grand Island

Tuesday, September 27, 2005

Council Session

## Item G21

**#2005-280 - Approving Request for Purchase of iSeries Model 520 Express System to Replace Existing AS400 eSeries Model 9406-600**

Staff Contact: Dave Springer

# **Council Agenda Memo**

**From:** Carl Hurd, Information Technology Manager  
David Springer, Finance Director

**Meeting:** September 27, 2005

**Subject:** Approving Request for Purchase of IBM iSeries Model 520 Express System to Replace Existing AS400 eSeries Model 9406-600.

**Item #'s:** G-21

**Presenter(s):** David Springer, Finance Director  
Carl Hurd, Information Technology Manager

## **Background**

Our existing AS400 is a Model 9406-600 and was purchased in January 1998 for an amount of \$116,000. The IBM Disaster recovery contract expired on our existing AS400 July of this year. We have been granted a six month extension to give us time to purchase a new system. The AS400 system is the platform that supports Utility Billing, Special Assessments, Building Permits, Utility Work Orders and Backflow Prevention Applications.

## **Discussion**

This will be purchased from Pinnacle Business System, Inc. Edmond Oklahoma. They are the State of Nebraska Contract holder #10809 OC for IBM equipment.

## **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 State Contract purchase in the amount of \$32,765.01.
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 this IBM iSeries Model 520 Express System.

### **Sample Motion**

Approve request to purchase IBM iSeries Model 520 Express System in the amount of \$32,765.01.

R E S O L U T I O N    2005-280

WHEREAS, the City of Grand Island uses an AS400 computer system to process utility billing, special assessments, building permits, utility work orders and backflow prevention applications; and

WHEREAS, the City's existing AS400 computer system is outdated and the IBM disaster recovery contract expired in July of this year; and

WHEREAS, a 6-month extension has been granted to allow the City to purchase a new AS400 computer system; and

WHEREAS, a new AS400 computer system can be purchased from the state contract holder; and

WHEREAS, purchasing the computer system from the state contract holder meets all statutory bidding requirements.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the purchase of IBM iSeries Model 520 Express System to replace existing AS400 eSeries Model 9406-600 from Pinnacle Business System, Inc. of Edmond, Oklahoma, the state contract holder, in the amount of \$32,765.01 is hereby approved.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, September 27, 2005.

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RaNae Edwards, City Clerk



# **City of Grand Island**

**Tuesday, September 27, 2005**

**Council Session**

## **Item G22**

**#2005-281 - Approving 2nd Amendment for the Heartland Public Shooting Park**

**Staff Contact: Steve Paustian**

# **Council Agenda Memo**

**From:** Steve Paustian, Park and Recreation Director

**Meeting:** September 27, 2005

**Subject:** Approving 2<sup>nd</sup> Amendment for the Heartland Public Shooting Park

**Item #'s:** G-22

**Presenter(s):** Steve Paustian, Park and Recreation Director

## **Background**

The City currently has an agreement with the Grand Island Skeet and Sporting Clays club to manage the day to day operations of the shooting facility.

## **Discussion**

The agreement before you allows for the transfer of the day to day operation and associated responsibilities from the Grand Island Skeet and Sporting Clays Club to the City 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
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 amendment to the original agreement.

## **Sample Motion**

Motion to approve the 2<sup>nd</sup> amendment to the agreement for the Heartland Public Shooting Park.



**SECOND AMENDMENT  
TO  
AGREEMENT BETWEEN  
CITY OF GRAND ISLAND, NEBRASKA  
AND  
THE GRAND ISLAND SKEET AND SPORTING CLAYS CLUB, INC.  
D/B/A THE HEARTLAND PUBLIC SHOOTING PARK**

The City of Grand Island and the Heartland Public Shooting Park, having previously entered into an agreement pertaining to the use of funds, construction, improvements and management of city property for skeet, trap and sporting clays at the city facility, agree that as of October 1, 2005, all previous agreements in regards to management and operation shall be amended due to the continuation of improvements being made at the facility.

It is agreed by the parties that as of October 1, 2005, that the City of Grand Island will assume responsibility for the management of the facility. It is also recognized by the parties to the agreement that the official name of the Heartland Public Shooting Park organization is currently the Grand Island Skeet and Sporting Clays Club, Inc. d/b/a The Heartland Public Shooting Park, which corrects the misrepresentation contained in the first amendment to the original contract.

