



City of Grand Island

Tuesday, February 12, 2008

Council Session

Item G21

**#2008-48 - Approving Agreement for Temporary Construction
Occupancy Located at 1010 North Diers Avenue - Shafer
Properties, LLC**

Staff Contact: Gary Mader

Council Agenda Memo

From: Robert H. Smith, Asst. Utilities Director

Meeting: February 12, 2008

Subject: Agreement for Temporary Construction Occupancy –
1010 North Diers Avenue - Shafer Properties, LLC

Item #'s: G-21

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

Background

The Utilities Department will be constructing a water line in the easement at the north side of Lot 4, Crane Valley Fourth Subdivision. This is on the north side of 1010 North Diers Avenue. Nebraska State Law requires that acquisition of property or property right must be approved by City Council. The Utilities Department needs to acquire a construction easement adjacent to the permanent easement.

Discussion

The construction easement will be a temporary easement that will provide a place to deposit dirt from the water line trench, and directional bore, provide access to the construction area, and provide a location for construction materials while the line is built. The easement will cease to exist upon completion of the construction for Water Main Project 2008-W-4. Cost of the easement will be \$1.00 (one dollar).

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 Temporary Agreement for Construction Occupancy between the City of Grand Island, Utilities Department, and Shafer Properties, LLC.

Sample Motion

Move to approve the Agreement for Temporary Construction Occupancy.

AGREEMENT FOR TEMPORARY CONSTRUCTION OCCUPANCY

Agreement made and entered into by and between the City of Grand Island, a municipal corporation of the State of Nebraska, herein referred to as "City", and SHAFER PROPERTIES, LLC, a Nebraska limited liability company, herein referred to as "Owner", whether one or more.

Recitals

WHEREAS, the City intends to construct WATER MAIN PROJECT 2008-W-4, on or adjacent to property owned by Owner; and

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

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

Section One Right of Entry

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

Part of Lot Four (4) Crane Valley Fourth Subdivision in the City of Grand Island, Hall County, Nebraska, being more particularly described as follows:

The southerly twenty (20.0) feet of the northerly thirty (30.0) feet of Lot Four (4) Crane Valley Fourth Subdivision;

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

Section Two Term of Agreement

The premises may be occupied and used by the City for the purposes related hereto during the period beginning upon execution of this agreement and continuing until the construction work for WATER MAIN PROJECT 2008-W-4 has been completed.

Section Three
Compensation

The compensation for the temporary construction occupancy shall be
\$ 1.00 (One dollar and 00/cents).

Section Four
Restoration

The City agrees to: (a) restore the property as reasonably practical to its grade and condition prior to construction and (b) prior to the termination of this Agreement.

