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# City of Grand Island



**Tuesday, February 23, 2010**

## **Council Session Packet**

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### **City Council:**

**Larry Carney  
Scott Dugan  
John Gericke  
Peg Gilbert  
Chuck Haase  
Robert Meyer  
Mitchell Nickerson  
Bob Niemann  
Kirk Ramsey  
Jose Zapata**

### **Mayor:**

**Margaret Hornady**

### **City Administrator:**

**Jeff Pederson**

### **City Clerk:**

**RaNae Edwards**

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

## **Call to Order**

This is an open meeting of the Grand Island City Council. The City of Grand Island abides by the Open Meetings Act in conducting business. A copy of the Open Meetings Act is displayed in the back of this room as required by state law.

The City Council may vote to go into Closed Session on any agenda item as allowed by state law.

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## **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.

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# City of Grand Island

Tuesday, February 23, 2010

Council Session

## Item C1

**Presentation by Almquist, Maltzahn, Galloway & Luth for Fiscal Year 2009 City Single Audit and General Purpose Financial Statements and Electric and Water Audit Reports**

*Terry Galloway from Almquist, Maltzahn, Galloway & Luth will present the Fiscal Year 2009 City Single Audit and General Purpose Financial Statements and Electric and Water Audit Reports.*

Staff Contact: Mary Lou Brown



# **City of Grand Island**

**Tuesday, February 23, 2010**

**Council Session**

## **Item E1**

**Public Hearing on Request from Sin City, LLC dba Sin City Grill,  
410 West 3rd Street for a Class "C" Liquor License**

**Staff Contact: RaNae Edwards**

# **Council Agenda Memo**

**From:** RaNae Edwards, City Clerk

**Meeting:** February 23, 2010

**Subject:** Public Hearing on Request from Sin City, LLC dba Sin City Grill, 410 West 3<sup>rd</sup> Street for a Class “C” Liquor License

**Item #'s:** E-1 & I-1

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

## **Background**

Section 4-2 of the Grand Island City Code declares the intent of the City Council regarding liquor licenses and the sale of alcohol.

### **Declared Legislative Intent**

It is hereby declared to be the intent and purpose of the city council in adopting and administering the provisions of this chapter:

- (A) To express the community sentiment that the control of availability of alcoholic liquor to the public in general and to minors in particular promotes the public health, safety, and welfare;
- (B) To encourage temperance in the consumption of alcoholic liquor by sound and careful control and regulation of the sale and distribution thereof; and
- (C) To ensure that the number of retail outlets and the manner in which they are operated is such that they can be adequately policed by local law enforcement agencies so that the abuse of alcohol and the occurrence of alcohol-related crimes and offenses is kept to a minimum.

## **Discussion**

Sin City, LLC dba Sin City Grill, 410 West 3<sup>rd</sup> Street has submitted an application for a Class “C” Liquor License. A Class “C” Liquor License allows for the sale of alcohol on and off sale inside the corporate limits of the city.

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 Clerk, Building, Fire, Health, and Police Departments.

Also requested is a Liquor Manager Designation for Brent Lindner, 1322 West John Street.

### **Alternatives**

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

1. Approve the application.
2. Forward to the Nebraska Liquor Control Commission with no recommendation.
3. Forward to the Nebraska Liquor Control Commission with recommendations.
4. Deny the application.

### **Recommendation**

Based on the Nebraska Liquor Control Commission's criteria for the approval of Liquor Licenses, City Administration recommends that the Council approve the application.

### **Sample Motion**

Move to approve the application of Sin City, LLC dba Sin City Grill, 410 West 3<sup>rd</sup> Street for a Class "C" Liquor License contingent upon final inspections and the request for Liquor Manager Designation from Brent Lindner, 1322 West John Street.

02/08/10  
14:33

Grand Island Police Department  
LAW INCIDENT TABLE

Page: 450  
1

City : Grand Island  
Occurred after : 14:58:15 02/05/2010  
Occurred before : 14:58:15 02/05/2010  
When reported : 14:58:15 02/05/2010  
Date disposition declared : 02/05/2010  
Incident number : L10020616  
Primary incident number :  
Incident nature : Liquor Lic Inv Liquor License Investigation  
Incident address : 410 3rd St W  
State abbreviation : NE  
ZIP Code : 68801  
Contact or caller :  
Complainant name number :  
Area location code : PCID Police - CID  
Received by : Vitara D  
How received : T Telephone  
Agency code : GIPD Grand Island Police Department  
Responsible officer : Vitara D  
Offense as Taken :  
Offense as Observed :  
Disposition : ACT Active  
Misc. number : RaNae  
Geobase address ID : 11444  
Long-term call ID :  
Clearance Code : CL Case Closed  
Judicial Status : NCI Non-criminal Incident

INVOLVEMENTS:

Px	Record #	Date	Description	Relationship
NM	68498	02/08/10	Lindner, Brent C	Owner/Manager
NM	76988	02/08/10	Lindner, Michelle L	Brent's Wife

LAW INCIDENT CIRCUMSTANCES:

Se	Circu	Circumstance code	Miscellaneous
1	LT03	Bar/Night Club	

LAW INCIDENT NARRATIVE:

I Received a Copy of a Liquor License Application for Sin City and a Liquor Manager Application for Brent Lindner.

LAW INCIDENT RESPONDERS DETAIL:

Se	Responding offi	Unit n	Unit number
1	Vitara D	318	Vitara D

02/08/10  
14:33

Grand Island Police Department  
LAW INCIDENT TABLE

450  
Page: 2

LAW SUPPLEMENTAL NARRATIVE:

Seq	Name	Date
1	Vitera D	14:20:07 02/08/2010

Grand Island Police Department  
Supplemental Report

Date, Time: Mon Feb 08 14:20:23 CST 2010  
Reporting Officer: Vitera  
Unit #: 865

I checked Brent and Michelle Lindner through Spillman and found an entry for each one of them. Spillman didn't show anything that would lead me to believe either one of them had any convictions resulting in investigations by the GIPD or HCSO. I also checked Brent and Michelle through NCJIS. I did not find any convictions.

Lindner's own The Glass Bar, Wave Pizza Company, and J. Alfred Prufrock's. The GIPD does not have any substantial problems at any of these places. The GIPD does not object to the liquor license for Sin City or the liquor manager position for Brent Lindner.





# **City of Grand Island**

**Tuesday, February 23, 2010**

**Council Session**

## **Item E2**

**Public Hearing on Acquisition of Public Utility Easement Located in an Unplatted Tract of Land Located in the West Half of the Southwest Quarter of Section 12, Township 11 North, Range 10 West (Little B's Corporation)**

**Staff Contact: Steven P. Riehle, Public Works Director**

# **Council Agenda Memo**

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

**Meeting:** February 23, 2010

**Subject:** Public Hearing on Acquisition of Public Utility Easement  
Located in an Unplatted Tract of Land Located in the  
West Half of the Southwest Quarter of Section 12,  
Township 11 North, Range 10 West (Little B's  
Corporation)

**Item #'s:** E-2 & G-4

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

## **Background**

Nebraska State Statutes stipulate that the acquisition of property requires a public hearing to be conducted with the acquisition approved by the City Council. A drainage easement is needed to provide for storm sewer to be constructed across an unsubdivided tract to drain from Summerfield Estates to the City's Highland Park drain. The Highland Park drain is the drain along the south side of State Street that is many times called the Moores Creek drainway. This tract is owned by the developer of Summerfield Estates and will be subdivided in the future. The easement is needed until that happens.

## **Discussion**

This new easement will be twenty (20) feet wide on the north end of Summerfield Estates. At tonight's meeting we are also requesting approval for an agreement with the developer regarding the storm drainage construction.

## **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**

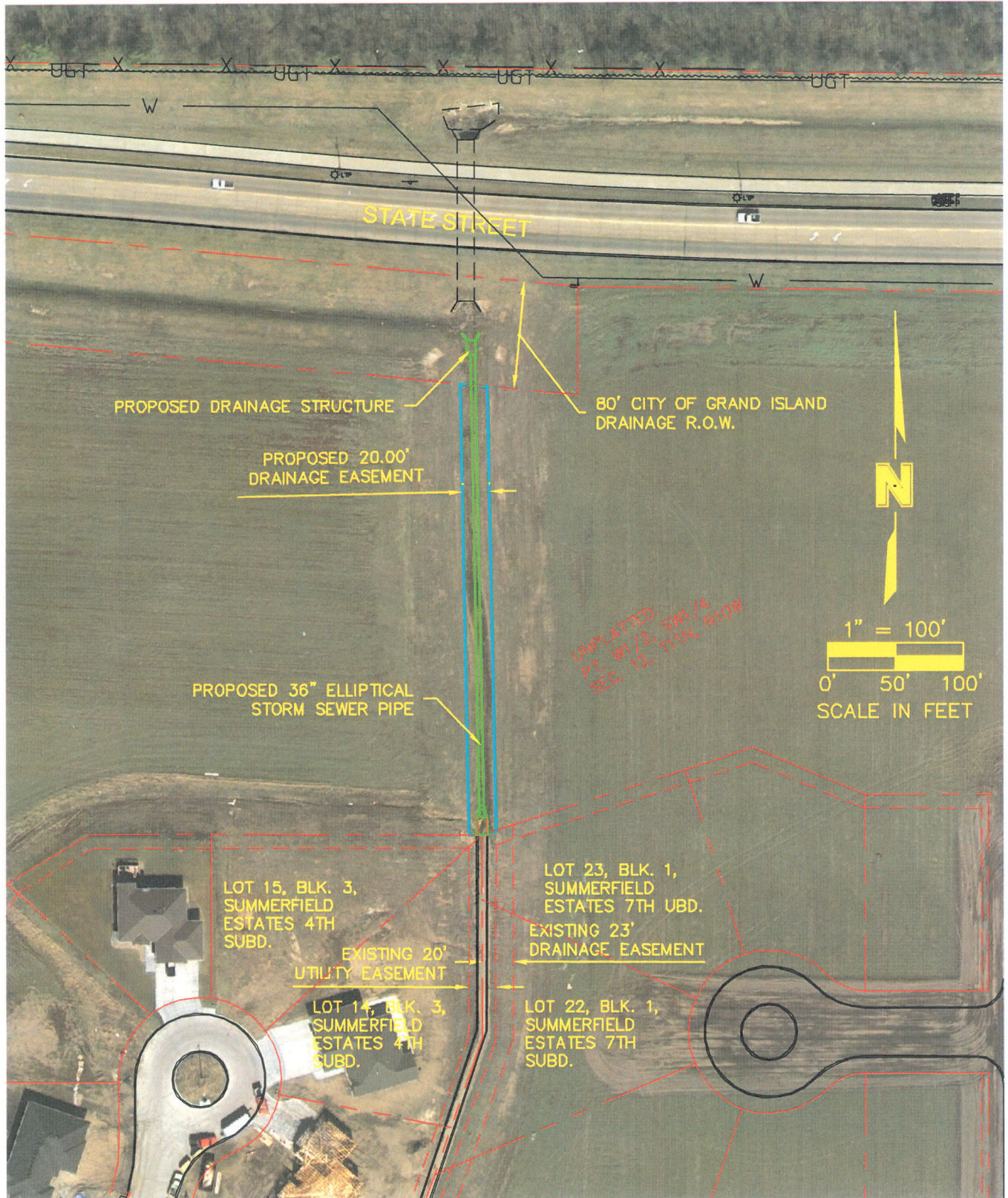
City Administration recommends that the Council conduct a Public Hearing and approve acquisition of the Easement.

### **Sample Motion**

Move to approve the acquisition of the Easement.



# DRAINAGE EASEMENT



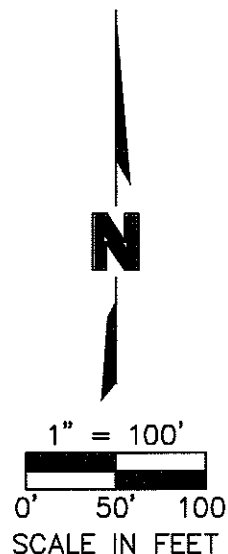
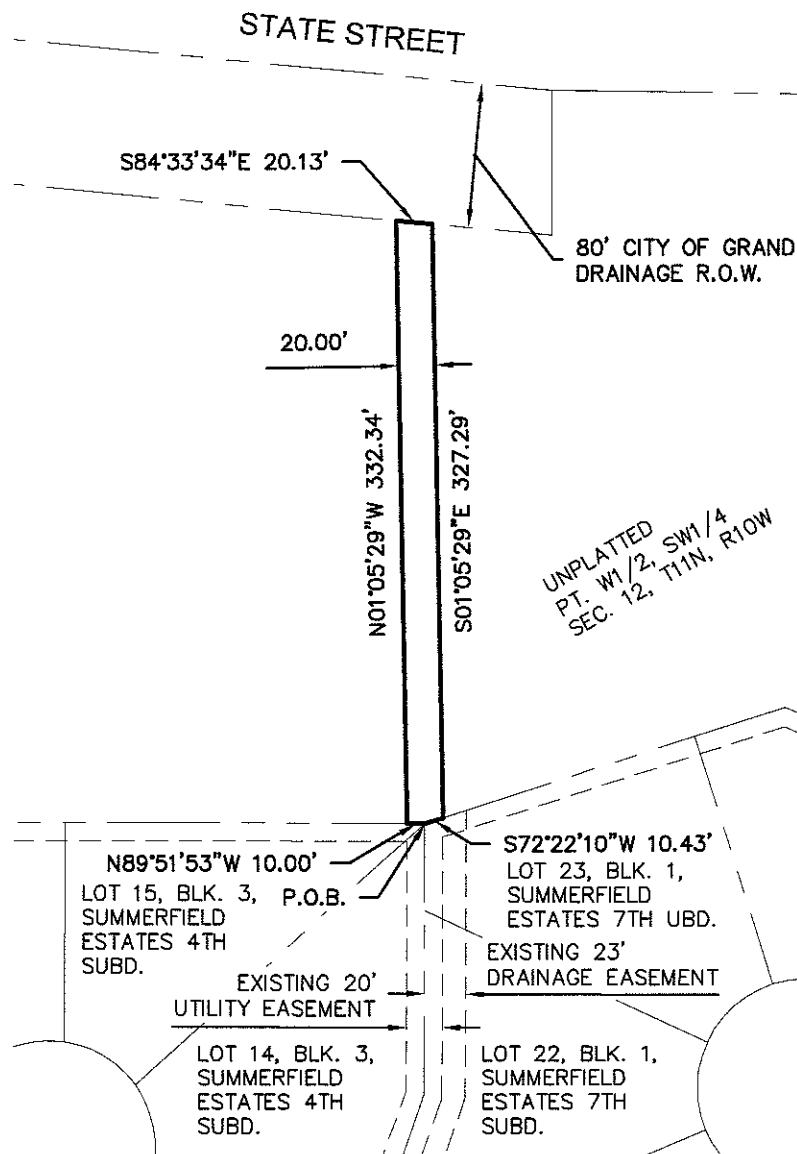
DWG: F:\Projects\009-2456\061410\_TRNS\EXHIBIT\092456\_EXHIBIT.dwg USER: zloomis  
 DATE: Jan 15, 2010 1:18pm XREFS: 061410\_7th\_row 061410\_XTOPO 061410\_PBASE 2009

**MOLSSON**  
 ASSOCIATES

201 East 2nd Street  
 P.O. Box 1072  
 Grand Island, NE 68802-1072  
 TEL 308.384.8750  
 FAX 308.384.8752



# DRAINAGE EASEMENT



## EASEMENT DESCRIPTION

A PERMANENT DRAINAGE EASEMENT CONSISTING OF PART OF AN UNPLATTED TRACT OF LAND LOCATED IN THE WEST HALF OF THE SOUTHWEST QUARTER (W1/2, SW1/4) OF SECTION 12, TOWNSHIP 11 NORTH, RANGE 10 WEST OF THE 6TH P.M., CITY OF GRAND ISLAND, HALL COUNTY, NEBRASKA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF LOT 15, BLOCK 3 OF SUMMERFIELD ESTATES FOURTH SUBDIVISION, CITY OF GRAND ISLAND, HALL COUNTY, NEBRASKA, SAID POINT ALSO BEING THE POINT OF BEGINNING; THENCE ON AN ASSUMED BEARING OF N89°51'53\"W ALONG THE NORTH LINE OF SAID LOT 15 A DISTANCE OF 10.00 FEET; THENCE N01°05'29\"W A DISTANCE OF 332.34 FEET TO A POINT ON THE SOUTH LINE OF A CITY OF GRAND ISLAND DRAINAGE RIGHT-OF-WAY (R.O.W.); THENCE S84°33'34\"E ALONG SAID SOUTH LINE A DISTANCE OF 20.13 FEET; THENCE S01°05'29\"E A DISTANCE OF 327.29 FEET TO A POINT ON THE NORTH LINE OF LOT 23, BLOCK 1 OF SUMMERFIELD ESTATES SEVENTH SUBDIVISION, CITY OF GRAND ISLAND, HALL COUNTY, NEBRASKA; THENCE S72°22'10\"W ALONG SAID NORTH LINE A DISTANCE OF 10.43 FEET TO THE POINT OF BEGINNING. SAID PERMANENT DRAINAGE EASEMENT CONTAINS 6,612 SQUARE FEET OR 0.15 ACRES MORE OR LESS.

**MOLSSON**  
ASSOCIATES

201 East 2nd Street  
P.O. Box 1072  
Grand Island, NE 68802-1072  
TEL 308.384.8750  
FAX 308.384.8752



# **City of Grand Island**

**Tuesday, February 23, 2010**

**Council Session**

## **Item F1**

**#9249 - Consideration of Conveyance of Properties at 424 N.  
Waldo Street, 503 W. Louise Street, and 809 W. Charles Street**

**Staff Contact: Joni Kuzma**

# **Council Agenda Memo**

**From:** Joni Kuzma, Community Development Administrator

**Meeting:** February 23, 2010

**Subject:** Consideration of Conveyance of Properties at 424 N. Waldo Street, 503 W. Louise Street, and 809 W. Charles Street

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

**Presenter(s):** Joni Kuzma, Community Development Administrator

## **Background**

The City purchased the structures and properties at 424 N. Waldo Street, 503 W. Louise Street, and 809 W. Charles Street on February 9, 2010 for as a part of the Neighborhood Stabilization Program (NSP) using Community Development Block Grant funds. All structures on the property are to be demolished and the lot redeveloped into new single-family homes for sale to a low-to-middle income first-time homebuyer. The Housing Development Corporation, in compliance with the contract between the City and the Nebraska Department of Economic Development, previously approved, will build a new single-family home according to NSP and City regulations. A Housing Development Agreement between the City and the Housing Development Corporation was approved by Council on December 15, 2009.