The City of Grand Island, recognizing that the knowledge and expertise of many members of the Heartland Public Shooting Park has been a valuable part of the construction and improvements for the facility, will agree to allow the Heartland Public Shooting Park to serve as an advisory board for the City Parks and Recreation Department Director and Shooting Park Superintendent as to the needs and future operation of the facility. It is further recognized between the parties that as the activities continue to expand at the facility, it is anticipated that members of other disciplines, such as rifle, archery, pistol and camping and any others that may be developed, will also be asked to serve in a joint advisory committee for the overall operation and continued success of the facility.

The Heartland Public Shooting Park shall serve as a consultant to the City of Grand Island and as such, shall continue to assist and cooperate in the operation of the facility. The Heartland Public Shooting Park shall receive as compensation for its services \$1.50-\$3.00 per round shot by its members, identified by a list to be compiled by the Board of Directors of the Heartland Public Shooting Park and to be furnished to the City of Grand Island. The Heartland Public Shooting Park, recognizing that government funds have been used for the improvements at the facility, shall continue in its commitment to the city to comply with all state and federal laws and agrees to keep its membership open, non-discriminatory and available to all who can abide by the by-laws and rules of the organization.

All sections of the previous contract and agreement between the City of Grand Island and the Heartland Public Shooting Park relating to the management of the facility shall be deleted by this agreement. It is further understood that all other sections of the previous agreement and

amendment, including the repayment to the City of Grand Island the amount of \$100,000 shall remain in full force and effect.

Either party may commence proceedings in any court having proper jurisdiction to adjudicate the rights and obligations of the parties thereto.

This agreement shall be reviewed every year, at least thirty days prior to October 1, and may be amended by mutual agreement. Each party shall have the right to terminate the contract upon providing at least thirty (30) days written notice to the other party. Said notice to the Grand Island Skeet & Sporting Clays Club, Inc. d/b/a Heartland Public Shooting Park shall be sent to Kent Coen, President, PO Box 1117, Grand Island, NE 68802. Notice to the City of Grand Island shall be sent to City Parks and Recreation Director, PO Box 1968, Grand Island, NE 68802.

**GRAND ISLAND SKEET & SPORTING CLAYS CLUB, INC., d/b/a  
HEARTLAND PUBLIC SHOOTING PARK,**

By:\_\_\_\_\_ Date:\_\_\_\_\_  
L. Kent Coen, President

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

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

Attest:\_\_\_\_\_  
RaNae Edwards, City Clerk

The Assignment and Amendment is in due form according to law and hereby approved.

By:\_\_\_\_\_ Date:\_\_\_\_\_  
Dale M. Shotkoski, Assistant City Attorney

R E S O L U T I O N    2005-281

WHEREAS, on March 9, 2004, by Resolution 2004-46, the City Council of the City of Grand Island approved an Agreement with the Grand Island Skeet & Sporting Clays Club, Inc. of Grand Island, Nebraska ("Skeet Club") to assist in the development, improvements, and maintenance of a shooting sports facility at the former Cornhusker Army Ammunition Plant site; and

WHEREAS, the Skeet Club notified the City that it intended to clarify its official name to the Grand Island Skeet & Sporting Clays Club, Inc., of Grand Island, Nebraska, doing business as the Heartland Public Shooting Park; and

WHEREAS, on September 28, 2004, by Resolution 2004-243, the City Council of the City of Grand Island approved an Assignment and Amendment to the Agreement with the Grand Island Skeet and Sporting Clays Club, Inc. to assign the terms of the agreement to allow the Skeet Club to provide management for the shooting sports facility; and

WHEREAS, the Skeet Club recently expressed interest in the City taking over such management responsibilities of the facility; and

WHEREAS, as a result, the City hired Mick Bresley as Shooting Range Superintendent to oversee management of the Heartland Public Shooting Park facility; and

WHEREAS, it is now necessary to amend such agreement with the Skeet Club to reflect the City taking over management of the facility.

WHEREAS, such amendment 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 2<sup>nd</sup> Amendment to Agreement by and between the City and the Grand Island Skeet & Sporting Clays Club, Inc. of Grand Island, Nebraska, doing business as the Heartland Public Shooting Park to allow the City of Grand Island to take over management services at the shooting sports facility is hereby approved.

BE IT FURTHER RESOLVED, that the Mayor is hereby authorized and directed to execute such 2<sup>nd</sup> Amendment to Agreement on behalf of the City of Grand Island.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, September 27, 2005.

