



City of Grand Island

Tuesday, October 10, 2006

Council Session

Item G23

#2006-305 - Approving Cleburn Well Superfund Site Public Right-of-Way Access Agreement

Staff Contact: Gary R. Mader; DaleShotkoski

Council Agenda Memo

From: Gary R. Mader, Utilities Director
Steve Riehle, Public Works Director
Dale Shotkoski, Interim City Attorney

Meeting: October 10, 2006

Subject: Cleburn Well Superfund Site
Agreement for Entry to Property

Item #'s: G-23

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

Background

In the mid 80's, routine sampling by the Water Department revealed the presence of Volatile Organic Compound (VOC) ground water contamination in the central part of the City, in the areas around 4th and Eddy. Subsequent investigation defined the contamination area and ultimately resulted in the installation of a ground water remediation system utilizing wells to pump contaminated water to a cleaning system using an air stripping process. That remediation system has been in service since 1998.

Discussion

The EPA requests that the City grant access to public right-of-way in the area of the Cleburn Well Superfund remediation facilities. That access would be used by EPA contractors to extract samples of soils and groundwater to be tested in order to monitor the progress of the remediation program. Most of the sampling would be done using geoprobe equipment, but there may be a need to install permanent monitoring wells in some locations. If monitoring wells are required, EPA would abide by the City's current License Agreement process for locating those and installing them in the Public Right-of-Way. The testing is scheduled for later this fall.

Alternatives

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

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

Recommendation

City Administration recommends that the Council approve the “Agreement to Allow Entry to Property for Environmental Response Actions”.

Sample Motion

Motion to approve the “Agreement to Allow Entry to Property for Environmental Response Actions”.

AGREEMENT TO ALLOW ENTRY TO PROPERTY
FOR ENVIRONMENTAL RESPONSE ACTIONS AT
CLEBURN STREET WELL SUPERFUND SITE

1. ENTRY

The City of Grand Island ("Grantor"), pursuant to the terms of this Agreement, hereby knowingly consents to and authorizes the United States Environmental Protection Agency ("EPA"), its employees, authorized representatives, agents, and contractors to enter upon and perform environmental response actions upon certain property described below that is part of the Cleburn Street Well Superfund Site. The authority for entry upon the property is pursuant to Section 104(e) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. § 9604(e) *et seq.*, as amended by the Superfund Amendment and Reauthorization Act of 1986 ("CERCLA").

2. DESCRIPTION

The Property that is the subject of this Agreement includes city easements and rights of way in Grand Island, Nebraska.

3. PURPOSE OF ENTRY

The EPA has requested that Grantor allow EPA and its representatives access to the Property to conduct sampling activities and groundwater monitoring well installation and inspection. The EPA agrees to comply with the substantive provisions of the license agreement process of the Grantor (excluding payment of fees). The license agreement process includes the installation of groundwater monitoring wells within the city limits. The activities to be performed by EPA may include:

A. The performance of a geoprobe survey involving the installation of small, temporary boreholes into the subsurface to allow the collection of soil, soil gas and groundwater samples.

B. The installation of new groundwater monitoring wells. New wells that are installed will be flush mounted with the ground elevation.

C. The monitoring and maintenance of the new wells. This will include the periodic collection of groundwater samples.

4. SPLIT SAMPLES

Grantor acknowledges that EPA offered to provide a portion or duplicate of each sample collected by EPA (split sample) to Grantor. Grantor ACCEPTS/DECLINES (circle one) EPA's offer of split samples.

5. AGREEMENT

A. Grantor agrees to allow the EPA, its employees, contractors and other representatives to enter the Property for purposes of conducting the actions described in Paragraph 3 above.

B. Grantor agrees not to interfere or tamper with any of the activities or work done or equipment described herein, or to undertake any actions regarding the use of said Property which would tend to endanger the health or welfare of the EPA or the environment, or to allow others to use the Property in such a manner, during the term of this Agreement.

C. EPA agrees to take reasonable measures to leave the Property in a condition substantially similar to the condition the Property was in immediately prior to EPA's entry.

D. Grantor agrees to notify EPA of any existing easement or license granted with respect to the Property prior to the date of the Agreement. EPA agrees not to interfere with said easement or license without the consent of the party who granted the easement or license.

6. TERM OF AGREEMENT

This Agreement shall become effective on the date it is signed by EPA, who will sign after the Grantor signs, and shall be effective until EPA notifies Grantor that access is no longer necessary to perform response actions at the Cleburn Street Well Superfund Site.

For Grantor City of Grand Island, Nebraska

Jay Vavricek
Mayor of City of Grand Island, Nebraska

Date: _____

For the United States Environmental Protection Agency

Audrey Asher, Esq.
Senior Assistant Regional Counsel – EPA Region 7

Date: _____

RESOLUTION 2006-305

WHEREAS, in the mid 1980's, testing done by the city's Water Department revealed the presence of Volatile Organic Compound (VOC) ground water contamination, resulting in the installation of a ground water remediation system by the Environmental Protection Agency in 1998; and

WHEREAS, the Environmental Protection Agency is requesting access to the public right-of-way in the area of the Cleburn Well Superfund remediation facilities to extract samples of soils and groundwater in order to monitor the progress of the remediation program; and

WHEREAS, an agreement has been drafted and reviewed and approved by the City Attorney's Office.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the Agreement to Allow Entry to Property for Environmental Response Actions at Cleburn Street Well Superfund Site between the United States Environmental Protection Agency and the City of Grand Island is hereby approved.

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

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Adopted by the City Council of the City of Grand Island, Nebraska, _____, 2006.

Jay Vavricek, Mayor

Attest:

RaNae Edwards, City Clerk

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| Approved as to Form | ☐ _____ |
| October 6, 2006 | ☐ City Attorney |