



# City of Grand Island

Tuesday, August 11, 2015

Council Session

## Item G-11

**#2015-210 - Approving Mutual Access (Easement) Agreement for  
Parkview I Well Area**

Staff Contact: Tim Luchsinger, Stacy Nonhof

# **Council Agenda Memo**

**From:** Timothy Luchsinger, Utilities Director  
Stacy Nonhof, Assistant City Attorney

**Meeting:** August 11, 2015

**Subject:** Mutual Access (Easement) Agreement for Parkview I

**Presenter(s):** Timothy Luchsinger, Utilities Director

## **Background**

The Utilities Department owns property at 2111 Pioneer Boulevard at which the Parkview 1 municipal water well is located. Property owners on Pioneer Boulevard and Riverview Drive south of the well site have approached the City regarding the use of the utilities easement between these two streets and the drive for the well site for access to their properties from Pioneer Boulevard through the execution of a Mutual Access Agreement. These properties are deep lots and access to Pioneer Boulevard or Riverview Drive directly across their properties, is not necessarily available. Access through the easement and the well site property has historically been used informally. The execution of a Mutual Access Agreement will document the approval of all affected property owners and formally describe the limits of access to all parties.

## **Discussion**

The Utilities Department concurs that this Access Agreement provides for the conditions and limits of access through its property and a mechanism for protection of the facilities at the Parkview 1 well site. This agreement has been reviewed by Legal staff and the Utilities Department recommends approval by the City.