## **Discussion**

Nebraska law requires Council to approve the conveyance of properties at 424 N. Waldo Street, 503 W. Louise Street, and 809 W. Charles St. to the Housing Development Corporation by ordinance subject to remonstrance and demolition. After the ordinance is passed it must be published for three consecutive weeks in the Grand Island Independent. The terms of the conveyance are contained in the housing development agreement which is incorporated by reference into the ordinance

## **Alternatives**

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

1. Move to adopt the ordinance to convey the property.
2. Postpone the issue to a future date.
3. Take no action on the issue and retain the property.

### **Recommendation**

City Administration recommends that the Council move to convey the property to the Housing Development Corporation and begin the 30 day remonstrance period.

### **Sample Motion**

Move to approve the ordinance to convey the property to the Housing Development Corporation and begin the 30 day remonstrance period



ORDINANCE NO. 9249

An ordinance directing and authorizing the sale of real estate to the Housing Development Corporation; providing for the giving of notice of such conveyance and the terms thereof; providing for the right to file a remonstrance against such conveyance; providing for publication and the effective date of this ordinance.

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

SECTION 1. The City of Grand Island, Nebraska, will convey to the HOUSING DEVELOPMENT CORPORATION, the following tracts of land legally described as:

1. Lots One Hundred Seventy-Six (176) and One Hundred Seventy-Seven (177), in Belmont, an Addition to the City of Grand Island, Hall County, Nebraska (424 N. Waldo Street)
2. Lot One (1), in Block Six (6), in Wiebe's Addition to the City of Grand Island, Hall County, Nebraska (503 W. Louise Street)
3. Lot Two (2), in Block Two (2), in Wiebe's Addition to the City of Grand Island, Hall County, Nebraska (809 W. Charles Street)

SECTION 2. In consideration for such conveyance the Grantee shall develop the property and abide by the terms of the Neighborhood Stabilization Program guidelines and the Housing Development Agreement between the City and the Housing Development Corporation. Conveyance of the real estate above described shall be by warranty deed.

SECTION 3. As provided by law, notice of such conveyance and the terms thereof shall be published for three consecutive weeks in the *Grand Island Independent*, a newspaper published for general circulation in the City of Grand Island. Immediately after the passage and publication of this ordinance, the City Clerk is hereby directed and instructed to prepare and publish said notice.

ORDINANCE NO. 9249 (Cont.)

SECTION 4. Authority is hereby granted to the electors of the City of Grand Island to file a remonstrance against the conveyance of such within described real estate; and if a remonstrance against such conveyance signed by registered voters of the City of Grand Island equal in number to thirty percent of the registered voters of the City of Grand Island voting at the last regular municipal election held in such City be filed with the City Council within thirty days of passage and publication of such ordinance, said property shall not then, nor within one year thereafter, be conveyed.

SECTION 5. The conveyance of said real estate is hereby authorized, directed and confirmed; and if no remonstrance be filed against such conveyance, the Mayor shall make, execute and deliver to the Housing Development Corporation a warranty deed for said real estate, and the execution of such deed is hereby authorized without further action on behalf of the City Council.

SECTION 6. This ordinance shall be in force and take effect from and after its passage and publication, within fifteen days in one issue of the Grand Island Independent as provided by law.

Enacted: February 23, 2010.

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Margaret Hornady, Mayor

Attest:

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RaNae Edwards, City Clerk



# City of Grand Island

Tuesday, February 23, 2010

Council Session

## Item F2

**#9250 - Consideration of Transferring Special Revenue Fund 290  
Backflow Expenses to the General Fund**

Staff Contact: Craig Lewis

# **Council Agenda Memo**

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

**Meeting:** February 23, 2010

**Subject:** Transfer Special Revenue Fund 290 Backflow into  
General Fund 22001 Building Inspection

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

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

## **Background**

Included in the budget discussion from last fall was the fact that the projected expenditure for the Backflow Protection Program would continue a historical trend of exceeding fee-based revenue by approximately \$20,000, leaving a projected negative balance of \$43,109 at year-end. Administration indicated at that time that a Resolution would be brought forward during the year that would increase the fee to reduce or eliminate the deficit.

With the implementation of a backflow program some years ago, several individuals and two departments were and continue to be involved in the function of providing safe water to the citizens of Grand Island. The Backflow Fund was established to expense the cost for a position with the Building Department that would be charged with the responsibility of surveying, inspecting, and overseeing the continued testing of the devices installed to protect the water distribution system. Basically, the activity of a plumbing inspector position and the operational cost functioned much like a division of the Building Department. A surcharge was implemented on the water bill of the individual water customer to support that position, and expenses from the building department were charged against that Fund. Some associated expenses were also borne by the Water Fund, although special line-items were not created for them.

## **Discussion**

We now recommend that the Backflow Protection Program be changed such that the surcharge monies be receipted directly into the Water Fund with the result that the Backflow Fund is eliminated. The Water Fund will then reimburse the General Fund for operational expenses of the program associated with the continued involvement of the Building Department in program oversight, surveying, and inspection. This will

effectively result in the Water Fund (Department) assuming full financial responsibility for the Backflow Protection program, which will allow greater latitude in decision making with respect to the intended cost recovery of the fee.

### **Alternatives**

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

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

### **Recommendation**

City Staff recommends that the Council approve the request and authorize the Ordinance to transfer the Special Revenue Fund 290 Backflow to the General Fund 22001 Building Inspection.

### **Sample Motion**

Move to approve Ordinance No. 9250 as proposed for the transfer of Special Revenue Fund 290 to General Fund 22001 Building Inspection.

ORDINANCE NO. 9250

WHEREAS, an ordinance to transfer Special Revenue Fund 290 Backflow expenses into the General Fund 22001 Building Inspection expenses and transfer the FTE from Backflow to the Building Inspection Department and to provide for a departmental billing to be established from the Building Inspection Department to the Water Utility on a monthly basis for the identified cost each fiscal year for the expense incurred for the Building Department participation in the City of Grand Island Backflow program.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA: Special Fund 290 Backflow expenses shall be transferred to General Fund 22001 Building Inspection expenses and the surcharge revenues shall be receipted in the Water Utility enterprise fund 525. A monthly billing from the Building Department to the Water Utility will be established upon passage and the effective date of the ordinance.

Enacted: February 23, 2010.

\_\_\_\_\_  
Margaret Hornady, Mayor

Attest:

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



# **City of Grand Island**

**Tuesday, February 23, 2010**

**Council Session**

## **Item F3**

**#9251 - Consideration of Salary Ordinance**

**Staff Contact: Brenda Sutherland**

# **Council Agenda Memo**

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

**Meeting:** February 23, 2010

**Subject:** Salary Ordinance

**Item #'s:** F-3

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

## **Background**

Wages for City employees are presented to the City Council for approval in the form of a salary ordinance. An ordinance is being brought forward for Council consideration to support the FTE amendment that Chief Hughes is recommending for the Fire Department.

## **Discussion**

Chief Hughes is recommending an FTE amendment that will reclassify the following positions; Operations Division Chief, EMS Division Chief, Fire Prevention Division Chief, and Fire Training Division Chief. His recommendation is to classify all four positions as Fire Division Chief. His recommendation will change the job title and pay scale for the new position. A salary ordinance is needed to carry out this direction.

The proposed pay range is \$27.8470 –\$39.1725. The range was arrived at by averaging the four positions that were surveyed last fall. The top number shown in the ordinance (\$40.1959) is there to accommodate the employee that is currently in a step outside the range and will remain in that step until the range catches up.

## **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 Salary Ordinance #9251.

### **Sample Motion**

Move to approve Salary Ordinance #9251.

## ORDINANCE NO. 9251

An ordinance to amend Ordinance 9247 known as the Salary Ordinance which lists the currently occupied classifications of officers and employees of the City of Grand Island, Nebraska and established the ranges of compensation of such officers and employees; ~~to amend the salary ranges of the IBEW Service/Clerical employees; to rename the position of Purchasing Technician to Accounts Payable Clerk; to rename the position of GIS Technician to GIS Specialist; to display hourly wages rather than biweekly wage for all positions; to remove the positions and salary ranges of Fire Operations Division Chief, Fire Prevention Division Chief, Fire Training Division Chief, and EMS Division Chief; to add the position and salary range of Fire Division Chief;~~ and to repeal those portions of Ordinance No. 9247 and any parts of other ordinances in conflict herewith; to provide for severability; to provide for the effective date thereof; and to provide for publication of this ordinance in pamphlet form.

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

SECTION 1. The currently occupied classifications of officers and general employees of the City of Grand Island, and the ranges of compensation (salary and wages, excluding shift differential as provided by contract) to be paid for such classifications, and the number of hours and work period which certain officers and general employees shall work prior to overtime eligibility are as follows:

Classification	Hourly Pay Range Min/Max	Overtime Eligibility
Accountant	21.6100/30.4700	Exempt
Accounting Technician – Solid Waste	15.0000/19.7200	40 hrs/week
Assistant to the City Administrator	21.0200/29.5900	Exempt
Assistant Utility Director – Administration	40.7800/57.4000	Exempt
Assistant Utility Director – PGS & PCC	44.1600/62.1800	Exempt

Approved as to Form    ☐ \_\_\_\_\_  
February 18, 2010      ☐ City Attorney

ORDINANCE NO. 9251 (Cont.)

<b>Classification</b>	<b>Hourly Pay Range Min/Max</b>	<b>Overtime Eligibility</b>
Attorney	26.8900/41.4900	Exempt
Biosolids Technician	17.0401/23.9867	40 hrs/week
Building Department Director	31.5000/44.8200	Exempt
Cemetery Superintendent	18.3119/25.7803	Exempt
City Administrator	53.8810/75.8161	Exempt
City Attorney	37.2300/52.4000	Exempt
City Clerk	22.4900/31.6600	Exempt
Civil Engineering Manager – Public Works Engineering	28.6200/41.0400	Exempt
Civil Engineering Manager – Utility PCC	32.0000/45.6900	Exempt
Collection System Supervisor	21.5900/30.6900	40 hrs/week
Community Service Officer	12.1000/16.4500	40 hrs/week
Custodian – Library, Police	11.0885/15.6476	40 hrs/week
Electric Distribution Superintendent	31.2500/42.8300	Exempt
Electric Distribution Supervisor	26.3900/36.1900	40 hrs/week
Electric Underground Superintendent	27.8300/38.1500	Exempt
Electrical Engineer I	25.3300/34.9600	Exempt
Electrical Engineer II	29.3800/40.5100	Exempt
Emergency Management Deputy Director	21.3600/29.2100	Exempt
Emergency Management Director	30.4000/41.5600	Exempt
<del>EMS Division Chief</del>	<del>28.6146/40.2621</del>	<del>Exempt</del>
Engineering Technician - WWTP	18.8700/26.6600	40 hrs/week
Engineering Technician Supervisor	21.0900/30.5300	Exempt
Equipment Operator - Solid Waste	15.1218/21.2957	40 hrs/week
Finance Director	35.6881/50.2209	Exempt
Fire Chief	34.0500/48.2500	Exempt
<del>Fire Operations Division Chief</del>	<del>29.9958/42.2055</del>	<del>Exempt</del>
<del>Fire Prevention Division Chief</del>	<del>26.3753/37.1111</del>	<del>Exempt</del>
<del>Fire Training Division Chief</del>	<del>26.3753/37.1111</del>	<del>Exempt</del>
<u>Fire Division Chief</u>	<u>27.8470/40.1959</u>	<u>Exempt</u>
Fleet Services Superintendent	24.1300/34.0900	Exempt

ORDINANCE NO. 9251 (Cont.)

<b>Classification</b>	<b>Hourly Pay Range Min/Max</b>	<b>Overtime Eligibility</b>
Fleet Services Supervisor	19.2100/26.7600	40 hrs/week
Golf Course Superintendent	22.8100/32.9200	Exempt
Grounds Management Crew Chief – Cemetery	17.1031/24.0687	40 hrs/week
Grounds Management Crew Chief – Parks	17.6161/24.7906	40 hrs/week
Human Resources Director	32.2100/45.8900	Exempt
Human Resources Specialist	17.2500/25.3500	40 hrs/week
Information Technology Manager	28.9540/40.7386	Exempt
Information Technology Supervisor	25.4000/39.0400	Exempt
Legal Secretary	18.9700/25.5100	40 hrs/week
Librarian I	16.5700/23.0500	Exempt
Librarian II	18.3500/25.8500	Exempt
Library Assistant I	11.6100/15.9800	40 hrs/week
Library Assistant II	12.7900/17.6300	40 hrs/week
Library Assistant Director	20.9000/29.7900	Exempt
Library Clerk	9.5700/13.2800	40 hrs/week
Library Director	28.2796/39.8068	Exempt
Library Page	7.4300/10.2800	40 hrs/week
Library Secretary	13.8900/19.7400	40 hrs/week
Maintenance Worker – Golf	13.9425/19.6625	40 hrs/week
Manager of Engineering Services	30.8300/44.2500	Exempt
Meter Reader Supervisor	17.5366/24.6969	Exempt
Office Manager – Police Department	15.1900/21.0406	40 hrs/week
Parking Monitor	8.1100/11.0200	40 hrs/week
Parks and Recreation Director	31.9851/44.9881	Exempt
Parks Superintendent	22.3500/31.6100	Exempt
Payroll Specialist	15.9420/22.4290	40 hrs/week
Planning Director	31.7148/44.6178	Exempt
Police Captain	26.7800/37.6700	Exempt
Police Chief	34.0500/48.2500	Exempt
Police Records Clerk - Part Time	12.4000/17.2600	40 hrs/week
Power Plant Maintenance Supervisor	28.0509/39.4574	Exempt

ORDINANCE NO. 9251 (Cont.)

<b>Classification</b>	<b>Hourly Pay Range Min/Max</b>	<b>Overtime Eligibility</b>
Power Plant Operations Supervisor	29.2000/42.0400	Exempt
Power Plant Superintendent – Burdick	31.9808/45.0026	Exempt
Power Plant Superintendent – PGS	36.8688/51.8571	Exempt
Public Information Officer	20.0800/28.2600	Exempt
Public Works Director	35.8254/50.4141	Exempt
Receptionist	12.400/17.9400	40 hrs/week
Recreation Superintendent	20.9300/30.0300	Exempt
Regulatory and Environmental Specialist	27.6631/38.9119	Exempt
Senior Accountant	26.3200/36.6400	Exempt
Senior Communications Specialist/EMD	16.2000/22.1400	40 hrs/week
Senior Electrical Engineer	32.1500/44.3300	Exempt
Senior Equipment Operator, Solid Waste	15.8780/22.3421	40 hrs/week
Senior Utility Secretary	14.3250/20.4550	40 hrs/week
Shooting Range Superintendent	20.9300/30.0300	Exempt
Solid Waste Division Clerk - Full Time	14.2900/19.1400	40 hrs/week
Solid Waste Division Clerk - Part Time	12.7236/17.3800	40 hrs/week
Solid Waste Superintendent	22.9786/32.3353	Exempt
Street Superintendent	23.5000/34.2100	Exempt
Street Supervisor	18.4800/26.2600	40 hrs/week
Turf Management Specialist	20.5000/29.0200	40 hrs/week
Utility Director	51.9700/74.4700	Exempt
Utility Production Engineer	32.8786/46.2710	Exempt
Utility Services Manager	26.7500/37.2300	Exempt
Utility Warehouse Supervisor	21.8200/30.4800	40 hrs/week
Victim Assistance Unit Coordinator	12.5500/17.6700	40 hrs/week
Wastewater Engineering/Operations Superintendent	25.6500/36.2900	Exempt
Wastewater Plant Chief Operator	18.9500/26.7100	40 hrs/week
Wastewater Plant Maintenance Supervisor	22.9100/30.8500	40 hrs/week
Wastewater Plant Process Supervisor	23.7500/32.0200	40 hrs/week
Water Superintendent	24.2210/34.2100	Exempt
Water Supervisor	20.9100/30.1300	40 hrs/week

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<b>Classification</b>	<b>Hourly Pay Range Min/Max</b>	<b>Overtime Eligibility</b>
Worker / Seasonal	7.2500/20.0000	Exempt
Worker / Temporary	7.2500/20.0000	40 hrs/week

SECTION 2 The currently occupied classifications of employees of the City of Grand Island included under the AFSCME labor agreement, and the ranges of compensation (salary and wages, excluding shift differential as provided by contract) to be paid for such classifications, and the number of hours and work period which certain such employees included under the AFSCME labor agreement shall work prior to overtime eligibility are as follows:

<b>Classification</b>	<b>Hourly Pay Range Min/Max</b>	<b>Overtime Eligibility</b>
Equipment Operator – Streets	13.8757/19.5126	40 hrs/week
Fleet Services Attendant/Clerk	12.6141/17.7913	40 hrs/week
Fleet Services Inventory Specialist	13.8363/19.4733	40 hrs/week
Fleet Services Mechanic	15.8285/22.2618	40 hrs/week
Horticulturist	14.6510/20.6425	40 hrs/week
Maintenance Worker – Cemetery	13.7705/19.3812	40 hrs/week
Maintenance Worker – Parks	13.6786/19.2630	40 hrs/week
Maintenance Worker – Streets	13.3895/18.8424	40 hrs/week
Senior Equipment Operator – Streets	15.2027/21.4049	40 hrs/week
Senior Maintenance Worker – Parks	15.2027/21.4049	40 hrs/week
Senior Maintenance Worker – Streets	15.2027/21.4049	40 hrs/week
Traffic Signal Technician	15.2027/21.4049	40 hrs/week

SECTION 3. The currently occupied classifications of employees of the City of Grand Island included under the IBEW labor agreements, and the ranges of compensation (salary and wages, excluding shift differential as provided by contract) to be paid for such

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classifications, and the number of hours and work period which certain such employees included under the IBEW labor agreements shall work prior to overtime eligibility are as follows:

<b>Classification</b>	<b>Hourly Pay Range Min/Max</b>	<b>Overtime Eligibility</b>
Accounting Clerk	13.9001/18.3940	40 hrs/week
Cashier	12.7580/17.3850	40 hrs/week
Custodian	14.8976/17.5921	40 hrs/week
Electric Distribution Crew Chief	27.2124/34.6091	40 hrs/week
Electric Underground Crew Chief	27.2124/34.6091	40 hrs/week
Engineering Technician I	17.1487/24.5367	40 hrs/week
Engineering Technician II	21.1992/29.0671	40 hrs/week
GIS Coordinator	21.8107/30.6049	40 hrs/week
Instrument Technician	25.5794/33.7924	40 hrs/week
Lineworker Apprentice	16.5879/24.3230	40 hrs/week
Lineworker First Class	25.1434/29.7374	40 hrs/week
Materials Handler	20.7033/27.7522	40 hrs/week
Meter Reader	14.9167/19.4517	40 hrs/week
Meter Technician	20.0555/24.7866	40 hrs/week
Power Dispatcher I	25.1156/34.9205	40 hrs/week
Power Dispatcher II	26.3793/36.6716	40 hrs/week
Power Plant Maintenance Mechanic	23.7745/29.6038	40 hrs/week
Power Plant Operator	28.0862/32.7156	40 hrs/week
Senior Accounting Clerk	15.6241/20.4663	40 hrs/week
Senior Engineering Technician	26.8229/32.8253	40 hrs/week
Senior Materials Handler	23.8377/31.0931	40 hrs/week
Senior Meter Reader	17.6666/20.9682	40 hrs/week
Senior Power Dispatcher	30.5150/41.8751	40 hrs/week
Senior Power Plant Operator	27.6915/35.4997	40 hrs/week
Senior Substation Technician	32.6046/33.7924	40 hrs/week
Senior Water Maintenance Worker	19.3719/25.5083	40 hrs/week
Substation Technician	30.1833/31.3815	40 hrs/week
Systems Technician	26.6000/33.7924	40 hrs/week
Tree Trim Crew Chief	23.8284/29.5914	40 hrs/week

ORDINANCE NO. 9251 (Cont.)