Section Five
Assignment

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

Dated _____, 2008

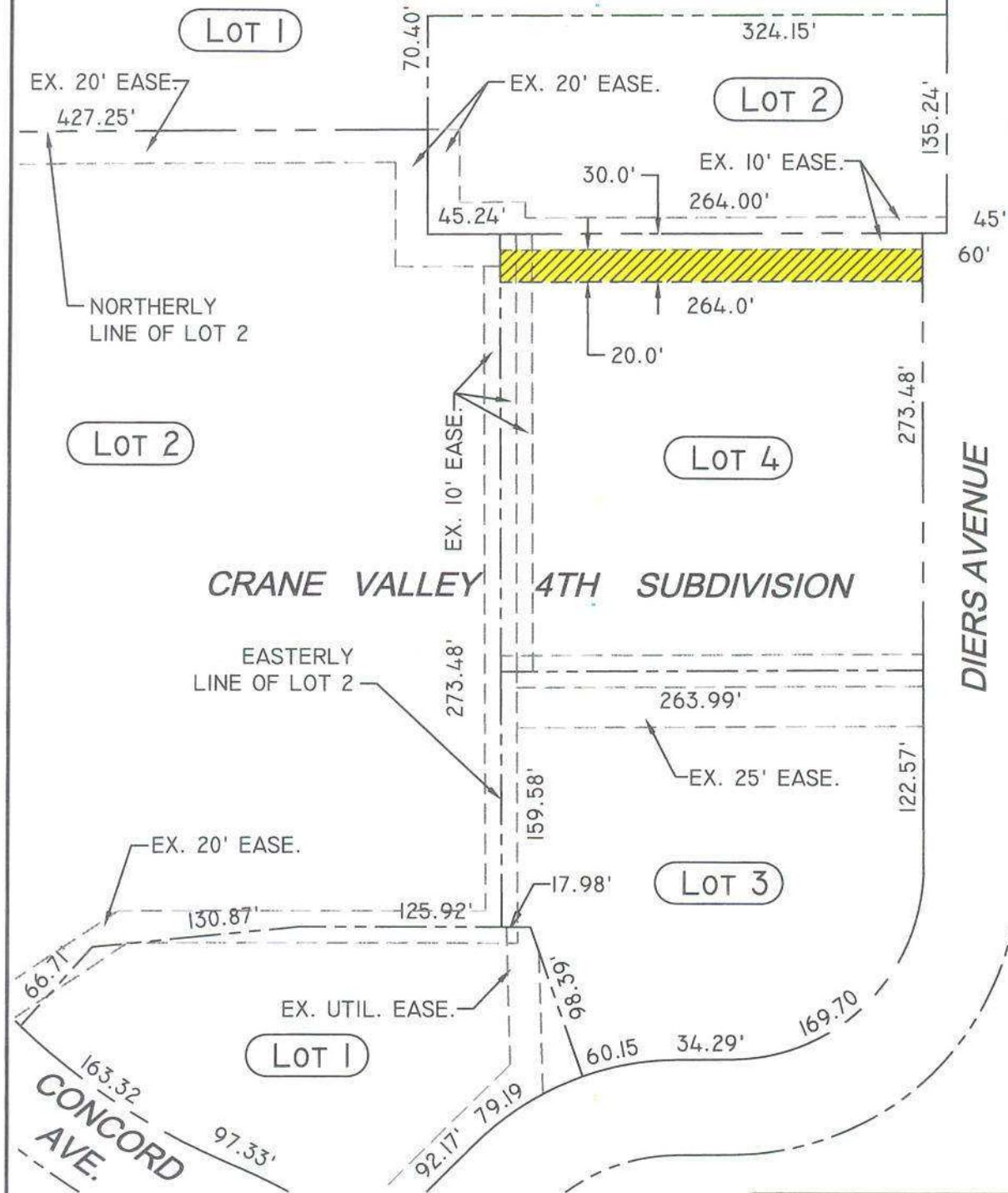
CITY OF GRAND ISLAND, NEBRASKA
a Municipal Corporation

SHAFER PROPERTIES, LLC,
a Nebraska Limited Liability Company

By _____
(Name of signer)

By _____
Title _____

PARK ISLAND SQUARE SIXTH SUB.



U.S. HWY. 281

LEGEND



INDICATES 20' WIDE TEMPORARY
EASEMENT FOR CONSTRUCTION
OCCUPANCY; 0.121 ACRES +/-

| | |
|---------------------------------|-----------------|
| CITY OF GRAND ISLAND | |
| UTILITIES DEPARTMENT | |
| EXHIBIT "A" | |
| LOT 4 | |
| CRANE VALLEY 4TH SUBDIVISION | |
| DRN BY: T.D.Z. | SCALE: 1"= 100' |
| DATE: 1/7/2008 | FILE: 2008-W-4 |

RESOLUTION 2008-48

WHEREAS, a temporary construction easement is required by the City of Grand Island, from Shafer Properties, LLC, a Nebraska corporation, to construct Water Main Project 2008-W-4 on such property comprising a part of Lot Four (4), Crane Valley Fourth Subdivision,. in the City of Grand Island, Hall County, Nebraska, more particularly described as follows:

The southerly twenty (20.0) feet of the northerly thirty (30.0) feet of Lot Four (4), Crane Valley Fourth Subdivision, in the City of Grand Island, Hall County, Nebraska.

WHEREAS, top soil will need to be moved from the construction area in preparation of the installation of water mains and appurtenances, and replaced and restored after the construction is complete; and

WHEREAS, an Agreement for Temporary Construction Occupancy has been reviewed and approved by the City Attorney.

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 enter into an Agreement for Temporary Construction Occupancy with Shafer Properties, LLC, a Nebraska corporation, on the above-described tract of land.

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

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Adopted by the City Council of the City of Grand Island, Nebraska, February 12, 2008.

Margaret Hornady, Mayor

Attest:

RaNae Edwards, City Clerk

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|---------------------|-----------------|
| Approved as to Form | ☐ _____ |
| February 7, 2008 | ☐ City Attorney |