## **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

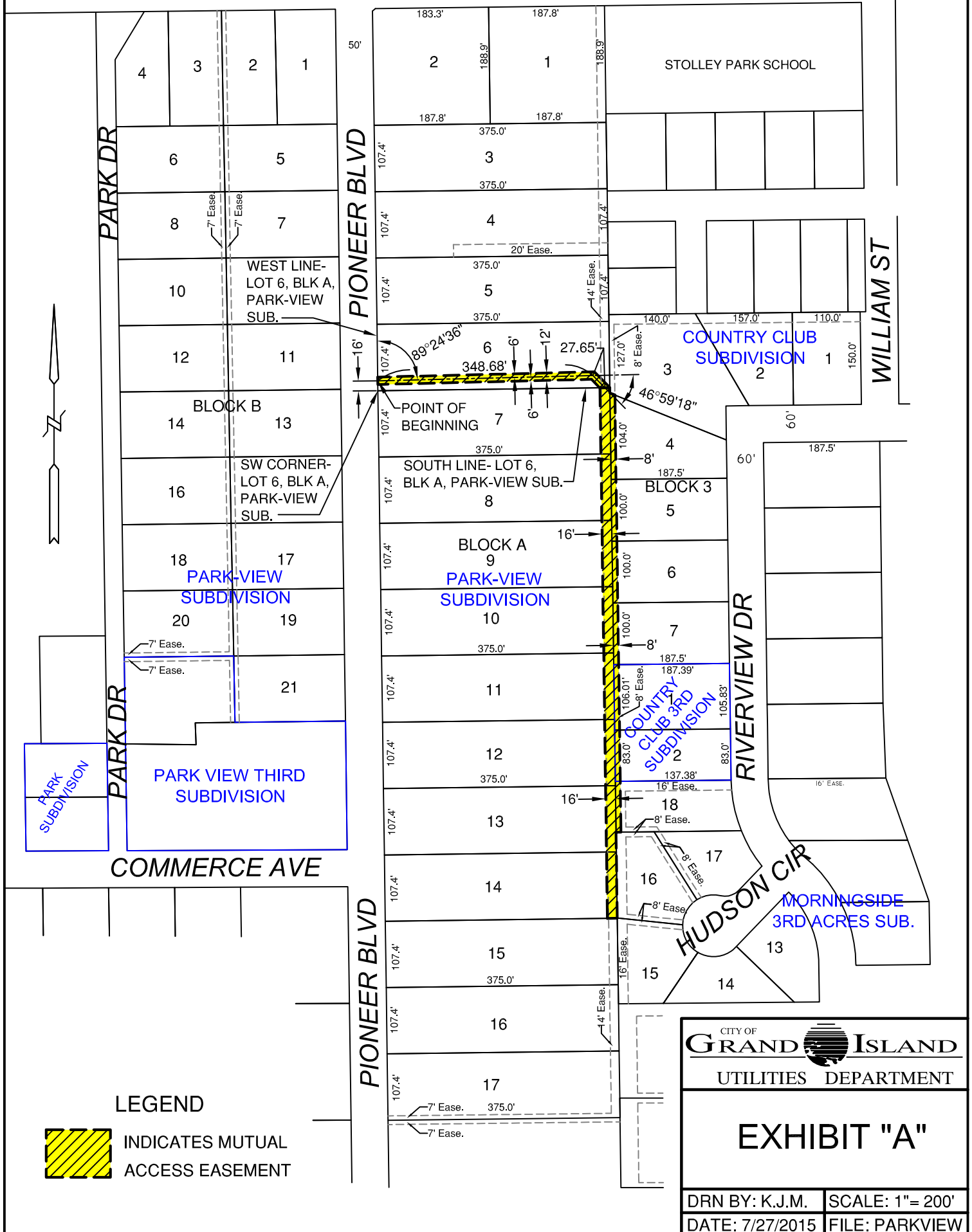
### **Recommendation**

City Administration recommends that the Council approve the Mutual Access Easement Agreement for the Utilities property at 2111 Pioneer Boulevard.

### **Sample Motion**

Move to approve the Mutual Access Easement Agreement for the Utilities property at 2111 Pioneer Boulevard.

# STOLLEY PARK RD W



\*This Space Reserved for the Register of Deeds\*

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Return to: Arend R. Baack  
PO Box 790  
Grand Island NE 68802-0790

### MUTUAL ACCESS EASEMENT AGREEMENT

This Mutual Access Easement Agreement is made and executed to become effective as of the date on which the last party hereto shall execute the same by and between, JEFFERY H. SPEASE, a single person; THOMAS W. TJADEN and CINDY L. TJADEN, Husband and Wife; JOHN GANNON and JENNIFER GANNON, Husband and Wife; JAMES D. TAYLOR and AMANDA M. TAYLOR, Husband and Wife; DIANE E. BODENBENDER, a single person; JUDY A. EVERSOLL, a single person; MATTHEW S. KENNEDY and CRYSTAL D. KENNEDY, Husband and Wife; NEIL D. STOECKER and JACQUELINE J. STOECKER, Husband and Wife; EDWIN L. WHIPPLE and BECKY L. WHIPPLE, Husband and Wife; GLORIA J. THESENVITZ, a single person; MICHELE J. HYSELL, a single person; ERIC KUCERA and MEGAN KUCERA, Husband and Wife; JON A. BAKER and VIRJEANNE R. BAKER, Husband and Wife; and RUSSELL B. ANDERSON and JANICE L. ANDERSON, Husband and Wife hereinafter collectively referred to as "Private Property Owners", and CITY OF GRAND ISLAND, NEBRASKA, a Nebraska municipal corporation, hereinafter referred to as "City".

WITNESSETH:

WHEREAS, JEFFERY H. SPEASE, a single person, is the owner in fee simple of that real estate described as:

Lot Seven (7), Block "A", Park View Subdivision, in the City of Grand Island, Hall County, Nebraska;

WHEREAS, THOMAS W. TJADEN and CINDY L. TJADEN, Husband and Wife, are the owners in fee simple of that real estate described as:

Lot Eight (8), in Block "A", Park View Subdivision, in the City of Grand Island, Hall County, Nebraska;

WHEREAS, JOHN GANNON and JENNIFER GANNON, Husband and Wife, are the owners in fee simple of that real estate described as:

Lot Nine (9), in Block “A”, Park View Subdivision, in the City of Grand Island, Hall County, Nebraska;

WHEREAS, JAMES D. TAYLOR and AMANDA M. TAYLOR, Husband and Wife, are the owners in fee simple of that real estate described as:

Lot Ten (10), in Block “A”, Park View Subdivision, in the City of Grand Island, Hall County, Nebraska;

WHEREAS, DIANE E. BODENBENDER, a single person, is the owner in fee simple of that real estate described as:

Lot Eleven (11), in Block “A”, Park View Subdivision, in the City of Grand Island, Hall County, Nebraska;

WHEREAS, JUDY A. EVERSOLL, a single person and surviving joint tenant of record, is the owner in fee simple of that real estate described as:

Lot Twelve (12), in Block “A”, Park View Subdivision, in the City of Grand Island, Hall County, Nebraska;

WHEREAS, MATTHEW D. KENNEDY and CRYSTAL D. KENNEDY, Husband and Wife, are the owners in fee simple of that real estate described as:

Lot Thirteen (13), in Block “A”, Park View Subdivision, in the City of Grand Island, Hall County, Nebraska;

WHEREAS, NEIL D. STOECKER and JACQUELINE J. STOECKER, Husband and Wife, are the owners in fee simple of that real estate described as:

Lot Fourteen (14), in Block “A”, Park View Subdivision, in the City of Grand Island, Hall County, Nebraska;