<b>Classification</b>	<b>Hourly Pay Range Min/Max</b>	<b>Overtime Eligibility</b>
Utilities Electrician	23.8788/31.3815	40 hrs/week
Utility Technician	23.3224/32.8063	40 hrs/week
Utility Warehouse Clerk	17.2330/21.2614	40 hrs/week
Water Maintenance Worker	16.1398/22.3197	40 hrs/week
Wireworker I	18.1316/25.6380	40 hrs/week
Wireworker II	25.1434/29.7374	40 hrs/week

SECTION 4. The currently occupied classifications of employees of the City of Grand Island included under the FOP labor agreement, and the ranges of compensation (salary and wages, excluding shift differential as provided by contract) to be paid for such classifications, and the number of hours and work period which certain such employees included under the FOP labor agreement shall work prior to overtime eligibility are as follows:

<b>Classification</b>	<b>Hourly Pay Range Min/Max</b>	
Police Officer	17.2016/24.0468	
Police Sergeant	21.5296/29.5005	

OVERTIME ELIGIBILITY

The City has reserved its right to the utilization of the 207(k) FLSA exemption and will implement this as the hours of work effective the first full pay period following the execution of the labor agreement. The pay period for purposes of calculating overtime shall consist of a fourteen (14) day cycle that runs concurrent with the City's current payroll cycle. For purposes of calculating eligibility for overtime, "hours worked" shall include actual hours worked, vacation, personal leave and holiday hours. Employees shall be eligible for overtime when they exceed their hours scheduled for work in the fourteen (14) day pay cycle with a minimum of



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eighty (80) hours. There shall also be established for each employee in the bargaining unit a Training and Special Events bank of fifty (50) hours per individual per contract year. Each employee may be scheduled for training or special event duty with a minimum of seven (7) days notice prior to the commencement of the pay period and the training and special events bank hours may be added to the eighty (80) hour, two (2) week pay period up to eighty-six (86) hours and these hours shall not be eligible for overtime. Training and special events hours worked in excess of eighty-six (86) hours in a two week pay period will be eligible for overtime, but will not be subtracted from the training and special events bank. All work completed after eighty (80) hours in a pay period that is performed for work that is funded by grants from parties outside or other than the City of Grand Island, shall be paid overtime for the time worked after eighty (80) hours, if the time is funded at overtime rates by the grant. Any such grant hours are not deducted from the training and special events bank.

SECTION 5. The currently occupied classifications of employees of the City of Grand Island included under the IAFF labor agreement, and the ranges of compensation (salary and wages, excluding shift differential as provided by contract) to be paid for such classifications, and the number of hours and work period which certain such employees included under the IAFF labor agreement shall work prior to overtime eligibility are as follows:

<b>Classification</b>	<b>Hourly Pay Range Min/Max</b>	<b>Overtime Eligibility</b>
Fire Captain	16.6707/23.1150	54 hrs/week
Firefighter / EMT	12.3855/17.9740	54 hrs/week
Firefighter / Paramedic	13.8282/19.5300	54 hrs/week

SECTION 6. The currently occupied classifications of the employees of the City of Grand Island included under the IBEW-WWTP labor agreement, and the ranges of

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compensation salary and wages, excluding shift differential as provided by contract, to be paid for such classifications, and the number of hours and work period which certain such employees included under the IBEW-WWTP labor agreement shall work prior to overtime eligibility are as follows:

<b>Classification</b>	<b>Hourly Pay Range Min/Max</b>	<b>Overtime Eligibility</b>
Accounting Technician – WWTP	13.8071/19.4279	40 hrs/week
Equipment Operator – WWTP	15.6752/22.0567	40 hrs/week
Maintenance Mechanic I	15.6752/22.0567	40 hrs/week
Maintenance Mechanic II	17.5511/24.6962	40 hrs/week
Maintenance Worker – WWTP	15.6752/22.0567	40 hrs/week
Senior Equipment Operator – WWTP	16.9436/23.8413	40 hrs/week
Wastewater Clerk	11.7945/16.5959	40 hrs/week
Wastewater Plant Laboratory Technician	16.6398/23.4139	40 hrs/week
Wastewater Plant Operator I	14.0196/19.7271	40 hrs/week
Wastewater Plant Operator II	15.6752/22.0567	40 hrs/week

SECTION 7. The currently occupied classifications of the employees of the City of Grand Island included under the IBEW-Service/Clerical labor agreement, and the ranges of compensation salary and wages to be paid for such classifications, and the number of hours and work period which certain such employees included under the IBEW-Service/Clerical labor agreement shall work prior to overtime eligibility are as follows:

<b>Classification</b>	<b>Hourly Pay Range Min/Max</b>	<b>Overtime Eligibility</b>
Accounting Technician – Streets	14.9600/19.9700	40 hrs/week
Accounts Payable Clerk	14.1900/20.5300	40 hrs/week
Administrative Assistant	14.7600/21.1700	40 hrs/week
Audio Video Technician	14.9000/21.0200	40 hrs/week
Building Inspector	18.4300/26.1500	40 hrs/week
Building Secretary	13.8900/19.7400	40 hrs/week

ORDINANCE NO. 9251 (Cont.)

Community Development Administrator	16.0800/23.1200	Exempt
Communication Specialist/EMD	14.0000/20.4500	40 hrs/week
Computer Operator	17.9300/23.5702	40 hrs/week
Computer Programmer	20.4500/29.9700	40 hrs/week
Computer Technician	18.4680/24.2777	40 hrs/week
Electrical Inspector	18.4300/26.1500	40 hrs/week
Emergency Management Coordinator	13.8900/19.7400	40 hrs/week
Engineering Technician – Public Works	18.9600/26.7400	40 hrs/week
Evidence Technician	13.7900/20.1800	40 hrs/week
Finance Secretary	13.8900/19.7400	40 hrs/week
GIS Specialist	21.0224/29.4987	40 hrs/week
Maintenance Worker I – Building, Library	14.4900/19.6100	40 hrs/week
Maintenance Worker II – Building, Police	15.2700/20.7000	40 hrs/week
Parks and Recreation Secretary	13.8900/19.7400	40 hrs/week
Planning Secretary	13.8900/19.7400	40 hrs/week
Planning Technician	19.0169/26.7559	40 hrs/week
Plans Examiner	18.4300/26.1500	40 hrs/week
Plumbing Inspector	18.4300/26.1500	40 hrs/week
Police Records Clerk – Full Time	12.4000/17.2600	40 hrs/week
Shooting Range Operator	19.2400/26.0800	40 hrs/week
Stormwater Technician	18.9600/26.7400	40 hrs/week
Utility Secretary	13.8900/19.7400	40 hrs/week

SECTION 8. The classification of employees included under labor agreements with the City of Grand Island, and the ranges of compensation (salary and wages, excluding shift differential as provided by contract) to be paid for such classification, and the number of hours and work period which certain such employees shall work prior to overtime eligibility are as stated above. All employees covered by the IAFF labor agreement shall be paid a clothing and uniform allowance in addition to regular salary in the amount of \$484.00 per year, divided into twenty-four (24) pay periods. All employees of the FOP labor agreement shall be paid a clothing

ORDINANCE NO. 9251 (Cont.)

and uniform allowance in addition to regular salary of \$25.00 per pay period. If any such employee covered by the IAFF or FOP labor agreements shall resign, or his or her employment be terminated for any reason whatsoever, the clothing allowance shall be paid on a prorata basis, but no allowance shall be made for a fraction of a month.

Non-union employees and employees covered by the FOP labor agreement, the IBEW Utilities, Finance and Service/Clerical labor agreements may receive an annual stipend not to exceed \$1,000 for bilingual pay.

Employees covered by the AFSCME labor agreement shall be granted a meal allowance of \$4.50 if they are required to work two (2) hours overtime consecutively with their normal working hours during an emergency situation, and if such overtime would normally interfere with and disrupt the employee's normal meal schedule. Employees covered by the IBEW - Utilities and IBEW – Finance labor agreements shall be allowed a meal allowance for actual cost, or up to \$7.00 per meal, if they are required to work two (2) hours overtime consecutively with their normal working hours and if such overtime would normally interfere with and disrupt the employee's normal meal schedule. Direct supervisors of employees who are covered by labor agreements which allow overtime meal allowance shall be entitled to the same meal allowance benefit.

Utilities Department personnel in the IBEW bargaining unit and the classifications of Meter Reader Supervisor, Power Plant Superintendent, Power Plant Supervisor, Electric Distribution Superintendent, Electric Distribution Supervisor, Water Superintendent, Water Supervisor, Electric Underground Superintendent, and Engineering Technician Supervisor shall be eligible to participate in a voluntary uniform program providing an allowance up to \$18.00 per month. When protective clothing is required for Utilities Department and Wastewater

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Treatment Plant personnel covered by the IBEW labor agreement and employees covered by the AFSCME labor agreement, except the Fleet Services Division of the Public Works Department, the City shall pay 60% of the cost of providing and cleaning said clothing and the employees 40% of said cost. Full-time Fleet Services personnel shall receive a uniform allowance of \$12 biweekly. Public Works Department personnel in the job classifications Fleet Services Supervisor, Fleet Services Superintendent, and Fleet Services Mechanic shall receive a tool allowance of \$10 biweekly.

SECTION 9. Employees shall be compensated for unused medical leave as follows:

(A) For all non-union employees the City will include in the second paycheck in January of each year, payment for an employee's unused medical leave in excess of 960 hours accrued in the preceding calendar year. The compensation will be based on 50% of the accumulated hours above 960 at the employee's current pay rate at the time of such compensation.

(B) All employees covered in the IBEW Utilities and IBEW Finance labor agreements shall be paid for forty-seven percent (47%) of their accumulated medical leave at the time of their retirement, early retirement, or death, not to exceed four hundred eighty-eight and one third hours (calculated at  $47\% \times 1039 \text{ hours} = 488.33 \text{ hours}$ ), the rate of compensation to be based on the employee's salary at the time of retirement or death. Employees covered in the IAFF labor agreement shall have a contribution to a VEBA made on their behalf in lieu of payment for thirty-eight percent (38%) of their accumulated medical leave at the

ORDINANCE NO. 9251 (Cont.)

time of their retirement, not to exceed five hundred ninety-eight and eighty-eight hundredths hours (calculated at  $38\% \times 1,576 \text{ hours} = 598.88 \text{ hours}$ ). The amount of contribution will be based upon the employee's salary at the time of retirement. Employees covered by the IBEW Wastewater labor agreement shall be paid 37.5% of their accumulated medical leave at the time of retirement or death, based on the employee's salary at the time of retirement not to exceed three hundred ninety-nine hours (calculated at  $37.5\% \times 1064 \text{ hours} = 399 \text{ hours}$ ). Employees covered by the IBEW Service/Clerical labor agreement shall have a contribution to a VEBA made on their behalf in lieu of payment for forty percent (40%) of their accumulated medical leave at the time of retirement or death, based on the employee's salary at the time of retirement not to exceed 433.60 hours (calculated at  $40\% \times 1084 \text{ hours} = 433.60 \text{ hours}$ .) Employees covered by the IBEW Service/Clerical labor agreement will be compensated for unused medical leave in excess of 960 hours as of September 30, 2009. Employees will be compensated for fifty percent (50%) of the hours over 960 at their current rate of pay in January 2010. Such compensation for unused medical leave in excess of 960 shall not continue after January 2010. Any employee covered by this bargaining unit shall be allowed to maintain a balance of sixteen (16) hours in their compensatory time banks if those hours exist at the date of approval of the labor agreement. All hours in excess of sixteen (16) shall be paid to the employee at the same time as any retroactive payments are made. Non-union employees shall have a contribution to a VEBA made on their behalf in lieu of payment for one-half of their accumulated medical leave at the time of their retirement. The

ORDINANCE NO. 9251 (Cont.)

amount of contribution will be based upon the employee's salary at the time of retirement. All employees covered by the AFSCME labor agreement shall be paid forty-five (45%) of their accumulated medical leave bank at the time of their retirement, based on the employee's salary at the time of retirement not to exceed four hundred seventy-eight and eighty hundredths hours (calculated at  $45\% \times 1064 \text{ hours} = 478.80 \text{ hours}$ ). All employees covered under the FOP labor agreement shall be paid thirty-seven and one-half percent (37.5%) of their accumulated medical leave bank at the time of their retirement, not to exceed four hundred five hours (calculated at  $37.5\% \times 1,080 \text{ hours} = 405 \text{ hrs.}$ ), based on the employee's salary at the time of retirement. If death occurs while in the line of duty, employees covered under the FOP labor agreement shall be paid fifty percent (50%) of their accumulated medical leave bank at the time of their death, not to exceed five hundred forty hours ( $50\% \times 1,080 \text{ hours} = 540 \text{ hrs.}$ ), based on the employee's salary at the time of their death.

(C) The City Administrator and department heads shall have a contribution made to their VEBA for one-half of their accumulated medical leave, not to exceed 30 days of pay, upon their resignation, the rate of compensation to be based upon the salary at the time of termination. Compensation for unused medical leave at retirement shall be as provided for non-union employees.

(D) The death of an employee shall be treated the same as retirement, and payment shall be made to the employee's beneficiary or estate for one-half of all unused medical leave for non-union employees and as defined in labor agreements for all other employees.

ORDINANCE NO. 9251 (Cont.)

SECTION 10. The City Administrator shall receive a vehicle allowance of Five Hundred Dollars (\$500.00) per month in lieu of mileage allowance, divided into two equal payments of Two Hundred Fifty Dollars (\$250.00).

SECTION 11. 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 12. The salary adjustments identified herein shall be effective on the date of passage and publication in pamphlet form in one issue of the Grand Island Independent as provided by law. ~~Wages for employees covered under the IBEW Service/Clerical labor agreement shall be retroactive to the first full pay period in October, 2009.~~

SECTION 13. Those portions of Ordinance No. ~~9239-9247~~ and all other parts of ordinances in conflict herewith be, and the same are, hereby repealed.

Enacted: February 23, 2010

\_\_\_\_\_  
Margaret Hornady, Mayor

Attest:

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





# **City of Grand Island**

**Tuesday, February 23, 2010**

**Council Session**

## **Item G1**

**Approving Minutes of February 9, 2010 City Council Regular Meeting**

**Staff Contact: RaNae Edwards**

## CITY OF GRAND ISLAND, NEBRASKA

### MINUTES OF CITY COUNCIL REGULAR MEETING

February 9, 2010

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 February 9, 2010. Notice of the meeting was given in *The Grand Island Independent* on February 3, 2010.

Mayor Hornady called the meeting to order at 7:00 p.m. The following City Councilmember's were present: Meyer, Niemann, Gilbert, Haase, Carney, Dugan, Ramsey, Zapata, Nickerson, and Gericke. The following City Officials were present: City Administrator Jeff Pederson, City Clerk RaNae Edwards, Finance Director Mary Lou Brown, City Attorney Dale Shotkoski, and Public Works Director Steve Riehle.

INVOCATION was given by Mayor Hornady followed by the PLEDGE OF ALLEGIANCE.

COMMUNICATION: Mayor Hornady introduced CYC members Michael Hollman and Aaron Oswald and board member Celine Stahlnecker. Also mentioned was the CYC's upcoming service project "PJ's and Pages Drive" to be held February 12-27, 2010. Mayor Hornady commented on the annual EDC reception for the Legislature. South Locust highway project would start May 3, 2010.

#### PRESENTATIONS AND PROCLAMATIONS:

Recognition of Brad Foster, Horticulturist with the Parks and Recreation Department for 25 Years of Service with the City of Grand Island. Mayor Hornady and City Council recognized Brad Foster, Horticulturist with the Parks and Recreation Department for 25 years of service with the City of Grand Island. Steve Paustian, Parks and Recreation Director commented on Mr. Foster's work with the Parks Department. Mr. Foster was present for the recognition.

Recognition of Nick Mankle, Senior Power Plant Operator with the Utilities Department for 30 Years of Service with the City of Grand Island. Mayor Hornady and City Council recognized Nick Mankle, Senior Power Plant Operator with the Utilities Department for 30 years of service with the City of Grand Island. Gary Mader, Utilities Department Director commented on Mr. Mankle's work with the Utilities Department. Mr. Mankle was present for the recognition.

Proclamation "Scouting Anniversary Week" February 7-13, 2010. Mayor Hornady proclaimed the week of February 7-13, 2010 as "Scouting Anniversary Week". Traci Raber and Dave Plond, Scout Executive with the Overland Trails Council were present to receive the proclamation.

#### PUBLIC HEARINGS:

Public Hearing on Request from Sam's West, Inc. dba Sam's Club 6461, 1510 North Diers Avenue for a Class "C" Liquor License. RaNae Edwards, City Clerk reported that an application for a Class "C" Liquor License had been received from Sam's West, Inc. dba Sam's Club 6461, 1510 North Diers Avenue. Ms. Edwards presented the following exhibits for the record: application submitted to the Liquor Control Commission and received by the City on January 15,

2010; notice to the general public of date, time, and place of hearing published on January 30, 2010; notice to the applicant of date, time, and place of hearing mailed on January 15, 2010; along with Chapter 4 of the City Code. Staff recommended approval contingent upon final inspections. No public testimony was heard.