Approved as to Form <input type="checkbox"/> _____ September 22, 2005 <input type="checkbox"/> City Attorney
-----------------------------------------------------------------------------------------------------------------

RaNae Edwards, City Clerk



# **City of Grand Island**

**Tuesday, September 27, 2005**

**Council Session**

## **Item G23**

**#2005-282 - Approving Amending the 2005-2006 Fee Schedule**

**Staff Contact: David Springer**

# **Council Agenda Memo**

**From:** Steve Paustian, Park and Recreation Director

**Meeting:** September 27, 2005

**Subject:** Approving Amending 2005-2006 Fee Schedule

**Item #'s:** G-23

**Presenter(s):** Steve Paustian, Park and Recreation Director

## **Background**

The City is in the process of developing a shooting park. Effective October 1, 2002 the City will take over all day to day management responsibilities.

## **Discussion**

As part of the transition to a City operated facility it is necessary for Council to adopt a fee schedule permitting staff to collect fees for the use of the shooting facility.

## **Alternatives**

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

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

## **Recommendation**

City Administration recommends that the Council approve the fee schedule as presented.

## **Sample Motion**

Motion to adopt fee schedule.

Fee Schedule for 2006				
Name	2003	2004	2005	2006
<b>HEARTLAND PUBLIC SHOOTING PARK</b>				
The Parks & Recreation Director shall establish fees for miscellaneous merchandise sales, tournament and league play, and special events and promotions.				
Skeet/trap per round (25 targets/round)				5.00
Skeet/Trap Punch Card rate - 12 rounds @ 4.34/round				55.00
Skeet/Trap - Youth Rate (age 18 & under)				2.50
Sporting Clays per round (50 targets/round)				15.00
Sporting Clays - Punch Card rate - 5 rounds @ 13.27/round				70.00
Sporting Clays - Youth Rate (age 18 & under)				7.50

RESOLUTION 2005-282

WHEREAS, on July 26, 2005, by Resolution 2005-207, the City of Grand Island approved and adopted fees for items and services to be provided during the 2005-2006 fiscal year; and

WHEREAS, it is necessary to amend such fee schedule to implement fees for the Heartland Public Shooting Sports Park as identified on Exhibit "A" attached hereto and incorporated herein by this reference; and

WHEREAS, such fees will be in conjunction with the City Parks and Recreation Department taking over management of such facility; and

WHEREAS, it is recommended that such amendment be approved and adopted.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the Fee Schedule is hereby amended to implement the fees identified in Exhibit "A" attached hereto, effective October 1, 2005.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, September 27, 2005.

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RaNae Edwards, City Clerk





# **City of Grand Island**

**Tuesday, September 27, 2005**

**Council Session**

## **Item H1**

**Approving Appointment of Steve Lamken as Police Chief**

**Staff Contact: Brenda Sutherland**

# **Council Agenda Memo**

**From:** Brenda Sutherland, Human Resources Director

**Meeting:** September 27, 2005

**Subject:** Appointment of Police Chief

**Item #'s:** H-1

**Presenter(s):** Brenda Sutherland

## **Background**

The City's current Chief of Police, Kyle Hetrick, tendered his resignation due to retirement on June 28, 2005. His last day as Chief of Police will be October 16, 2005. At that time the Mayor asked the Civil Service to begin the process of advertising and testing so that a new police chief could be appointed. The Civil Service met on numerous occasions to approve the posting of the position, the testing process and finally to certify the test results and to send forward three names with the highest test scores to the Mayor as eligible for appointment. The testing process involved a written exam and oral evaluations by a committee consisting of Mark McCue, Don Smith, Jerry Watson and Brenda Sutherland.

The three finalists that were interviewed by the Mayor, City Administrator and Human Resources Director were Steven Lamken, Kevin Lindsey and Michael Smitley. The final candidate chosen by the Mayor for appointment underwent professional and criminal background checks as well as a psychological examination.

## **Discussion**

The Mayor has chosen Steven Lamken to be appointed as the new Chief of Police. Should the Council approve his appointment his employment would begin on October 17, 2005.

Mr. Lamken is currently the Director of the Nebraska Law Enforcement Training Center in Grand Island. He has been the Director since 1996. Prior to that he was the Chief of Police from '87 – '96 in Kearney and the Chief of Police in Ogallala from '84 – '87. He has been employed in the law enforcement field for 34 years. He has a B.A. in Sociology and a M.A. in Adult Education.

## **Alternatives**

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

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

## **Recommendation**

City Administration recommends that the Council approve the appointment of Steven Lamken as Chief of Police upon Chief Hetrick's retirement.

## **Sample Motion**

Motion to approve Steven Lamken as the next Chief of Police.



# City of Grand Island

Tuesday, September 27, 2005

Council Session

## Item J1

### **Approving Payment of Claims for the Period of September 14, 2005 through September 27, 2005**

*The Claims for the period of September 14, 2005 through September 27, 2005 for a total amount of \$3,740,734.93. A MOTION is in order.*

Staff Contact: RaNae Edwards