WHEREAS, EDWIN L. WHIPPLE and BECKY L. WHIPPLE, Husband and Wife, are the owners in fee simple of that real estate described as:

Lot Four (4), Block Three (3), Country Club Subdivision, in the City of Grand Island, Hall County, Nebraska;

WHEREAS, GLORIA THESENVITZ, a single person, is the owner in fee simple of that real estate described as;

Lots Five (5) and Six (6), Block Three (3), Country Club Subdivision, in the City of Grand Island, Hall County, Nebraska;

WHEREAS, MICHELLE J. HYSELL, a single person, is the owner in fee simple of that real estate described as:

Lot Seven (7), Block Three (3), Country Club Subdivision, in the City of Grand Island, Hall County, Nebraska;

WHEREAS, ERIC KUCERA and MEGAN KUCERA, Husband and Wife, are the owners in fee simple of that real estate described as:

Lot One (1), Country Club Third Subdivision, in the City of Grand Island, Hall County, Nebraska;

WHEREAS, JON A. BAKER and VIRJEANNE R. BAKER, Husband and Wife, are the owners in fee simple of that real estate described as:

Low Two (2), Country Club Third Subdivision, in the City of Grand Island, Hall County, Nebraska;

WHEREAS, RUSSEL B. ANDERSON and JANICE L. ANDERSON, Husband and Wife, are the owners in fee simple of that real estate described as:

Lot Eighteen (18), Morningside Acres Third Subdivision, in the City of Grand Island, Hall County, Nebraska;

WHEREAS, City is the owner in fee simple of that real estate described as:

Lot Six (6), Block "A", Park View Subdivision, in the City of Grand Island, Hall County, Nebraska;

WHEREAS, Private Property Owners and City desires to establish a perpetual non-exclusive easement to each other, their, successors and assigns, for the purpose of establishing a limited access easement to afford incidental and occasional access to the real estate owned by the Private Property Owners and City, subject to the condition that all obligations herein required are performed by Private Property Owners and City, their heirs, successors and assigns;

NOW, THEREFORE, in consideration of the mutual covenants herein contained, it is agreed:

1. Conveyance of Mutual Easement. For and in consideration of the mutual easement herein described and other good and valuable consideration, the Private Property Owners and City hereby grant and convey unto each other, their successors and assigns, an easement for ingress and egress over, through and upon that portion of the Private Property Owners' and City's real estate above described as may lie within the mutual easement area described as:

The centerline of a twelve (12.0) foot wide tract being more particularly described as follows: Commencing at the southwest corner of Lot Six (6), Block A, Park-View Subdivision; thence northerly along the westerly line of said Lot Six (6), a distance of sixteen (16.0) feet to the ACTUAL POINT OF BEGINNING; thence deflecting right 89°24'36" and running in an easterly direction, a distance of three hundred forty eight and sixty eight hundredths (348.68) feet; thence deflecting right 46°59'18" and running in a southeasterly direction, a distance of twenty seven and sixty five hundredths (27.65) feet to a point on the southerly line of said Lot Six (6); and the East Sixteen Feet (E16') of Lots Seven (7), Eight (8), Nine (9), Ten (10), Eleven (11), Twelve (12), Thirteen (13), and Fourteen (14), all in Block "A", Park View Subdivision, in the City of Grand Island; the West Eight Feet (W8') of Lots Four (4), Five (5), Six (6), and Seven (7), all in Block Three (3), Country Club Subdivision, in the City of Grand Island, Hall County, Nebraska; the West Eight Feet (W8') of Lots One (1) and Two (2), all in Country Club Third Subdivision, in the City of Grand Island, Hall County, Nebraska; and the West Eight Feet (W8') of Lot Eighteen (18), Morningside Acres Third Subdivision, in the City of Grand Island, Hall County, Nebraska;

for the mutual benefit and incidental and occasional use as an access drive for those parcels of real estate described in the recitals hereto as may be adjacent to such easement area.

2. Rights of Easement. Private Property Owners and City hereby grant and convey unto each other, their successors and assigns, full and free right and liberty for the City and its employees together with such Private Property Owners, their tenants, servants, visitors, and licensees, in common with all others having the like right, at all times hereafter, with or without vehicles of any description, for all purposes connected with the use and enjoyment of the said described mutual easement area for whatever purpose the said land may be from time to time lawfully used and enjoyed, to pass and re-pass along the said private drive and easement so established for the purpose of incidental and occasional access to the City's and Private Property Owners' property in connection with ingress and egress to structures located upon the real estate owned by the respective parties and in connection with other rights of reasonable access as herein permitted.