Public Hearing on Request from ITT Corporation for a Conditional Use Permit for a FAA Communication Tower Located at 3565 Sky Park Road. Craig Lewis, Building Department Director reported that ITT Corporation had submitted an application for a conditional use permit for a FAA Communication Tower located at 3565 Sky Park Road. Staff recommended approval. Mike Olson, Executive Director for the Airport, 3741 Sky Park Road spoke in support. No further public testimony was heard.

Public Hearing on the One & Six Year Street Improvement Plan. Steve Riehle, Public Works Director reported that adoption of a One and Six Year Street Improvement Program was required by State law as part of the requirements to receive approximately three million dollars of state gas tax funds each year. This item was referred to the Regional Planning Commission by Council at their January 26, 2010 Regular Meeting. The Regional Planning Commission conducted a Public Hearing at their February 3, 2010 meeting. Mr. Riehle presented a PowerPoint explaining the recommendations. Paul Wieck, 319 Cardinal Drive commented on the speed limit on Stuhr Road. No further public testimony was heard.

Public Hearing for Neighborhood Stabilization Program Property Purchases. Joni Kuzma, Community Development Administrator reported that the Community Development Department was proposing to purchase structures and properties at 424 North Waldo Street, 503 West Louise Street and 809 West Charles Street as part of the Neighborhood Stabilization Program using Community Development Block Grant (GDBG) funds. These properties would be redeveloped into new single-family homes to be sold to low-to-middle income first-time homebuyers. No public testimony was heard.

CONSENT AGENDA: Consent Agenda items G-3, G-4 and G-11 were removed for further discussion. Motion by Zapata, second by Nickerson to approve the Consent Agenda excluding items G-3, G-4, and G-11. Upon roll call vote, all voted aye. Motion adopted.

Approving Minutes of January 26, 2010 City Council Regular Meeting.

Approving Minutes of February 2, 2010 City Council Study Session.

#2010-40 – Approving Certificate of Final Completion for Retaining Wall Construction at Sucks Lake with Greenworks Landscaping & Design of Grand Island, Nebraska.

#2010-41 – Approving Certificate of Final Completion for Furnishing and Installation of Well at the Veterans Athletic Field Complex with Nunnenkamp Well Co. of Grand Island, Nebraska.

#2010-42 – Approving Neighborhood Stabilization Program Property Purchases Located at 424 North Waldo Street, 503 West Louise Street, and 809 West Charles Street.

#2010-43 – Approving Bid Award for Turbine Valve Overhaul at Platte Generating Station with Power Generation Service, Inc. of Anoka, Minnesota in an Amount of \$177,500.00.

#2010-44 – Approving Bid Award for Coal Conveyor Belting at Platte Generating Station with Lewis-Goetz & Company of Kansas City, Missouri in an Amount of \$48,580.68.

#2010-45 – Approving Supplemental Agreement Number 2 for Safe Routes to School Program Funding for the Walk to Walnut Project with the Nebraska Department of Roads.

#2010-47 – Approving Interlocal Agreement with Central Platte Natural Resources District (CPNRD), along with the Cities of Grand Island, Kearney, Central City, Lexington, Cozad, Gothenburg, North Platte and Hastings, as well as the Counties of Adams and Hamilton for Aerial Photography.

#2010-38 – Approving Change Order #1 to the Irrigation System Installation at the Veterans Athletic Field Complex with Nature's Helper Sprinkler Systems of Omaha, Nebraska for an Increase of \$45,415.00 and a Revised Contract Amount of \$169,165.00. Discussion was held concerning the reason for this change order. Steve Paustian, Parks and Recreation Director explained the discrepancies in acreage.

Motion by Meyer, second by Ramsey to approve Resolution #2010-38. Upon roll call vote, all voted aye. Motion adopted.

#2010-39 – Approving Change Order #1 to the Utility Improvements at the Veterans Athletic Field Complex with Diamond Engineering Co. of Grand Island, Nebraska for and Increase of \$8,902.20 and a Revised Contract Amount of \$200,237.38. Discussion was held concerning the reason for this change order. Steve Paustian, Parks and Recreation Director explained the discrepancies in acreage.

Motion by Meyer, second by Ramsey to approve Resolution #2010-38. Upon roll call vote, all voted aye. Motion adopted.

#2010-46 – Approving the Adoption of the Resolution to Comply with Local Public Agency Guidelines Manual by Designating Responsible Charge. Council complimented Steve Riehle, Public Works Director on completing the work to become a responsible charge person.

Motion by Dugan, second by Gilbert to approve Resolution #2010-46. Upon roll call vote, all voted aye. Motion adopted.

#### REQUESTS AND REFERRALS:

Consideration of Request from ITT Corporation for a Conditional Use Permit for a FAA Communication Tower Located at 3565 Sky Park Road. This item related to the aforementioned Public Hearing.

Motion by Nickerson, second by Haase to approve the request from ITT Corporation for a Conditional Use Permit for a FAA Communication Tower located at 3565 Sky Park Road indefinitely. Upon roll call vote, all voted aye. Motion adopted.

RESOLUTIONS:

#2010-48 – Consideration of Request from Sam’s West, Inc. dba Sam’s Club 6461, 1510 North Diers Avenue for a Class “C” Liquor License and Liquor Manager Designation for Jeanette South, 2120 West State Street. This item related to the aforementioned Public Hearing. Jeanette South commented on the change to a Class “C” Liquor License in order to offer tasting events.

Motion by Gilbert, second by Ramsey to approve Resolution #2010-48. Upon roll call vote, Councilmember’s Niemann, Gilbert, Haase, Carney, Dugan, Ramsey, Zapata, Nickerson, and Gericke voted aye. Councilmember Meyer voted no. Motion adopted.

#2010-49 – Consideration of One & Six Year Street Improvement Plan. This item related to the aforementioned Public Hearing. Discussion was held on time frame for projects. Widening Capital Avenue, drainage projects, quiet zones, and speed limit on Stuhr Road were mentioned.

Motion by Gilbert, second by Gericke to approve Resolution #2010-49. Upon roll call vote, all voted aye. Motion adopted.

PAYMENT OF CLAIMS:

Motion by Dugan, second by Nickerson to approve the Claims for the period of January 27, 2010 through February 9, 2010, for a total amount of \$2,528,590.26. Unanimously approved.

Motion by Dugan, second by Nickerson to approve the Claims for the period of January 27, 2010 through February 9, 2010 for the Veterans Athletic Field Complex for a total amount of \$28,064.00. Unanimously approved.

Motion by Dugan, second by Nickerson to approve the Claims for the period of January 27, 2010 through February 9, 2010 for the State Fair Recreation Building for a total amount of \$427,500.00. Unanimously approved.

ADJOURNMENT: The meeting was adjourned at 8:00 p.m.

RaNae Edwards  
City Clerk



# City of Grand Island

Tuesday, February 23, 2010

Council Session

## Item G2

**#2010-50 - Approving FTE Amendment - System Technician to  
Power Plant Maintenance Mechanic**

Staff Contact: Gary R. Mader

# **Council Agenda Memo**

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

**Meeting:** February 23, 2010

**Subject:** FTE Amendment

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

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

## **Background**

In 1995, one of the Power Plant Maintenance Mechanics at the Platte Generating Station was reclassified as a Systems Technician due to changes in his job assignments, which involved using specialized analytical equipment and computer software for monitoring plant equipment and scheduling maintenance activities. Over the last 15 years, the use of this diagnostic equipment has become more routine for the maintenance staff, as advances in the ease of interfacing and interpreting analyzer information has reduced the need for a specialized technician.

## **Discussion**

The use of specialized analytical monitoring equipment allows maintenance staff to identify problems in plant equipment before failure and can often predict remaining time before failure. This monitoring equipment includes infrared thermal imaging and portable and permanently-mounted vibration monitors. All maintenance activities are assigned using computer-based scheduling software, which allows supervisors to more effectively manage maintenance resources of personnel and parts, and provide a history of equipment issues to develop corrective actions. Advances in diagnostic equipment and software now make it easier to be used by maintenance workers without specialized training from suppliers, and without the need for specialized in-house programming. The use of this equipment has become a skill needed by all maintenance personnel to perform their job duties, and the lines between the Power Plant Maintenance Mechanic and Systems Technician are no longer well defined. Therefore, plant management would recommend that a Systems Technician position allocation be reclassified to a Power Plant Maintenance Mechanic position. This recommended change would not change the total personnel allocation for the Department, but would result in an annual payroll reduction since the System Technician position is at a higher pay grade than the Maintenance Mechanic position.

## **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 revising the personnel allocation for the Utilities Department by reducing the Systems Technician FTE authorization from five to four and increasing the Power Plant Maintenance Mechanic FTE authorization from nine to ten, effective March 15, 2010.

## **Sample Motion**

Move to authorize the Mayor to make the FTE changes as recommended by the Utilities Department as set forth in the proposed resolution.



RESOLUTION 2010-50

WHEREAS, the City approves the FTE's for each department as part of the budget process; and

WHEREAS, an amendment is required to allow changes to be made to the FTE schedule; and

WHEREAS, the Utilities Department has recommended a reclassification of positions which would result in the deletion on one FTE Systems Technician position and the addition of one FTE Power Plant Maintenance Mechanic position.

BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the Mayor is hereby authorized to execute the FTE Amendment, to become effective on March 15, 2010.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, February 23, 2010.

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Margaret Hornady, Mayor

Attest:

---

RaNae Edwards, City Clerk



# City of Grand Island

Tuesday, February 23, 2010

Council Session

## Item G3

**#2010-51 - Approving Program Prioritization Consultants**

Staff Contact: Jeff Pederson

# **Council Agenda Memo**

**From:** Jeff Pederson, City Administrator

**Meeting:** February 23, 2010

**Subject:** Program Prioritization Consultants

**Item #'s:** G-3

**Presenter(s):** Jeff Pederson, City Administrator

## **Background**

Jon Johnson and Chris Fabian were originally brought to Grand Island for two days in June of 2009 to meet with the City Council and share their Fiscal Health and Wellness model. Following that session, it was determined that the City would continue to explore their model and its potential for addressing budgetary concerns. The product that came from the June meetings was the Result Maps, which serve as the foundation for the process moving forward.

In late 2009, it was determined to advance and further develop the model, now referred to locally as “Program Prioritization”. The consultants spent a day in December 2009 meeting with the Department Directors and Division Heads to discuss process design and implementation. This step of the process included the identification of department programs inventories and introduction to the scoring process and cost-allocation processes.

A third face-to-face session will occur on March 6 where the consultants will meet jointly with the City Council and Department Directors at the Annual Retreat. This session will review the prioritization outcomes and provide insight on how to allocate resources based on the assigned priorities.

In addition to the meetings, the consultants have provided guidance through conference calls and emails. Additionally, the consultants have provided templates for the mechanics of the Program Prioritization process along with review and feedback on progress that has been made at various stages in the process.

## **Discussion**

The costs associated with the program are now projected to be in excess of \$20,000 and a contract should have been entered into by the City of Grand Island. Since it was not known at the time of the first meeting in June 2009 that the relationship would continue, the process of requesting quotes, requests for proposals or bids did not occur. This service is not available from another vendor, as the Program Prioritization model was developed by Johnson/Fabian and became available through sponsorship/promotion of the International City/County Management Association.

The costs associated with the first meeting were \$7,709.10. The proposed cost for the second meeting was \$6,100 and the cost of the final phase is estimated at \$7,500, both inclusive of estimated travel related costs. City Code and City fiscal policy require purchase orders and quotes for appropriations in these amounts and for amounts in excess of \$20,000, written contracts.

Neither of the first two invoices has as yet been paid.

## **Alternatives**

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

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

## **Recommendation**

City Administration recommends that the Council approve the ongoing relationship with Jon Johnson and Chris Fabian through the third phase of the Program Prioritization project.

## **Sample Motion**

Move to approve the working relationship with Jon Johnson and Chris Fabian through the third phase of the Program Prioritization project.

RESOLUTION 2010-51

WHEREAS, Jon Johnson and Chris Fabian have provided services related to the Program Prioritization project; and

WHEREAS, the City Code and City's fiscal policy require that purchase orders, quotes, requests for proposal, bids and a contract be obtained and completed; and

WHEREAS, the process of requesting quotes, requests for proposals or bids did not occur; and

WHEREAS, the combination of the actual and estimated costs totals \$21,309.10; and

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

The City Administration is hereby authorized to continue the relationship with Jon Johnson and Chris Fabian through the third phase of the Project Prioritization project.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, February 23, 2010.

\_\_\_\_\_  
Margaret Hornady, Mayor

Attest:

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

Approved as to Form	☐ _____
February 19, 2010	☐ City Attorney



# City of Grand Island

Tuesday, February 23, 2010

Council Session

## Item G4

**#2010-52 - Approving Acquisition of Public Utility Easement**

**Located in an Unplatted Tract of Land Located in the West Half of the Southwest Quarter of Section 12, Township 11 North, Range 10 West (Little B's Corporation)**

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

Staff Contact: Steven P. Riehle, Public Works Director

RESOLUTION 2010-52

WHEREAS, a public utility easement is required by the City of Grand Island, from Little B's Corporation, to construct and maintain the storm sewer utilities for the Summerfield Estate Subdivision; and

WHEREAS, a public hearing was held on February 23, 2010, for the purpose of discussing the proposed acquisition of an easement consisting of an unplatted tract of land located in the west half of the southwest quarter of Section 12, Township 11 north, Range 10 west, in the City of Grand Island, Nebraska.

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 Little B's Corporation, on the above-described lot of land.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, February 23, 2010.

\_\_\_\_\_  
Margaret Hornady, Mayor

Attest:

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

Approved as to Form	☐ _____
February 18, 2010	☐ City Attorney



# **City of Grand Island**

**Tuesday, February 23, 2010**

**Council Session**

## **Item G5**

**#2010-53 - Approving Storm Drainage Agreement with Little B's Corporation to Serve the Original Summerfield Subdivision**

**Staff Contact: Steven P. Riehle, Public Works Director**



# **Council Agenda Memo**

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

**Meeting:** February 23, 2010

**Subject:** Approving Storm Drainage Agreement with Little B's Corporation to Serve the Original Summerfield Subdivision

**Item #'s:** G-5

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

## **Background**

When the Summerfield Estates area was being developed, a swale was designed as a drainage feature in the backyard of several properties. The swale connected to the City drainage system known as the Highland Park Drain. The Highland Park drain is the drain along the south side of State Street that is commonly referred to as the Moores Creek drainway.

The Highland Park drain frequently has 12" to 18" of water flowing through the ditch. Because the drainage swale from the Summerfield Estates subdivision is very close to the same elevation as the Highland Park drain, the water backs up into the Summerfield Estates subdivision.

## **Discussion**

The developer will be constructing storm sewer pipe at the north end of the Summerfield Estates drainage system to the Highland Park Drainway, which is owned by the City. Part of the construction plan is to build a storm sewer box to accept a pump for the purpose of eliminating ponding water from low flows that backs up in the subdivision. The City will provide the pump and electrical service to operate the system.

This structure will allow overtopping during heavy storm events and pumping during periods of smaller rain events, as well as runoff from yard sprinklers. The storm sewer box, valve and pump is a similar arrangement to what is used along Stagecoach Road to keep the Wood River from backing up into the neighborhood storm sewer system. The proposed storm sewer box, valve and pump at the outlet from the Summerfield Estates

subdivision would be a joint venture and cost shared between the City and the developer. The systems that were installed along Stagecoach Road were all at City cost.

An agreement is necessary to clarify responsibilities of the developer and the City for both construction and maintenance of the structure.

### **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**

Public Works Administration recommends that the Council approve the Storm Drainage Agreement as presented.

### **Sample Motion**

Move to approve the Storm Drainage Agreement as presented.

## **STORM DRAINAGE AGREEMENT**

This Storm Drainage Agreement is made by and between the CITY OF GRAND ISLAND, NEBRASKA, a Municipal Corporation, herein referred to as the “City” and LITTLE B’S CORPORATION; hereinafter referred to as “Owner”,

WITNESSETH:

WHEREAS, the Owner desires to amend the design of the drainage in the original Summerfield Subdivision.

NOW, THEREFORE, the parties agree as follows:

1. The Developer, at no cost to the City, will install approximately 330’ of 36” reinforced concrete culvert pipe from the northeast corner of Summerfield Estates Fourth Subdivision north to the City owned drainage channel along State Street, known as the Highland Park Drainway in the 1975 Master Drainage Plan (Moores Creek drainway).
2. The Developer will also construct a concrete structure and a control gate at the north end of the 36” culvert compatible with a pump to be installed by the City.
3. The City, in addition to supplying the pump, will be responsible for installing electrical service to operate the pump.

4. Upon completion the Developer will dedicate a 20' wide public easement to encompass the construction. The Developer will also dedicate the construction features, upon completion and acceptance, to the City.
5. Final Construction plans will be submitted to the City for approval. "As Constructed" plans will be submitted to the Public Works Department upon completion of the work.
6. The City will be responsible for all costs associated with maintenance and operation of the concrete box, manual gate and the pump.
10. This agreement shall be binding upon the parties hereto, their successors and assigns.
11. Wherever the context of the language in this Storm Drainage Agreement is appropriate, the singular shall apply to the plural and the plural shall apply to the singular.

DATED: \_\_\_\_\_, 2010

CITY OF GRAND ISLAND, NEBRASKA,  
A Municipal Corporation,

BY: \_\_\_\_\_  
Margaret Hornady, Mayor

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

BY: \_\_\_\_\_  
GREG BAXTER, PRESIDENT

STATE OF NEBRASKA            )  
  ) ss  
COUNTY OF HALL            )

On this \_\_\_\_ day of \_\_\_\_\_, 2010, before me, the undersigned, a Notary Public in and for said County of Hall and State of Nebraska, personally appeared GREG BAXTER, PRESIDENT, to me known to be the identical person who signed the foregoing Public Sewer Connection Agreement and acknowledges the execution thereof to be his voluntary act and deed for the purpose therein expressed.

WITNESS my hand and Notarial Seal the date above written.