3. Private Property Owners and City's Retention of Rights. Such easements hereby established are specifically subject to the reservation by the Private Property Owners and the City that these easements herein separately granted by them may be used by the Private Property Owners and City, their successors and assigns, in conjunction with the simultaneous use of the Private Property Owners and City, their successors and assigns, as to their entirety, and further subject to the express understanding that the Private Property Owners and the City, their successors and assigns, do not hereby assume any liability or responsibility to any of the other Private Property Owners or the City, their successors and assigns, or any other person using said private drives by invitation, express or implied, or by reason of any business conducted with the City or any Private Property Owners, their successors or assigns, or otherwise.

4. Indemnification. Private Property Owners, their successors and assigns, shall indemnify and hold other Private Property Owners and the City, their heirs, successors and assigns, harmless from any liability in respect to the injury of any person while using the respective easement herein benefiting a Private Property Owner with the permission, or at the direction, of such Private Property Owner, their successors and assigns.

5. Binding Effect. This Mutual Access Easement Agreement shall be binding upon, and shall inure to the benefit of, the parties hereto, their legal representatives, successors and assigns.

IN WITNESS WHEREOF, the undersigned have executed this Mutual Easement Agreement on the dates noted in the acknowledgments hereafter.

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Jeffery H. Spease

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Thomas W. Tjaden

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Cindy L. Tjaden

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John Gannon



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Jennifer Gannon

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James D. Taylor

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Amanda M. Taylor

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Diane E. Bodenbender

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Judy A. Eversoll

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Matthew S. Kennedy

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Crystal D. Kennedy

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Neil D. Stoecker

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Jacqueline J. Stoecker

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Edwin L. Whipple

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Becky L. Whipple

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Gloria J. Thesenvitz

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Michelle J. Hysell

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Eric Kucera

\_\_\_\_\_  
Megan Kucera

\_\_\_\_\_  
Jon A. Baker

\_\_\_\_\_  
VirJeanne R. Baker

\_\_\_\_\_  
Russel B. Anderson

\_\_\_\_\_  
Janice L. Anderson

“Private Property Owners”

CITY OF GRAND ISLAND, NEBRASKA,  
a Nebraska Municipal Corporation

ATTEST:

By: \_\_\_\_\_  
Mayor

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

"City"

STATE OF NEBRASKA     )  
  ) ss:  
COUNTY OF HALL        )

      The foregoing Mutual Access Easement Agreement was acknowledged before me this  
\_\_\_\_ day of \_\_\_\_\_, 2015, by Jeffery H. Spease, a single person.

My Commission Expires: \_\_\_\_\_  
Notary Public \_\_\_\_\_

STATE OF NEBRASKA     )  
  ) ss:  
COUNTY OF HALL        )

      The foregoing Mutual Access Easement Agreement was acknowledged before me this  
\_\_\_\_ day of \_\_\_\_\_, 2015, by Thomas W. Tjaden and Cindy L. Tjaden, Husband and  
Wife.

My Commission Expires: \_\_\_\_\_  
Notary Public \_\_\_\_\_

STATE OF NEBRASKA     )  
  ) ss:  
COUNTY OF HALL        )

      The foregoing Mutual Access Easement Agreement was acknowledged before me this  
\_\_\_\_ day of \_\_\_\_\_, 2015, by John Gannon and Jennifer Gannon, Husband and Wife.

My Commission Expires: \_\_\_\_\_  
Notary Public \_\_\_\_\_

STATE OF NEBRASKA     )  
  ) ss:  
COUNTY OF HALL        )

The foregoing Mutual Access Easement Agreement was acknowledged before me this  
\_\_\_\_ day of \_\_\_\_\_, 2015, by James D. Taylor and Amanda M. Taylor, Husband and  
Wife.

My Commission Expires: \_\_\_\_\_  
Notary Public \_\_\_\_\_

STATE OF NEBRASKA     )  
  ) ss:  
COUNTY OF HALL        )

The foregoing Mutual Access Easement Agreement was acknowledged before me this  
\_\_\_\_ day of \_\_\_\_\_, 2015, by Diane E. Bodenbender, a single person.

My Commission Expires: \_\_\_\_\_  
Notary Public \_\_\_\_\_

STATE OF NEBRASKA     )  
  ) ss:  
COUNTY OF HALL        )

The foregoing Mutual Access Easement Agreement was acknowledged before me this  
\_\_\_\_ day of \_\_\_\_\_, 2015, by Judy A. Eversoll, a single person.