---

Notary Public

RESOLUTION 2010-53

WHEREAS, during the development of Summerfield Estates storm drainage system was not put in place; and

WHEREAS, due to runoff from various developments and higher groundwater elevations it is now necessary for the developer to construct storm sewer to drain Summerfield Estates; and

WHEREAS, the City will provide the pump and electrical service to operate the system; and

WHEREAS, an agreement is necessary to clarify the responsibilities of the developer and the City for both construction and maintenance of the structure; and

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the Storm Drainage Agreement by and between Little B's Corporation and the City of Grand Island, Nebraska, is hereby approved according to the terms set out in the agreement.

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

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, February 23, 2010.

\_\_\_\_\_  
Margaret Hornady, Mayor

Attest:

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



# City of Grand Island

Tuesday, February 23, 2010

Council Session

## Item G6

**#2010-54 - Approving State Bid Award for (1) 2010 3/4 Ton  
Extended Cab 4x4 Pickup for the Wastewater Division of the  
Public Works Department**

Staff Contact: Steven P. Riehle, Public Works Director

# **Council Agenda Memo**

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

**Meeting:** February 23, 2010

**Subject:** Approving State Bid Award for (1) 2010 3/4 Ton  
Extended Cab 4x4 Pickup for the Wastewater Division of  
the Public Works Department

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

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

## **Background**

The Wastewater Division of the Public Works Department budgeted for a pickup for the sewer crew to use in the daily maintenance operations for the collection system, locating & televising of sanitary sewer mains and lines, as well as other various jobs the division handles. The existing pickup is a 1999 Ford F250 with 84,000 miles on it. The approved FY 2010 budget included \$32,000.00 in funds for the purchase.

## **Discussion**

The vehicle specifications awarded under State of Nebraska Contract # 12668 OC meet all of the requirements for the Wastewater Division vehicle. Sid Dillon Chevrolet-Buick-Pontiac of Wahoo, Nebraska submitted a bid with no exceptions in the amount of \$24,791.00. There are sufficient funds for this purchase in Account No. 53030054.85625.

## **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**

Public Works Administration recommends that the Council approve the State Bid Award to Sid Dillon Chevrolet-Buick-Pontiac in the amount of \$24,791.00 for the 2010 Chevrolet 3/4 Ton Extended Cab 4x4 pickup for the Wastewater Division of the Public Works Department.

## **Sample Motion**

Move to approve the State Bid Award to Sid Dillon Chevrolet-Buick-Pontiac in the amount of \$24,791.00 for the 2010 Chevrolet 3/4 Ton Extended Cab 4x4 pickup for the Wastewater Division of the Public Works Department.

RESOLUTION 2010-54

WHEREAS, the Wastewater Division of the Public Works Department for the City of Grand Island, budgeted for a vehicle in the 2009/2010 fiscal year; and

WHEREAS, said vehicle, a 2010 Chevrolet ¾ Ton Extended Cab 4x4, can be obtained from the State Contract holder; and

WHEREAS, purchasing the vehicle from the State Contract holder meets all statutory bidding requirements; and

WHEREAS, the funding for such vehicle is provided in the 2009/2010 budget.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the purchase of a 2010 Chevrolet ¾ Ton Extended Cab 4x4 in the amount of \$24,791.00 from the State Contract holder, Sid Dillion Chevrolet-Buick-Pontiac of Wahoo, Nebraska, is hereby approved.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, February 23, 2010.

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Margaret Hornady, Mayor

Attest:

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RaNae Edwards, City Clerk



# City of Grand Island

Tuesday, February 23, 2010

Council Session

## Item G7

**#2010-55 - Approving Nebraska Prevention Partnership  
Agreement for a Parent Child Interaction Grant**

Staff Contact: Joni Kuzma

# **Council Agenda Memo**

**From:** Joni Kuzma, Community Development

**Meeting:** February 23, 2010

**Subject:** Approve Parent Child Interaction Grant Agreement with Nebraska Prevention Partnership

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

**Presenter(s):** Joni Kuzma, Community Development Administrator

## **Background**

The Nebraska Prevention Partnership is offering the City of Grand Island an opportunity to enhance Child Well-being in our community and in Nebraska through a collaborative assessment and planning process for Parent Child Interaction. The Prevention Partnership is comprised of the Nebraska Children and Families Foundation (NCFF), Department of Health and Human Services (DHHS) and Nebraska Child Abuse Prevention Fund Board (NCAPF). They are piloting this project in two Nebraska communities, Grand Island and Scottsbluff.

The offer generally includes:

- Technical and financial support of up to \$10,000 to complete a community assessment and strategic plan for Parent Child Interaction to be completed by May 15, 2010.
- Five years of subsequent funding for implementation of the developed Parent Child Interaction Strategic Plan.

## **Discussion**

With acceptance of the Prevention Partnership offer for Assessment and Planning for Parent Child Interaction, a grant in the amount of \$10,000 will be awarded to the City. No matching funds are required. A written Parent Child Interaction Assessment and Strategic Plan must be completed and submitted to the Nebraska Children and Families Foundation by May 15, 2010, at which time a second grant contract of up to \$80,000 may be offered to the City for June 1, 2010 –May 31, 2011 to carry out year 1 of the strategic plan.

The City will act as fiscal agent. The Coalition for Children in collaboration with Community Development will carry out the scope of offer as outlined in the offer letter.

### **Alternatives**

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

1. Approve the grant agreement
2. Refer the issue to a Committee
3. Postpone the issue to future date

### **Recommendation**

City administration recommends that Council approve the grant agreement with the Nebraska Prevention Partnership and authorize the Mayor to sign all related documents.

### **Sample Motion**

Move to approve the grant agreement with the Nebraska Prevention Partnership and authorize the Mayor to sign all related documents.

RESOLUTION 2010-55

WHEREAS, the Nebraska Prevention Partnership is offering a Child Well-being grant to the City of Grand Island; and

WHEREAS, the grant includes technical and financial support of up to \$10,000 to complete a community assessment and strategic plan for Parent Child interaction;

WHEREAS, a written plan must be completed and submitted to the Nebraska Children and Families Foundation by May 15, 2010; and

WHEREAS, the Coalition for Children will work with Community Development to carry out the scope of offer as outlined in the agreement; and

WHEREAS, the City of Grand Island will serve as fiscal agent for the grant period which runs February 26, 2010 through May 15, 2010; and

WHEREAS, an agreement letter has been received by the City and must be signed by the Mayor in order to accept the grant award.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the agreement for the Nebraska Prevention Partnership is approved and that the Mayor is hereby authorized and directed to execute any related documents on behalf of the City of Grand Island for such grant program.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, February 23, 2010.

\_\_\_\_\_  
Margaret Hornady, Mayor

Attest:

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



# **City of Grand Island**

**Tuesday, February 23, 2010**

**Council Session**

## **Item G8**

**#2010-56 - Approving Amended HIPPA Business Associate Agreement with Golden Living**

**Staff Contact: Jon Rosenlund**

# **Council Agenda Memo**

**From:** Jon Rosenlund, Emergency Mgt. Director

**Meeting:** December 23, 2010

**Subject:** HIPPA Business Associate Agreement

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

**Presenter(s):** Jon Rosenlund, Emergency Mgt. Director

## **Background**

Changes in the laws regarding medical information and privacy require that the Grand Island Emergency Center enter into an updated “business associate” agreement with other HIPPA regulated facilities.

## **Discussion**

As an emergency medical dispatch agency, the Grand Island Emergency Center staff receive and broadcast appropriate medical information regarding a patient’s signs, symptoms and location in order to provide an adequate emergency response. Thus, by managing certain details of a person’s health and medical information, the GIEC must meet certain regulations of the Health Insurance Portability and Accountability Act of 1996 (HIPPA).

Changes to the American Recovery and Reinvestment Act of 2009 (ARRA) requires that all organizations which are defined in HIPPA as a “business associates” enter into amended “business associate” agreements to meet changes in the law. A copy of such an amended and updated agreement was provided by Golden Living, a senior care center within our jurisdiction, to complete this requirement between the GIEC and Golden Living.

## **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 this updated and amended “business associate” agreement with Golden Living

### **Sample Motion**

Move to enter into this amended and updated “business associate” agreement with Golden Living.



811269

golden  
living

EMERGENCY MANAGEMENT  
100 EAST FIRST ST  
PO BOX 1968  
GRAND ISLAND, NE 68802

Dear, EMERGENCY MANAGEMENT

With the passage of the American Recovery and Reinvestment Act of 2009 ("ARRA") came some very significant changes to the Privacy and Security Rules of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"). One of the most significant changes is the manner in which companies who meet the HIPAA definition of a "business associate" are regulated under the new law. Previously, business associates were only regulated to the extent that covered entities (i.e. hospitals and physician offices) were required to have written business associate agreements in place with the business associates and HIPAA mandated that the business associate agreements contain certain terms. Under the changes put into law by ARRA, all business associate agreements are required to be amended and updated to include the latest changes in the law. Below is a brief summary of significant changes for business associates:

- Business associates are now legally required to comply with many of the same provisions of the HIPAA Security Rules, as covered entities are required to comply.
- Business associates can be audited by the federal government and fined and penalized by the federal government for failure to abide by the HIPAA regulations.
- Business associates must implement policies and procedures related to their handling of patient information.
- Business associates will need to train the members of their workforce about HIPAA.

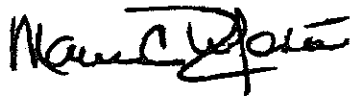
The deadline for amending business associate agreements to bring them into compliance with the new regulations is **February 17, 2010**. Please review the enclosed amendment to the existing business associate agreement, sign and return in the enclosed prepaid self-address stamped envelope.

Continued on the back

If you have any questions about the business associate addendum, you may contact Vern Clemons, Assistant General Counsel, Golden Living, 1000 Fianna Way, Fort Smith AR 72919 or by email to [contracts@goldenliving.com](mailto:contracts@goldenliving.com).

For additional information about the changes to the HIPAA Privacy and Security Rules brought about by ARRA, you can link to the text of ARRA provided by the Government Printing Office at <http://fdsys.gpo.gov/fdsys/pkg/BILLS-111hr1ENR/pdf/BILLS-111hr1ENR.pdf>. The changes to HIPAA are found under Title XIII – Health Information Technology, Subtitle D – Privacy on pages 144-165 of the document. You can also visit the Office of Civil Rights website at [www.hhs.gov/ocr/hipaa](http://www.hhs.gov/ocr/hipaa). Business Associates can be found at [www.cms.hhs.gov/Enforcement/Downloads/HIPAAComplianceReviewSumtopost508.pdf](http://www.cms.hhs.gov/Enforcement/Downloads/HIPAAComplianceReviewSumtopost508.pdf).

Thank you for your prompt attention to this important matter.

A handwritten signature in black ink, appearing to read "Marie C. Infante". The signature is stylized with a large, looped "M" and a cursive "Infante".

Marie C. Infante, SVP  
Chief Compliance Officer; General Counsel, Healthcare  
Golden Living & Affiliated Companies

**HITECH: WHAT BUSINESS ASSOCIATES NEED TO KNOW**

<b>STOP:</b> <b>Important</b> <b>Changes to</b> <b>HIPAA</b> <b>Requirements</b>	<p>HITECH* (Title XIII of the American Recovery &amp; Investment Act of 2009) expanded many HIPAA requirements for Business Associates (BAs):</p> <ul style="list-style-type: none"><li>• New breach notification requirements</li><li>• Direct compliance with certain HIPAA Security &amp; Privacy Rule provisions</li><li>• Direct liability and increased penalties (civil &amp; criminal) for HIPAA violations</li></ul> <p>These changes require amendments to existing Business Associate Agreements (BAAs) and evaluation of internal policies and procedures surrounding the privacy and security of Protected Health Information (PHI).</p> <p>*The Health Information Technology for Economic and Clinical Health Act</p>
<b>CAUTION:</b> <b>What you need to</b> <b>know</b>	<ul style="list-style-type: none"><li>• <b>Breach Notification.</b> Effective September, 2009, Covered Entities (CEs) must notify affected individual(s) of a breach of unsecured PHI. BAs must notify CEs of breaches of unsecured PHI so the CE can then notify the affected individual(s). Because not all unauthorized uses and disclosures of PHI are breaches requiring notification, BAs must promptly notify CEs of <i>all</i> unauthorized uses and disclosures, including suspected breaches, so the CE can: (1) determine if a breach occurred; and (2) notify the affected individual(s) within the required time frame.</li><li>• <b>Privacy &amp; Security Rule Compliance.</b> Effective February, 2010, BAs must comply with: (1) Security Rule provisions specifying required administrative, technical, and physical safeguards for electronic PHI; and (2) the business associate safeguards of the Privacy Rule. BAs also must comply with the other new privacy and security requirements in HITECH that apply to CEs (effective dates vary).</li><li>• <b>Increased Penalties.</b> HITECH increased civil and criminal penalties for HIPAA violations. BAs can now be directly penalized by HHS for HIPAA violations.</li><li>• <b>Audits by CE.</b> CE must have access to its BAs' relevant HIPAA-related books, records, policies and procedures to ensure compliance with breach notification and other new requirements.</li></ul>
<b>GO: What you</b> <b>need to do</b>	<ul style="list-style-type: none"><li>• <b>Evaluate HIPAA policies &amp; procedures and update as necessary.</b><ul style="list-style-type: none"><li>○ Adequate to detect and report breaches to CE?</li><li>○ Adequate to comply with required Security and Privacy Rule provisions?</li><li>○ Adequate to comply with other applicable privacy and security requirements of HITECH?</li></ul></li><li>• <b>Work with CE in complying with breach notification requirements.</b></li></ul>

Business Associate Addendum

This **BUSINESS ASSOCIATE ADDENDUM** (this "Addendum") between GGNSC Administrative Services, LLC and its Affiliates ("Covered Entity") and \_\_\_\_\_ ("Business Associate") is made effective the \_\_\_\_\_ day of \_\_\_\_\_, 2010 (the "Effective Date"). As used herein, Affiliate ("Affiliate") shall mean, as to any individual, partnership, joint venture, corporation, limited liability company, trust, estate or other entity or organization (a "Person"), any Person controlled by, controlling, or under common control with another Person. For purposes of this definition, "control" (including the terms "controlling", "controlled by" and "under common control with") of a Person means the possession, directly or indirectly, alone or in concert with others, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of securities, by contract, or otherwise.

Business Associate and Covered Entity are parties to an Agreement (the "Agreement"). For purposes of complying with the Administrative Simplification requirements of the Health Insurance Portability and Accountability Act of 1996, as amended, and the regulations promulgated thereunder (collectively, "HIPAA") and the requirements of Subtitle D of the Health Information Technology for Economic and Clinical Health Act and the regulations promulgated thereunder (collectively, "HITECH"), if and only to the extent that Business Associate is acting as a business associate (as defined by HIPAA) of Covered Entity, the parties agree as follows:

1. **Definitions.** Capitalized terms used, but not otherwise defined in this Addendum, shall have the same meaning as those terms in the HIPAA regulations and HITECH, and the following capitalized terms shall be given the following meanings:

1.1. "Breach" means the acquisition, access, Use or Disclosure of PHI in a manner not permitted under the Privacy Rule that poses a significant risk of financial, reputational, or other harm to the Individual who is the subject of the PHI. Breach does not include: (a) Use or Disclosure of Protected Health Information (PHI) that does not include the identifiers listed at 45 C.F.R. § 164.514(e)(2), date of birth, and zip code; (b) any unintentional acquisition, access, or Use of PHI by a member of Business Associate's Workforce or a person acting under the authority of Business Associate, if such acquisition, access or Use was made in good faith and within the person's scope of authority and does not result in further Use or Disclosure in a manner not permitted under the Privacy Rule; (c) any inadvertent Disclosure by a person who is authorized to access PHI at Business Associate to another person authorized to access PHI at Business Associate, provided the information received as a result of such Disclosure is not further Used or Disclosed in a manner not permitted under the Privacy Rule; or (d) a Disclosure of PHI where Business Associate has a good faith belief that an unauthorized person to whom the Disclosure was made would not reasonably have been able to retain such information.

1.2. "Compliance Date" means, in each case, the date by which compliance is required under the referenced provision of HITECH.

1.3. "Disclose" and "Disclosure" mean, with respect to Protected Health Information, the release, transfer, provision of access to, or divulging in any other manner of Protected Health Information outside Business Associate's internal operations or to other than its employees.

1.4. "HITECH" means the Health Information Technology for Economic and Clinical Health Act, enacted as part of the American Recovery and Reinvestment Act of 2009, Pub. Law No. 111-5, and any regulations promulgated thereunder. References in this Addendum to a section or subsection of title 42 of the United States Code are references to provisions of HITECH. Any reference to provisions of HITECH in this Addendum shall be deemed a reference to that provision and its existing and future implementing regulations, when and as each is effective.

1.5. "Privacy Rule" means the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R Part 160 and Part 164, Subparts A and E.

1.6. "Protected Health Information" or "PHI" means information, including demographic information that (a) relates to the past, present or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present or future payment for the provision of health care to an individual; (b) identifies the individual (or for which there is a reasonable basis for believing that the information can be used to identify the individual); and (c) is received by Business Associate from or on behalf of Covered Entity, or is created by Business Associate for Covered Entity, or is made accessible to Business Associate by Covered Entity.

1.7. "Security Rule" means the Security Standards for the Protection of Electronic Protected Health Information at 45 C.F.R Part 164, Subpart C.

1.8. "Unsecured Protected Health Information" or "Unsecured PHI" means Protected Health Information that is not rendered unusable, unreadable, or indecipherable to unauthorized individuals through the use of a technology or methodology specified by the Secretary in the guidance issued under section 13402(h)(2) of Public Law 111-5.

1.9. "Use" or "Uses" mean, with respect to Protected Health Information, the sharing, employment, application, utilization, examination or analysis of such Protected Health Information within Business Associate's internal operations.

2. **Confidentiality Obligation.** Business Associate will not Use or Disclose PHI other than as permitted by the Agreement or this Addendum, or as Required by Law.

3. **Permitted Uses and Disclosures of PHI.** Business Associate shall Use or Disclose PHI only as necessary to perform services under the Agreement or as Required by Law, provided such Use or Disclosure would not: (i) violate the Privacy Rule, Security Rule, other applicable provisions of HIPAA or HITECH if done by Covered Entity; or (ii) violate the minimum necessary policies and procedures of Covered Entity.

4. **Safeguards.** Business Associate shall protect PHI from any improper oral or written disclosure by enacting and enforcing safeguards to maintain the security of and to prevent any Use or Disclosure of PHI other than is permitted by this Agreement. Such safeguards shall include administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of any electronic PHI that it creates, receives, maintains, or transmits on behalf of Covered Entity. As of the Compliance Date for 42 U.S.C. § 17931, Business Associate shall comply with the Security Rule requirements set forth at 45 C.F.R. §§ 164.308, 164.310, 164.312, and 164.316, as well as additional requirements of HITECH that relate to security and are applicable to Covered Entity. As of the Compliance Date for 42 U.S.C. § 17934, Business Associate shall also comply with the requirements of Subtitle D of HITECH that relate to privacy and are applicable to Covered Entity.

5. **Access and Amendment.** Upon the request of Covered Entity, Business Associate shall: (a) make the PHI specified by Covered Entity available to Covered Entity or to the Individual(s) identified by Covered Entity as being entitled to access in order to meet the requirements under 45 C.F.R. § 164.524 ; and (b) make PHI available to Covered Entity for the purpose of amendment and incorporate changes or amendments to PHI when notified to do so by Covered Entity.

6. **Accounting.** Upon Covered Entity's request, Business Associate shall provide to Covered Entity or, when directed in writing by Covered Entity, directly to an Individual in a time and manner specified by Covered Entity, an accounting of each Disclosure of PHI made by Business Associate or its employees, agents, representatives or subcontractors as would be necessary to permit Covered Entity to respond to a request by an Individual for an accounting of Disclosures of PHI in accordance with 45 CFR § 164.528. Any accounting provided by Business Associate under this subsection shall include: (a) the date of the Disclosure; (b) the name, and address if known, of the entity or person who received the PHI; (c) a brief description of PHI disclosed; and (d) a brief statement of the purpose of the Disclosure. For each Disclosure that could require an accounting under this subsection, Business Associate shall document the information specified in (a) through (d), above, and shall securely retain this documentation for six (6) years from the date of the Disclosure.

7. **Access to Books and Records.** Business Associate shall make its internal practices, books and records relating to the Use and Disclosure of PHI pursuant to this Addendum available to the Secretary of the Department of Health and Human Services for purposes of determining Covered Entity's compliance with HIPAA. Covered Entity shall have the right to access and examine ("Audit") the books, records, and other information of Business Associate related to this Addendum. Such Audit rights shall be in addition to and notwithstanding any audit provisions set forth in the Agreement. Business Associate shall cooperate fully with any such Audit(s) and shall provide all books, records, data and other documentation reasonably requested by Covered Entity. Covered Entity may make copies of such documentation. To the extent possible, Covered Entity will provide Business Associate reasonable notice of the need for an Audit and will conduct the Audit at a reasonable time and place. Notwithstanding the foregoing, Covered Entity will not have access to any books, records, data and/or documentation related to any of Business Associate's other clients.

8. **Agents and Subcontractors.** Business Associate shall require all subcontractors and agents to which it provides PHI received from, or created or received on behalf of Covered Entity, to agree to all of the same restrictions and conditions concerning such PHI to which Business Associate is bound in this Addendum.

9. **Reporting of Violations.** Business Associate shall report to Covered Entity any Use or Disclosure of PHI not authorized by this Addendum immediately upon becoming aware of it. This reporting obligation includes, without limitation, the obligation to report any Security Incident, as that term is defined in 45 C.F.R. § 164.304.

9.1. **Breach Notification.** Business Associate also shall notify Covered Entity of any Breach of Unsecured PHI. Such notification shall occur without unreasonable delay and in no case later than sixty (60) calendar days after Business Associate discovers the Breach



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in accordance with 45 C.F.R. § 164.410. The notification shall comply with the Breach notification requirements set forth at 42 U.S.C. § 17832 and its implementing regulations at 45 C.F.R. § 164.410 and shall include: (a) to the extent possible, the identification of each person whose Unsecured PHI has been, or is reasonably believed by Business Associate to have been, accessed, acquired, or Disclosed during such Breach; and (b) any other available information about the Breach, including:

(i) a description of what happened, including the dates of the Breach and discovery of the Breach, if known; (ii) a description of the types of Unsecured PHI involved in the Breach; (iii) any steps affected persons should take to protect themselves from potential harm resulting from the Breach; and (iv) the steps Business Associate is taking to investigate the Breach, mitigate harm to individuals, and to protect against any further Breaches. Business Associate shall provide Covered Entity with such additional information about the Breach either at the time of its initial notification to Covered Entity or as promptly thereafter as the information becomes available to Business Associate.

#### **10. Term and Termination.**

10.1. This Addendum begins on the Effective Date and remains in effect for the entire term of the Agreement unless otherwise terminated as provided below.

10.2. In addition to and notwithstanding the termination provisions set forth in the Agreement, both this Addendum and the Agreement may be terminated by Covered Entity in the event that Covered Entity determines Business Associate has violated a material term of this Addendum and such violation has not been remedied within fifteen (15) days following written notice to Business Associate.

10.3. Except as provided below, upon termination of this Addendum, Business Associate shall either return or destroy all PHI in the possession or control of Business Associate or its agents and subcontractors and shall retain no copies of such PHI. However, if Covered Entity determines that neither return nor destruction of PHI is feasible, Business Associate may retain PHI provided that it extends the protections of this Addendum to the PHI and limits further Uses and Disclosures to those purposes that make the return or destruction of the PHI infeasible, for so long as Business Associate maintains such PHI.

**11. Inconsistent Terms; Interpretation.** If any portion of this Addendum is inconsistent with the terms of the Agreement, the terms of this Addendum shall prevail. Except as set forth above, the remaining provisions of the Agreement are ratified in their entirety. Any ambiguity in this Addendum shall be resolved to permit Covered Entity to comply with the Privacy Rule, Security Rule, other applicable provisions of HIPAA, and HITECH and any regulations promulgated thereunder.

**12. Regulatory References.** A reference in this Addendum to a section in the Privacy Rule, Security Rule, other applicable provisions of HIPAA or HITECH or any regulations promulgated thereunder means the section as in effect or as amended.

**13. Amendment.** Covered Entity and Business Associate agree to take such action as is necessary to amend this Addendum from time to time as is necessary for the parties to comply with the requirements of the Privacy Rule, Security Rule, other applicable provisions of HIPAA, or HITECH and any regulations promulgated thereunder. Notwithstanding the foregoing, Covered Entity may unilaterally amend this Addendum as is necessary to comply with applicable laws and regulations and the requirements of applicable state and federal regulatory authorities. Covered Entity will provide written notice to Business Associate of such amendment and its effective date. Unless such laws, regulations or regulatory authorities require otherwise, the signature of Business Associate will not be required in order for the amendment to take effect.

**14. Indemnification.** Business Associate shall defend, indemnify and hold harmless Covered Entity and its directors, officers, employees, and agents (collectively, the "Indemnitees") from and against any and all claims, losses, damages, suits, fees, judgments, costs and expenses, including reasonable attorneys' fees, that the Indemnitees may suffer or incur arising out of or in connection with Business Associate's breach, non-performance, non-compliance, or failure to observe any term of this Addendum.

15. **Survival.** The respective rights and obligations of Business Associate under section 7, subsection 10.3 and section 14 of this Addendum shall survive the termination of this Addendum and the Agreement.

**IN WITNESS WHEREOF**, the parties hereto have caused their authorized representatives to execute this Business Associate Addendum effective as of the day and date first above written.

**BUSINESS ASSOCIATE:**

**COVERED ENTITY:**

GGNSC Administrative Services, LLC and its  
Affiliates

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

Name: \_\_\_\_\_ Name: \_\_\_\_\_

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

(Make sure return address is visible  
in window)

ATTN: MRD  
1000 Fianna Way  
Fort Smith, AR 72919



RESOLUTION 2010-56

WHEREAS, with the passage of the American Recovery and Reinvestment Act (ARRA) of 2009 brought changes to the Privacy and security Rules of the Health Insurance Portability and Accountability Act of 1996 (HIPPA); and

WHEREAS, one of those changes is the manner in which organizations who meet the HIPPA definition of “business associate” are regulated under the new law; and

WHEREAS, the Grand Island Emergency Center would be considered a “business associate” of Golden Living facilities, by receiving emergency medical information and broadcasting necessary emergency response information to responding agencies; and

WHEREAS, according to the new ARRA law, business associate agreements are required to be amended and updated to include these latest changes;

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, to enter into an amended and updated business associate agreement addendum provided to Council.

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Adopted by the City Council of the City of Grand Island, Nebraska, February 23, 2010.

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Margaret Hornady, Mayor

Attest:

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RaNae Edwards, City Clerk

Approved as to Form	☐ _____
February 18, 2010	☐ City Attorney



# City of Grand Island

Tuesday, February 23, 2010

Council Session

## Item G9

**#2010-57 - Approving Amended HIPPA Business Associate Agreement with RCI and TASC**

Staff Contact: Brenda Sutherland

# **Council Agenda Memo**

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

**Meeting:** February 23, 2010

**Subject:** Amended Business Associate Agreement with Regional Care, Inc. (RCI) and TASC

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

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

## **Background**

The City of Grand Island has a business associate agreement with Regional Care, Inc. (RCI) to provide TPA services for the City's health and dental plan. In addition, we have a contract with TASC to administer our Section 125 Flexible Spending Account. Part of the service provided by these two companies is to ensure that compliance issues are met with regard to federal and state laws.

## **Discussion**

Congress recently enacted the Health Information Technology for Economic and Clinical Health (HITECH) Act in 2009 which amended the HIPAA provisions of 1996. Health and Human Services subsequently adopted new HIPAA rules to implement the standards imposed by the HITECH Act. As such, the new HIPAA rules require an amendment to our current business associate agreement.

The standards set by the HITECH Act and the HIPAA rules require covered entities (such as employer sponsored plans) to notify participants of Breaches of Unsecured Protected Health Information. In addition, the new HIPAA rules impose an obligation on the business associate (RCI and TASC) to notify the City of any Breach of Unsecured Protected Health Information. These changes are reflected in the updated business associate agreement. These changes are necessary for HIPAA compliance and create no change in cost to the agreement.

## **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 amended business associate agreement between the City and Regional Care, Inc. (RCI) and TASC.

## **Sample Motion**

Move to approve the amended agreement between the City and Regional Care, Inc. (RCI) and TASC.

## BUSINESS ASSOCIATE AGREEMENT

**THIS BUSINESS ASSOCIATE AGREEMENT** (this "Agreement") is entered into as of that date set forth on the signature page hereto (the "Effective Date"), by and between City of Grand Island ("Covered Entity") and **Regional Care, Inc.** ("Business Associate"). Covered Entity and Business Associate are sometimes hereinafter referred to individually as "Party" and collectively as "Parties."

### RECITALS:

A. Covered Entity and Business Associate have an existing relationship. Covered Entity will make available and/or transfer to Business Associate certain Protected Health Information (defined below), in conjunction with the performance of a function or activity that is being provided by Business Associate to Covered Entity, which is confidential and must be afforded special treatment and protection under the Privacy Rule (defined below) and the Security Rule (defined below), including the amendments to such rules contained in the HITECH Act (defined below).

B. Business Associate will have access to and/or receive from Covered Entity certain Protected Health Information that can be used or disclosed only in accordance with this Agreement, the Privacy Rule and the Security Rule.

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Covered Entity and Business Associate agree as follows:

1. **Definitions.** Terms used, but not otherwise defined, in this Agreement have the same meaning as those ascribed to the terms in the Health Insurance Portability and Accountability Act of 1996 (as amended by the Health Information Technology for Economic and Clinical Health Act, Subtitle D of Title XIII of Division A of the American Recovery and Reinvestment Act of 2009 (the "HITECH Act")), and the regulations promulgated thereunder as set forth in the Code of Federal Regulations ("C.F.R.") at Title 45, Part 160, Part 162 and Part 164, and other applicable laws (collectively, "HIPAA"). In addition, the following terms shall have the following meanings:

1.1. "Breach" means the unauthorized acquisition, access, use or disclosure of Protected Health Information in a manner not permitted by the Privacy Rule which compromises the security or privacy of the Protected Health Information, as described in 45 C.F.R. 164.402.

1.2. "Compliance Date" means, in each case, the date by which compliance is required under the referenced provision of the HITECH Act and/or its implementing regulations, as applicable; provided that, in any case where the Compliance Date occurs prior to the Effective Date of this Agreement, the Compliance Date shall mean the Effective Date.

1.3. "Electronic Health Record" means an electronic record of health-related information on an individual that is created, gathered, managed, and consulted by authorized health care clinicians and staff.

1.4. "Electronic Protected Health Information" shall mean individually identifiable health information that is transmitted or maintained by electronic media as described in HIPAA.

1.5. "HHS" shall mean the U.S. Department of Health and Human Services.

1.6. "Individual" shall mean the person who is the subject of the Protected Health Information, and has the same meaning as the term "individual" is defined by HIPAA, and shall include a personal representative in accordance with 45 C.F.R. 164.502(g).

1.7. "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information, C.F.R. at Title 45, Parts 160 and 164.

1.8. "Protected Health Information" shall have the same meaning as the term "protected health information" as described in HIPAA, limited to the information created or received by Business Associate from, or on behalf of, Covered Entity.

1.9. "Required By Law" shall have the same meaning as the term "required by law" in HIPAA.

1.10. "Secretary" shall mean the Secretary of HHS or his or her designee.

1.11. "Security Rule" shall mean the Standards for the Security of Electronic Protected Health Information, C.F.R. at Title 45, Parts 160, 162 and 164.

1.12. "Unsecured Protected Health Information" has the same meaning as the term "Unsecured protected health information" as defined in Section 13402 of the HITECH Act and 45 C.F.R. 164.402.

## **2. Permitted Uses and Disclosures by Business Associate.**

2.1. General Uses and Disclosures. Except as otherwise limited in this Agreement, Business Associate may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, Covered Entity if such use or disclosure by Business Associate complies with the Privacy Rule's minimum necessary policies and procedures required of Covered Entity (and/or Business Associate as of February 17, 2010), and if such use or disclosure of Protected Health Information would not violate the Privacy Rule or the Security Rule if done by Covered Entity (and/or Business Associate as of February 17, 2010).

2.2. Limits on Uses and Disclosures. Business Associate hereby agrees that Business Associate shall be prohibited from using or disclosing the Protected Health

Information provided or made available by Covered Entity for any purpose other than as expressly permitted, or required by this Agreement, or Required by Law.

2.3. Use for Management, Administration, and Legal Responsibilities. Except as otherwise limited in this Agreement, Business Associate may use Protected Health Information for the proper management and administration of Business Associate or to carry out Business Associate's legal responsibilities.

2.4. Disclosure for Management, Administration, and Legal Responsibilities. Except as otherwise limited in this Agreement, Business Associate may disclose Protected Health Information for the proper management and administration of Business Associate or to carry out Business Associate's legal responsibilities, provided that:

- (a) The disclosure is Required by Law; or
- (b) Business Associate obtains reasonable assurances from the person to whom the Protected Health Information is disclosed that (i) the Protected Health Information will remain confidential and used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person, and (ii) the person to whom the Protected Health Information is disclosed agrees to notify Business Associate within twenty-four (24) hours of the date of any Breach with respect to Unsecured Protected Health Information such person received from Business Associate.

3. Prohibited Uses and Disclosures. Business Associate shall not:

- (a) Make or cause to be made any marketing communication about a product or service that is prohibited by Section 13406(a) of the HITECH Act as of its Compliance Date;
- (b) Make or cause to be made any written fundraising communication that is prohibited by Section 13406(b) of the HITECH Act as of its Compliance Date;
- (c) Disclose Protected Health Information to a health plan for payment or health care operations (as defined under the Privacy Rule) purposes if Covered Entity has advised Business Associate (or the Individual has notified Business Associate directly) that the Individual has (i) requested this special restriction, and (ii) paid out-of-pocket in full for the health care item or service to which the Protected Health Information solely relates, in accordance with Section 13405(a) of the HITECH Act as of its Compliance Date; or
- (d) Directly or indirectly receive remuneration in exchange for Protected Health Information created, received, or maintained in connection with Business Associate's relationship with Covered Entity in accordance with Section 13405(d) of the HITECH Act as of its Compliance Date, except as otherwise permitted by the HITECH Act; provided, however, that this prohibition shall not affect payment by Covered Entity to Business Associate.

4. **Business Associate Obligations.**

4.1. **Appropriate Safeguards.** Business Associate will establish and maintain reasonable and appropriate administrative, physical and technical safeguards to:

(a) Prevent the use or disclosure of the Protected Health Information, other than as such use or disclosure is permitted by this Agreement; and

(b) Protect the confidentiality, integrity, and availability of the Electronic Protected Health Information that Business Associate creates, receives, maintains, or transmits on behalf of Covered Entity.

4.2. **Security Rule.** Business Associate shall comply with the policies and procedures and documentation requirements of the Security Rule set forth in 45 C.F.R. 164.308, 45 C.F.R 164.310, 45 C.F.R 164.312 and 45 C.F.R 164.316 as required by Section 13401(a) of the HITECH Act as of its Compliance Date.

4.3. **Limited Data Set or Minimum Necessary.** Business Associate (and Business Associate's subcontractors or agents) shall request, use, and disclose only a limited data set (as defined in 45 C.F.R. 164.514(e)(2)), or, if needed, the minimum necessary amount of Protected Health Information necessary to accomplish the purpose of the request, use, or disclosure, as required by Section 13405(b) of the HITECH Act as of its Compliance Date.

4.4. **Reports of Improper Use, Disclosure or Security Incidents.** Business Associate hereby agrees that it shall report, to Covered Entity any:

(a) Use or disclosure of Protected Health Information not provided for or allowed by this Agreement; or

(b) Security incidents in regard to the Electronic Protected Health Information of which Business Associate becomes aware.

4.5. **Subcontractors and Agents.** Business Associate will use commercially reasonable efforts to ensure that any agent, including a subcontractor, to whom Business Associate provides Protected Health Information, created or received by Business Associate on behalf of Covered Entity, agrees (or has agreed) to:

(a) The same restrictions and conditions that apply to Business Associate in this Agreement to such Protected Health Information; and

(b) Implement reasonable and appropriate safeguards to protect the Electronic Protected Health Information.

4.6. **Right of Access to Protected Health Information.** Except as otherwise limited in this Agreement, Business Associate hereby agrees to provide access to Protected Health Information in a Designated Record Set (if applicable and as defined in HIPAA) to Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements under 45 C.F.R. 164.524, at the written request of Covered Entity. If Business



Associate maintains an Electronic Health Record, Business Associate shall provide such information in electronic format to enable Covered Entity to fulfill Covered Entity's obligations under the HITECH Act.