My Commission Expires: \_\_\_\_\_  
Notary Public \_\_\_\_\_

STATE OF NEBRASKA     )  
  ) ss:  
COUNTY OF HALL        )

The foregoing Mutual Access Easement Agreement was acknowledged before me this  
\_\_\_\_ day of \_\_\_\_\_, 2015, by Matthew S. Kennedy and Crystal D. Kennedy, Husband  
and Wife.

My Commission Expires: \_\_\_\_\_  
Notary Public \_\_\_\_\_

STATE OF NEBRASKA     )  
  ) ss:  
COUNTY OF HALL        )

The foregoing Mutual Access Easement Agreement was acknowledged before me this  
\_\_\_\_ day of \_\_\_\_\_, 2015, by Neil D. Stoecker and Jacqueline J. Stoecker, Husband and  
Wife.

My Commission Expires: \_\_\_\_\_  
Notary Public \_\_\_\_\_

STATE OF NEBRASKA     )  
  ) ss:  
COUNTY OF HALL        )

The foregoing Mutual Access Easement Agreement was acknowledged before me this  
\_\_\_\_ day of \_\_\_\_\_, 2015, by Edwin L. Whipple and Becky L. Whipple, Husband and  
Wife.

My Commission Expires: \_\_\_\_\_  
Notary Public \_\_\_\_\_

STATE OF NEBRASKA     )  
  ) ss:  
COUNTY OF HALL        )

      The foregoing Mutual Access Easement Agreement was acknowledged before me this  
\_\_\_\_ day of \_\_\_\_\_, 2015, by Gloria J. Thesenvitz, a single person.

My Commission Expires: \_\_\_\_\_  
Notary Public \_\_\_\_\_

STATE OF NEBRASKA     )  
  ) ss:  
COUNTY OF HALL        )

      The foregoing Mutual Access Easement Agreement was acknowledged before me this  
\_\_\_\_ day of \_\_\_\_\_, 2015, by Michelle J. Hysell, a single person.

My Commission Expires: \_\_\_\_\_  
Notary Public \_\_\_\_\_

STATE OF NEBRASKA     )  
  ) ss:  
COUNTY OF HALL        )

      The foregoing Mutual Access Easement Agreement was acknowledged before me this  
\_\_\_\_ day of \_\_\_\_\_, 2015, by Eric Kucera and Megan Kucera, Husband and Wife.

My Commission Expires: \_\_\_\_\_  
Notary Public \_\_\_\_\_

STATE OF NEBRASKA     )  
  ) ss:  
COUNTY OF HALL        )

      The foregoing Mutual Access Easement Agreement was acknowledged before me this  
\_\_\_\_ day of \_\_\_\_\_, 2015, by Jon A. Baker and VirJeanne R. Baker, Husband and Wife.

My Commission Expires: \_\_\_\_\_  
Notary Public \_\_\_\_\_

STATE OF NEBRASKA     )  
  ) ss:  
COUNTY OF HALL        )

      The foregoing Mutual Access Easement Agreement was acknowledged before me this  
\_\_\_\_ day of \_\_\_\_\_, 2015, by Russel B. Anderson and Janice L. Anderson, Husband and  
Wife.

My Commission Expires: \_\_\_\_\_  
Notary Public \_\_\_\_\_

STATE OF NEBRASKA     )  
  ) ss:  
COUNTY OF HALL        )

      The foregoing Mutual Access Easement Agreement was acknowledged before me this  
\_\_\_\_ day of \_\_\_\_\_, 2015, by Jeremy Jensen, Mayor, and attested to by RaNae Edwards,  
City Clerk, of the City of Grand Island, Nebraska, a Nebraska municipal corporation, on behalf  
of such municipal corporation.

My Commission Expires: \_\_\_\_\_  
Notary Public \_\_\_\_\_

5021-1/530394v5

RESOLUTION 2015-210

WHEREAS, the Utilities Department owns property at 2111 Pioneer Boulevard where the Parkview 1 Municipal Well is located; and

WHEREAS, property owners on Pioneer Boulevard and Riverview Drive south of the well site wish to have access to their properties by crossing Utilities property; and

WHEREAS, the execution of a Mutual Access Agreement will document the approval of all affected property owners and formally describe the limits of access to all parties; and

WHEREAS, the City's Legal staff has reviewed and approved the agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the Mutual Access Easement Agreement for the Utilities property at 2111 Pioneer Boulevard is hereby approved, and that the Mayor is hereby authorized to sign the Agreement on behalf of the City of Grand Island.

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Adopted by the City Council of the City of Grand Island, Nebraska, August 11, 2015.

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Jeremy L. Jensen, Mayor

Attest:

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RaNae Edwards, City Clerk

Approved as to Form	<input type="checkbox"/>	_____
August 7, 2015	<input type="checkbox"/>	City Attorney