4.7. Amendments to Protected Health Information. Business Associate agrees to make any amendment(s) to Protected Health Information in a Designated Record Set, if applicable, that Covered Entity directs or agrees to pursuant to 45 C.F.R. 164.526, at the request of Covered Entity or an Individual, and in a reasonable time and manner. If any Individual requests an amendment of Protected Health Information directly from Business Associate (or Business Associate's subcontractors or agents), Business Associate will notify Covered Entity following the request. Any approval or denial of amendment of Protected Health Information maintained by Business Associate (or Business Associate's subcontractors or agents) shall be the responsibility of Covered Entity.

4.8. Access to Books and Records. Except as otherwise limited in this Agreement, Business Associate agrees to make its internal policies, procedures, practices, books and records relating to the use, disclosure and safeguarding of Protected Health Information received from, or created or received by Business Associate on behalf of Covered Entity, available to the Secretary or Covered Entity, in a reasonable time and manner, for purposes of the Secretary's determining Covered Entity's compliance with the Privacy Rule and the Security Rule.

4.9. Documentation of Disclosures. Business Associate agrees to document such disclosures of Protected Health Information and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 C.F.R. 164.528.

4.10. Provide Accounting. Except as otherwise limited in this Agreement, Business Associate agrees to provide to Covered Entity or an Individual, in a reasonable time and manner, information collected in accordance with Section 4.9 of this Agreement, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 C.F.R. 164.528 and Section 13405(c) of the HITECH Act as of its Compliance Date. In the event that the request for an accounting is delivered directly to Business Associate (or Business Associate's subcontractors or agents), Business Associate shall forward a copy of the request to Covered Entity. It shall be Covered Entity's responsibility to prepare and deliver any such accounting requested.

4.11. Mitigation Procedures. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of Protected Health Information by Business Associate in violation of the requirements of this Agreement.

4.12. Notification of Breach. Except as otherwise provided under the HITECH Act, Business Associate agrees to notify Covered Entity not later than sixty (60) days following the date of discovery of a Breach of Unsecured Protected Health Information as follows:

(a) A Breach shall be deemed discovered by Business Associate when Business Associate actually knows of the Breach or, by exercising reasonable diligence, would have known of the Breach; and

(b) The notification required by this Section 4.12 shall be made in accordance with Section 15 and shall include, to the extent possible, (i) the identification of each Individual whose Unsecured Protected Health Information has been, or is reasonably believed by Business Associate to have been, accessed, acquired, used, or disclosed during the Breach, (ii) a brief description of what happened, including the date of the Breach and the date of the Business Associate's discovery of the Breach, if known, (iii) a description of the types of Unsecured Protected Health Information involved in the Breach, (iv) any steps affected Individuals should take to protect themselves from potential harm resulting from the Breach, (v) a brief description of what Business Associate is doing to investigate the Breach, to mitigate harm to Individuals, and to protect against further Breaches, and (vi) contact procedures for affected Individuals, which shall include a toll-free telephone number, an e-mail address, web site, or postal address.

5. **Covered Entity Obligations.**

5.1. **Provide Notice.** Covered Entity shall provide Business Associate with the notice of privacy practices that Covered Entity produces in accordance with 45 C.F.R. 164.520, as well as any changes to such notice, in a reasonable time and manner, when such copy of the notice or amended notice is required for compliance with the Privacy Rule.

5.2. **Provide Changes of Authorization or Permission.** Covered Entity shall provide, in writing and in a reasonable time and manner, Business Associate with any changes in, or revocation of, authorization or permission by Individual to use or disclose Protected Health Information, if such changes affect Business Associate's permitted or required uses and disclosures.

5.3. **Provide Restrictions.** Covered Entity shall notify Business Associate, in writing and in a reasonable time and manner, of any restrictions to the use or disclosure of Protected Health Information changing Business Associate's obligations that Covered Entity has agreed to in accordance with 45 C.F.R. 164.522.

5.4. **Permissible Requests by Covered Entity.** Covered Entity shall not request Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule, the Security Rule, or this Agreement if done by Covered Entity.

6. **Term.** The term of this Agreement shall commence as of the Effective Date, and shall terminate when all of the Protected Health Information provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity in compliance with Section 9 of this Agreement.

7. **Termination for Cause.**

7.1. **By Covered Entity.** Upon Covered Entity's knowledge of a material breach of this Agreement by Business Associate, Covered Entity shall provide written notice of such breach to Business Associate and provide an opportunity for Business Associate to cure the breach or end the violation, and if Business Associate does not cure the breach or end the violation within thirty (30) business days from the date Business Associate receives the written notice referred to above from Covered Entity, Covered Entity may immediately terminate this Agreement. Covered Entity may terminate this Agreement immediately without opportunity for cure if Business Associate and Covered Entity agree that cure is not reasonably possible or if Covered Entity deems such immediate termination to be appropriate under the circumstances.

7.2. **By Business Associate.** In accordance with Section 13404 of the HITECH Act as of its Compliance Date, if Business Associate knows of a pattern of activity or practice of Covered Entity that constitutes a material breach or violation of the Covered Entity's obligations under this Agreement, Business Associate must take reasonable steps to cure the breach or end the violation. If Business Associate is unsuccessful, Business Associate shall terminate this Agreement, if feasible, or if termination is not feasible, Business Associate will report the problem to the Secretary. Business Associate shall provide notice to Covered Entity of any pattern of activity or practice of Covered Entity that Business Associate believes constitutes a material breach or violation of Covered Entity's obligations under this Agreement following discovery and shall meet with Covered Entity to discuss and attempt to resolve the problem as one of the reasonable steps to cure the breach or end the violation.

8. **Special Termination.** In the event that any federal, state, or local law or regulation currently existing or hereinafter enacted, or any final or non-appealable construction or interpretation of such law or regulation (whether federal, state, or local) or enforcement of such laws or regulations hereinafter occurs that makes performance of this Agreement impossible or illegal, the Parties mutually agree to enter into a modification of this Agreement to make substantial performance of this Agreement possible. However, should the Parties be unable to agree upon an appropriate modification to comply with such requirements following thirty (30) days of good faith negotiations, either Party may give written notice to immediately terminate this Agreement.

9. **Effect of Termination.**

9.1. Except as otherwise limited in this Agreement, and except as provided in Section 9.2 of this Agreement, upon termination of this Agreement, for any reason, Business Associate hereby agrees to return all Protected Health Information received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity, or, to the extent authorized by Covered Entity, destroy such Protected Health Information. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the Protected Health Information.

9.2. Except as otherwise limited in this Agreement, in the event that Business Associate determines that returning or as authorized by Covered Entity destroying the

Protected Health Information is not feasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction of the Protected Health Information not feasible. Upon mutual agreement of the Parties that return or destruction of Protected Health Information is not feasible, Business Associate shall extend the protections of this Agreement to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction not feasible, for so long as Business Associate maintains such Protected Health Information.

10. **Indemnification.**

10.1. **Indemnification by Business Associate.** Except as otherwise limited in this Agreement, Business Associate shall indemnify and hold harmless Covered Entity against any claims, liabilities, damages, and expenses, including reasonable attorneys' fees, incurred by Covered Entity in defending or compromising actions brought against Covered Entity arising out of or related to the acts or omissions of Business Associate or its employees in connection with Business Associate's negligent or fraudulent performance of Business Associate's applicable duties under this Agreement. This indemnity shall be in proportion to the amount of responsibility found attributable to Business Associate.

10.2. **Indemnification by Covered Entity.** Except as otherwise limited in this Agreement, Covered Entity shall indemnify and hold harmless Business Associate against any claims, liabilities, damages, and expenses, including reasonable attorneys' fees, incurred by Business Associate in defending or compromising actions brought against Business Associate arising out of or related to the acts or omissions of Covered Entity or its employees in connection with Covered Entity's negligent or fraudulent performance of Covered Entity's applicable duties under this Agreement. This indemnity shall be in proportion to the amount of responsibility found attributable to Covered Entity.

11. **Survival of Obligations.** Except as otherwise limited in this Agreement, termination of this Agreement shall not relieve either Party from fulfilling any obligation under this Agreement, including, but not limited to, Sections 9 and 10 hereof, or any other agreement between the Parties that, at the time of termination, has already accrued to the other Party or which thereafter may accrue with respect to any act or omission that occurred prior to such termination.

12. **Disputes.** The Parties shall endeavor in good faith to resolve among themselves any dispute that may arise regarding this Agreement or any other agreement between them. If not so resolved, then the Parties may mutually decide to resolve the specific dispute or specific category of disputes by the use of a mediator which will be selected by the mutual agreement of the Parties; or, if the Parties mutually agree after the specific dispute or specific category of disputes are identified, the dispute(s) shall be settled pursuant to arbitration as provided by the Nebraska Uniform Arbitration Act; or either Party independently shall have the right to litigate any dispute(s) in any appropriate court in the State of Nebraska as described below in Section 13 if a mutual agreement to mediate or submit the dispute(s) to arbitration is not entered into after the dispute(s) is/are identified.

13. **Governing Law, Venue and Consent to Jurisdiction.** This agreement, and the rights, remedies, obligations, and duties of the parties under this agreement, shall be governed by, construed in accordance with, and enforced under the laws of the State of Nebraska.

14. **Binding Nature and Assignment.** This Agreement shall be binding on the Parties hereto and their successors and assigns, but neither Party may assign this Agreement without the prior written consent of the other, which consent shall not be unreasonably withheld.

15. **Notices.**

15.1. Whenever under this Agreement one Party is required to give notice to the other, such notice shall be deemed given if in writing to the address set forth below (or at such other address as may be designated by the Parties from time to time in accordance with this Section 15), and shall be either (i) personally delivered, (ii) mailed by certified mail, postage prepaid with return receipt requested, (iii) delivered by overnight express delivery service or same-day local courier service, or (iv) delivered by telex or facsimile transmission to the address set forth below, or at such address as may be designated by the Parties from time to time in accordance with this Section 15.

If to Covered Entity:	Address:	_____
		_____
		_____
	Attention:	_____
	Title:	_____
	Phone Number:	_____
	Facsimile Number:	_____

If to Business Associate:	Address:	Regional Care, Inc.
		905 West 27 <sup>th</sup> Street
		Scottsbluff, NE 69361
	Attention:	Steve Hetzel
	Title:	President
	Phone Number:	308-635-2260
	Facsimile Number:	308-635-2018

15.2. Notices delivered personally, by courier, or by facsimile shall be deemed communicated as of actual receipt. Mailed notices shall be deemed communicated as of 10:00 a.m. on the third business day after mailing. Any Party may change such Party's address for notice under this Agreement by giving prior written notice to the other Party of such change in the manner provided in this Section 15.

16. **Cooperation.** Both Business Associate and Covered Entity acknowledge that mutual cooperation and assistance is essential to each Party's performance under this

Agreement; therefore, it will be the duty of both Parties to make all good faith efforts to fully cooperate in the execution of this Agreement.

17. **Headings.** The headings of this Agreement are inserted for convenience only and are not to be considered in the interpretation of this Agreement. They shall not in any way limit the scope or modify the substance or context of any sections of this Agreement.

18. **Force Majeure.** Neither Party shall be liable or be deemed in breach of this Agreement for any failure or delay of performance, which results, directly or indirectly, from acts of God, civil, or military authority, public disturbance, accidents, fires, or any other cause beyond the reasonable control of either Party, and such nonperformance shall not be grounds for termination.

19. **Attorneys' Fees.** Except as otherwise limited in this Agreement, if any legal action or other proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default, misrepresentation, or injunctive action in connection with any of the provisions of this Agreement, each Party shall bear their own legal expenses and the other cost incurred in that action or proceeding.

20. **Regulatory References.** A reference in this Agreement to a section in the Privacy Rule or the Security Rule means the section as in effect or as amended, and for which compliance is required.

21. **Third Party Beneficiaries.** Nothing in this Agreement shall be construed to create any third party beneficiary rights in any person or entity.

22. **Counterparts.** This Agreement may be executed simultaneously in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. Faxed copies of manually executed signature pages to this Agreement shall be fully binding and enforceable without the need for delivery of the original manually executed signature page.

23. **Severability.** If any provision of this Agreement is held to be illegal, invalid, or unenforceable under present or future laws, such provision shall be fully severable, and this Agreement shall be construed and enforced as if such illegal, invalid, or unenforceable provision never comprised a part of this Agreement; and the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid, or unenforceable provision or by its severance from this Agreement. Furthermore, in lieu of such illegal, invalid, or unenforceable provision, there shall be added automatically as part of this Agreement a provision as similar in its terms to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable.

24. **Waivers.** The failure of a Party at any time or times to require performance of any provision of this Agreement shall in no manner affect such Party's right at a later time to enforce such provision. No waiver by a Party of any provision or breach of this Agreement shall be effective unless in writing, and no waiver in any one or more instances shall be deemed to be a further or continuing waiver in other any instance.

25. **Relationship.** Business Associate is acting as an independent contractor of Covered Entity with respect to this Agreement. Nothing in this Agreement shall create or be deemed to create the relationship of employer/employee, partners, joint ventures, or principal-agent between the Parties. Except as otherwise set forth in this Agreement, (i) no Party shall have any authority to assume or create any obligation or responsibility whatsoever, express or implied, on behalf or in the name of the other Party or to bind the other Party in any manner whatsoever and (ii) no Party shall make any representation, warranty, covenant, agreement, or commitment on behalf of the other Party.

26. **Amendment.** Except as otherwise limited in this Agreement, the Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for Covered Entity to comply with the requirements of the Privacy Rule, the Security Rule, HIPAA and the HITECH Act. No changes in or additions to this Agreement shall be recognized unless incorporated herein by written amendment by the Parties, such amendment(s) to become effective on the date stipulated in such amendment(s). No discharge of obligations arising under this Agreement shall be valid unless in writing and executed by the Party against whom such discharge is sought to be enforced.

27. **Interpretation.** Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits the Parties to comply with the Privacy Rule and the Security Rule.

(Signatures begin on following page)

IN WITNESS WHEREOF, Business Associate and Covered Entity have caused this Agreement to be signed and delivered by their duly authorized representatives, effective as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**COVERED ENTITY:**

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Print Name: \_\_\_\_\_

**BUSINESS ASSOCIATE:**

By: Stephen W. Hetzel  
Title: President  
Print Name: Stephen W. Hetzel





51669



Please fill in your Client Name and 12 digit TASC Client ID and  
Sign and fax all pages of the agreement to 608-245-3623

CLIENT NAME: City of Grand Island

CLIENT ID:                                                            

### BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement ("Agreement") is made this \_\_\_\_\_ day of \_\_\_\_\_, 2010, by and between City of Grand Island ("Covered Entity") and Total Administrative Services Corporation, a Wisconsin corporation ("Business Associate").

### RECITALS

**WHEREAS**, Covered Entity is a group health plan ("Plan") and wishes to engage the services of Business Associate with respect to certain administrative aspects of the Plan as more specifically set forth in a Service Level Agreement ("SLA");

**WHEREAS**, Covered Entity wishes to disclose certain information to Business Associate pursuant to the terms of the SLA, some of which may constitute Protected Health Information ("PHI") (defined below).

**WHEREAS**, Covered Entity and Business Associate intend to protect the privacy and provide for the security of PHI disclosed to Business Associate pursuant to the SLA in compliance with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA"), the Health Information Technology for Economic and Clinical Health Act, Public Law 111-005 (the "HITECH Act"), and regulations promulgated thereunder by the U.S. Department of Health and Human Services (the "HIPAA Regulations") and other applicable laws.

**WHEREAS**, as part of the HIPAA Regulations, the Privacy Rule and the Security Rule (defined below) require Covered Entity to enter into a contract containing specific requirements with Business Associate prior to the disclosure of PHI, as set forth in, but not limited to, Title 45, Sections 164.314(a), 164.502(e) and 164.504(e) of the Code of Federal Regulations ("C.F.R.") and contained in this Agreement.

**NOW THEREFORE**, in consideration of the mutual promises below and the exchange of information pursuant to this Agreement, the parties agree as follows:

The general terms and conditions attached hereto are incorporated herein and deemed part of this Agreement.

**IN WITNESS WHEREOF**, the parties hereto have duly executed this Agreement as of the date first written above.

COVERED ENTITY:

BUSINESS ASSOCIATE:  
**TOTAL ADMINISTRATIVE  
SERVICES CORPORATION**

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

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

Print Name: \_\_\_\_\_

Print Name: Brad Hoffman

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

Title: Director - Customer Service

## TERMS AND CONDITIONS

### 1. Definitions

- a. **Breach** shall have the meaning given to such term under the HITECH Act [42 U.S.C. Section 17921].
- b. **Business Associate** shall mean Total Administrative Services Corporation.
- c. **Covered Entity** shall mean the party identified above.
- d. **Data Aggregation** shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.
- e. **Designated Record Set** shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.
- f. **Electronic Protected Health Information** means Protected Health Information that is maintained in or transmitted by electronic media.
- g. **Electronic Health Record** shall have the meaning given to such term in the HITECH Act, including, but not limited to, 42 U.S.C. Section 17921.
- h. **Health Care Operations** shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.
- i. **Privacy Rule** shall mean the HIPAA Regulation that is codified at 45 C.F.R. Parts 160 and 164, Subparts A and E.
- j. **Protected Health Information** or **PHI** means any information, whether oral or recorded in any form or medium: (i) that relates to the past, present or future physical or mental condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and (ii) that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual, and shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501. Protected Health Information includes Electronic Protected Health Information [45 C.F.R. Sections 160.103, 164.501].
- k. **Protected Information** shall mean PHI provided by Covered Entity to Business Associate or created or received by Business Associate on Covered Entity's behalf.
- l. **Security Rule** shall mean the HIPAA Regulation that is codified at 45 C.F.R. Parts 160 and 164, Subparts A and C.
- m. **Unsecured PHI** shall have the meaning given to such term under the HITECH Act and any guidance issued pursuant to such Act including, but not limited to, 42 U.S.C. Section 17932(h).

### 2. Obligations of Business Associate

- a. **Permitted Uses.** Business Associate shall not use Protected Information except for the purpose of performing Business Associate's obligations under the SLA and as permitted under the SLA and this Agreement. Further, Business Associate shall not use Protected Information in any manner that would constitute a violation of the Privacy Rule or the HITECH Act if so used by Covered Entity. However, Business Associate may use Protected Information (i) for the proper management and administration of Business Associate; (ii) to carry out the legal responsibilities of Business Associate; or (iii) for Data Aggregation purposes for the Health Care Operations of Covered Entity [45 C.F.R. Sections 164.504(e)(2)(i), 164.504(e)(2)(ii)(A) and 164.504(e)(4)(i)].
- b. **Permitted Disclosures.** Business Associate shall not disclose Protected Information except for the purpose of performing Business Associate's obligations under the SLA and as permitted under the SLA and this Agreement. Business Associate shall not disclose Protected Information in any manner that would constitute a violation of the Privacy Rule or the HITECH Act if so disclosed by Covered Entity. However, Business Associate may disclose Protected Information (i) for the proper management and administration of Business Associate; (ii) to carry out the legal responsibilities of Business Associate; (iii) as required by law; or (iv) for Data Aggregation purposes for the Health Care Operations of Covered Entity. If Business Associate discloses Protected Information to a third party, Business Associate must obtain, prior to making any such disclosure, (i) reasonable assurances from such third party that such Protected Information will be held confidential as provided pursuant to this Agreement and only disclosed as required by law or for the purposes for which it was disclosed to such third party, and (ii) an agreement from such third party to immediately notify Business Associate of any breaches of confidentiality of the Protected Information, to the extent it has obtained knowledge of such breach [42 U.S.C. Section 17932; 45 C.F.R. Sections 164.504(e)(2)(i), 164.504(e)(2)(i)(B), 164.504(e)(2)(ii)(A) and 164.504(e)(4)(ii)].

- c. **Prohibited Uses and Disclosures.** Business Associate shall not use or disclose Protected Information for fundraising or marketing purposes. Business Associate shall not disclose Protected Information to a health plan for payment or health care operation purposes if the patient has requested this special restriction, and has paid out of pocket in full for the health care item or service to which the PHI solely relates [42 U.S.C. Section 17935(a)]. Business Associate shall not directly or indirectly receive remuneration in exchange for Protected Information, except with the prior written consent of Covered Entity and as permitted by the HITECH Act, 42 U.S.C. Section 17935(d)(2); however, this prohibition shall not affect payment by Covered Entity to Business Associate for services provided pursuant to the SLA.
- d. **Appropriate Safeguards.** Business Associate shall implement appropriate safeguards as are necessary to prevent the use or disclosure of Protected Information otherwise than as permitted by the SLA or this Agreement, including, but not limited to, administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of the Protected Information, in accordance with 45 C.F.R. Sections 164.308, 164.310, and 164.312. [45 C.F.R. Section 164.504(e)(2)(ii)(B); 45 C.F.R. Section 164.308(b)]. Business Associate shall comply with the policies and procedures and documentation requirements of the HIPAA Security Rule, including, but not limited to, 45 C.F.R. Section 164.316 [42 U.S.C. Section 17931].
- e. **Reporting of Improper Access, Use or Disclosure.** Business Associate shall report to Covered Entity any access, use or disclosure of Protected Information not permitted by the SLA and this Agreement, and any Breach of Unsecured PHI of which it becomes aware without unreasonable delay and in no case later than 60 calendar days after discovery [42 U.S.C. Section 17921; 45 C.F.R. Section 164.504(e)(2)(ii)(C); 45 C.F.R. Section 164.308(b)].
- f. **Business Associate's Agents.** Business Associate shall ensure that any agents, including subcontractors, to whom it provides Protected Information, agree to the same restrictions and conditions that apply to Business Associate with respect to such PHI and implement the safeguards required by subparagraph d above with respect to Electronic PHI [45 C.F.R. Section 164.504(e)(2)(ii)(D); 45 C.F.R. Section 164.308(b)].
- g. **Access to Protected Information.** Within thirty (30) days of receiving a written request from Covered Entity, Business Associate shall make Protected Information maintained by Business Associates or its agents or subcontractors in Designated Record Sets available to Covered Entity, in reasonable time and manner, for inspection and copying to enable Covered Entity to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.524 [45 C.F.R. Section 164.504(e)(2)(ii)(E)]. If Business Associate maintains an Electronic Health Record, Business Associate shall provide such information in electronic format to enable Covered Entity to fulfill its obligations under the HITECH Act, including, but not limited to, 42 U.S.C. Section 17935(e).
- h. **Amendment of PHI.** Business Associate or its agents or subcontractors shall, in a reasonable time and manner, make Protected Information available to Covered Entity for amendment and incorporate any such amendment to enable Covered Entity to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.526. If any individual requests an amendment of Protected Information directly from Business Associate or its agents or subcontractors, Business Associate shall notify Covered Entity of the request. Any approval or denial of an amendment of Protected Information maintained by Business Associate or its agents or subcontractors shall be the responsibility of Covered Entity [45 C.F.R. Section 164.504(e)(2)(ii)(F)].
- i. **Accounting Rights.** Business Associate and its agents or subcontractors shall, in a reasonable time and manner, make available to Covered Entity the information required to provide an accounting of disclosures to enable Covered Entity to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.528, and the HITECH Act, including but not limited to, 42 U.S.C. Section 17935(c). In the event that the request for an accounting is delivered directly to Business Associate or its agents or subcontractors, Business Associate shall forward it to Covered Entity. It shall be Covered Entity's responsibility to prepare and deliver any such accounting requested. Business Associate shall not disclose any Protected Information except as set forth in Sections 2.b. of this Agreement [45 C.F.R. Sections 164.504(e)(2)(ii)(G) and 165.528]. The provisions of this subparagraph i shall survive the termination of this Agreement.
- j. **Governmental Access to Records.** Business Associate shall make its internal practices, books and records relating to the use and disclosure of Protected Information available to the Secretary of the U.S. Department of Health and Human Services (the "Secretary") for purposes of

determining Business Associate and/or Covered Entity's compliance with the Privacy Rule [45 C.F.R. Section 164.504(e)(2)(ii)(H)].

- k. **Minimum Necessary.** Business Associate (and its agents or subcontractors) shall request, use and disclose only the minimum amount of Protected Information necessary to accomplish the purpose of the request, use or disclosure [42 U.S.C. Section 17935(b); 45 C.F.R. Section 164.514(d)(3)]. Business Associate and Covered Entity acknowledge and agree that the definition of "minimum necessary" is in flux and shall keep themselves informed of guidance issued by the Secretary with respect to what constitutes "minimum necessary."
- l. **Notification of Breach.** During the term of the SLA, Business Associate shall notify Covered Entity, as soon as practicable after discovery, of any suspected or actual breach of security, intrusion or unauthorized use or disclosure of PHI of which Business Associate becomes aware.
- m. **Breach Pattern or Practice by Covered Entity.** Pursuant to 42 U.S.C. Section 17934(b), if Business Associate knows or learns of a pattern of activity or practice of Covered Entity that constitutes a material breach or violation of Covered Entity's obligations under the SLA, this Agreement or other arrangement, Business Associate shall take reasonable steps to cure the breach or end the violation or cause Covered Entity to cure the breach or end the violation. If the steps are unsuccessful, Business Associate is legally obligated to terminate the SLA or other arrangement if feasible, or if termination is not feasible, report the problem to the Secretary of DHHS. Notwithstanding anything to the contrary in the SLA, Business Associate shall not be liable for any damages suffered by Covered Entity as a result of the termination of the SLA to satisfy this obligation.

3. **Obligations of Covered Entity.** Covered Entity shall promptly notify Business Associate, in writing and in a timely manner, of any of the following:

- a. Changes in the form of notice of privacy practices ("NPP") that Covered Entity provides to individuals pursuant to 45 C.F.R. Section 164.520, and provide Business Associate a copy of the NPP currently in use.
- b. Changes in, or withdrawal of, the consent or authorization provided to Covered Entity by individuals pursuant to 45 C.F.R. Sections 164.506 or 164.508.
- c. Any arrangements permitted or required of Covered Entity that may impact in any manner the use and/or disclosure of Protected Information by Business Associate under the SLA or this Agreement, including but not limited to, restrictions on use and/or disclosure of Protected Information as provided for in 45 C.F.R. Sections 164.522.

4. **Termination**

- a. **Material Breach.** In the event that Covered Entity determines Business Associate has materially breached this Agreement, Covered Entity shall provide an opportunity for Business Associate to cure the breach or end the violation. If Business Associate does not cure the breach or end the violation within a reasonable time, Covered Entity may terminate this Agreement. [45 C.F.R. Section 164.504(e)(2)(iii)].
- b. **Effect of Termination.** Upon termination of the Contract for any reason, Business Associate shall, to the extent feasible, return or destroy all Protected Information that Business Associate or its agents or subcontractors still maintain in any form, and shall retain no copies of such Protected Information. If return or destruction is not feasible, as determined by Business Associate, Business Associate shall continue to extend the protections of Section 2 of this Agreement to such information, and limit further use of such PHI to those purposes that make the return or destruction of such PHI infeasible [45 C.F.R. Section 164.504(e)].

5. **Amendment to Comply with Law.** The parties acknowledge that state and federal laws relating to data security and privacy are rapidly evolving and that amendment of the SLA or this Agreement may be required to provide for procedures to ensure compliance with such developments. The parties specifically agree to take such action as is necessary to implement the standards and requirements of HIPAA, the HITECH Act, the Privacy Rule, the Security Rule and other applicable laws relating to the security or confidentiality of PHI. Upon the request of Business Associate, Covered Entity agrees to promptly, and in no case later than thirty (30) days from Business Associate's request, enter into an amendment to this Agreement embodying written assurances consistent with the standards and requirements of HIPAA, the HITECH Act, the Privacy Rule, the Security Rule or other applicable laws.

6. **No Third-Party Beneficiaries.** Nothing express or implied in this Agreement is intended to confer, nor shall anything herein confer, upon any person other than Covered Entity, Business Associate and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.

7. **Effect on SLA.** Except as specifically required to implement the purposes of this Agreement, or to the extent inconsistent with this Agreement, all terms of the SLA shall remain in force and effect.

8. **Interpretation.** This Agreement shall be interpreted as broadly as necessary to implement and comply with HIPAA, the HITECH Act, the Privacy Rule and the Security Rule. The parties agree that any ambiguity in this Agreement shall be resolved in favor of a meaning that complies and is consistent with HIPAA, the HITECH Act, the Privacy Rule and the Security Rule.

9. **Counterparts.** This Agreement may be executed and delivered (including by facsimile or Portable Document Format (pdf) transmission) in one or more counterparts, all of which will be considered one and the same agreement and will become effective when one or more counterparts have been signed by each of the parties and delivered to the other party. Any such facsimile documents and signatures shall, subject to applicable legal requirements, have the same force and effect as manually-signed originals and shall be binding on the parties hereto.

RESOLUTION 2010-57

WHEREAS, the City of Grand Island has a business associate agreement with Regional Care, Inc. (RCI) to provide TPA services for the City's health and dental plan; and

WHEREAS, the City of Grand has a business associate agreement with TASC to administer the City's Section 125 Cafeteria Plan; and

WHEREAS, Congress enacted the Health Information Technology for Economic and Clinical Health ("HITECH") Act in 2009 which amended the HIPAA provisions of 1996; and

WHEREAS, the City of Grand Island must amend its business associate agreement with Regional Care Inc. (RCI) and TASC to comply with HIPPA;

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, to enter into an amended and updated business associate agreement with RCI to comply with HIPAA regulations.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, February 23, 2010.

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Margaret Hornady, Mayor

Attest:

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RaNae Edwards, City Clerk



# City of Grand Island

Tuesday, February 23, 2010

Council Session

## Item G10

**#2010-58 - Approving FTE Title Changes for Fire Division Chiefs**

Staff Contact: Troy Hughes

## **Council Agenda Memo**

**From:** Troy Hughes, Fire Chief  
**Meeting:** February 23, 2010  
**Subject:** FTE Title Changes for Division Chiefs  
**Item #'s:** G-10  
**Presenter(s):** Troy Hughes, Fire Chief

### **Background**

The Grand Island Fire Department is proposing to eliminate FTE titles Fire Operations Chief, Fire Training Division Chief, EMS Division Chief, and Fire Prevention Division Chief and consolidate them into one FTE title of Fire Division Chief.

The Fire Department is facing an ever increasing demand for service. With this increasing demand comes a call for greater efficiency in department operations. The proposed FTE title changes to the current fire division chief titles will allow the fire chief the flexibility to place individuals in positions that best fit their strengths and thus increase the department's operational efficiency.

The current division chief structure of the fire department includes an operations division chief, training division chief, ems division chief, and prevention division chief. This system was put in place during the 1960s, and is governed by civil service rules. The civil service commission looks at these positions as four separate entities. This structure does not allow rotation of positions or reassignment of positions for any reason. The only way one division chief can move between positions is to fill an opening due to retirement, resignation, or termination.

Even when there is an opening the fire chief cannot reassign an existing chief to a new position. The individual must go through the entire testing process. If they are successful in the testing process and are appointed to the new position, then the testing process must start over again to fill the newly vacated position. The advertisement and testing process take about four months time per position, so for one chief to move to a new position takes about an eight month process to complete. This system restrains the efficient assignment of staff and does not allow for the cross training of division chiefs that supports succession planning.

Chief Hughes has reviewed this proposal with City Administrator Pederson and HR Director Sutherland prior to bringing it forward for council action. Chief Hughes believes that consolidating these FTE titles will facilitate greater efficiency in staff assignments and support succession planning.



## **Discussion**

This structure of upper management positions is not new to the city. The Police Department currently uses this structure very effectively. They have three captains that periodically rotate between administration, patrol, and investigations divisions. Even though each police captain is assigned a different division they are all classified in the salary ordinance as police captains. This combined FTE title has worked well within the Police Department and would also work well within the Fire Department.

The periodic rotation of division chief assignments improves the department's ability to continue operations when one of the division chief's positions becomes vacant for any reason. With periodic rotation, the duties of the open position can be fulfilled by another division chief who previously held that position. Another advantage is that newly assigned division chiefs have the benefit of a mentor to "show them the ropes" of the new position. In the current system, after recruitment and testing is complete, this replacement assumes the new position without the advantage of a mentor who has done the job. They are left to "figure it out" as the person with a wealth of institutional knowledge that previously served in the position has left employment and is no longer available to mentor them or available to ask questions of.

Existing division chief pay scales ranged from \$54,860-\$87,787. The new combined fire division chief scale would range from \$57,921-\$81,478. The new pay scale for this position was devised by HR Director Sutherland by averaging the salary comparables of all four positions. The long-range budget impact of changing the FTE titles is zero. The sum of the combined wages for the current pay scale is equal to the sum of the wages in the proposed pay scale. The primary difference is the distribution of wages in the proposed pay scale is spread equally among all four division chief positions, whereas the current pay scale varies by position.

## **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 FTE Fire Division Chief title consolidation as proposed.

## **Sample Motion**

Move to approve.

RESOLUTION 2010-58

WHEREAS, the City approves the FTE's for each department as part of the budget process, and

WHEREAS, an amendment is required to allow changes to be made to the FTE schedule, and

WHEREAS, the Fire Department has requested a reclassification of four positions which will result in the deletion of one FTE Fire Operations Chief, one FTE EMS Division Chief, one FTE Fire Prevention Division Chief, one FTE Fire Training Division Chief and the addition of four FTE Fire Division Chiefs,

BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the Mayor is hereby authorized to execute the FTE Amendment.

- -

Adopted by the City Council of the City of Grand Island, Nebraska, on February 23, 2010.

\_\_\_\_\_  
Margaret Hornady, Mayor

Attest:

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

Approved as to Form	<input type="checkbox"/>	_____
February 18, 2010	<input type="checkbox"/>	City Attorney



# City of Grand Island

Tuesday, February 23, 2010

Council Session

## Item I1

**#2010-59 - Consideration of Request from Sin City, LLC dba Sin City Grill, 410 West 3rd Street for a Class "C" Liquor License and Liquor Manager Designation for Brent Lindner, 1322 West John Street**

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

Staff Contact: RaNae Edwards

R E S O L U T I O N    2010-59

WHEREAS, an application was filed by Sin City, LLC doing business as Sin City Grill, 410 West 3<sup>rd</sup> Street for a Class "C" Liquor License; and

WHEREAS, a public hearing notice was published in the *Grand Island Independent* as required by state law on February 13, 2010; such publication cost being \$14.73; and

WHEREAS, a public hearing was held on February 23, 2010 for the purpose of discussing such liquor license application.

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

\_\_\_\_\_ The City of Grand Island hereby recommends approval of the above-identified liquor license application contingent upon final inspections.

\_\_\_\_\_ The City of Grand Island hereby makes no recommendation as to the above-identified liquor license application.

\_\_\_\_\_ The City of Grand Island hereby makes no recommendation as to the above-identified liquor license application with the following stipulations: \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ The City of Grand Island hereby recommends denial of the above-identified liquor license application for the following reasons: \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ The City of Grand Island hereby recommends approval of Brent Lindner, 1322 West John Street as liquor manager of such business.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, February 23, 2010.

\_\_\_\_\_  
Margaret Hornady, Mayor

Attest:

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

Approved as to Form	☐ _____
February 18, 2010	☐ City Attorney



# City of Grand Island

Tuesday, February 23, 2010

Council Session

## Item J1

### **Approving Payment of Claims for the Period of February 10, 2010 through February 23, 2010**

*The Claims for the period of February 10, 2010 through February 23, 2010 for a total amount of \$3,557,403.93. A MOTION is in order.*

Staff Contact: Mary Lou Brown



# City of Grand Island

Tuesday, February 23, 2010

Council Session

## Item J2

**Approving Payment of Claims for the Period of February 10, 2010 through February 23, 2010 for the Veterans Athletic Field Complex**

*The Claims for the Veterans Athletic Field Complex for the period of February 10, 2010 through February 23, 2010 for the following requisitions.*

#14    \$79,723.72

*A MOTION is in order.*

Staff Contact: Mary Lou Brown

## FORM OF REQUISITION

REQUISITION NO. 14

Wells Fargo Bank, National Association, as Escrow Agent ("Agent") under the Escrow Agreement, dated as of June 29, 2009 (the "Agreement"), between the City of Grand Island, NE as Owner ("Owner"), and Agent is hereby requested to disburse from the Escrow Fund created by the Agreement to the person, firm or corporation designated below as Payee the sum set forth below such designation, in payment of the cost of the Project or portion thereof constructed, equipped or installed

<i>Payee</i>	<i>Address</i>	<i>Amount To Be Paid</i>	<i>Cost of Issuance or Project Description</i>
Ensley Electric Services, Inc.	PO Box 5822 Grand Island, NE 68802	\$43,212.00	Ball field lighting
Nature's Helper	2129 S 156 <sup>th</sup> Circle Omaha, NE 68130	\$4,254.14	Irrigation system
Nunnenkamp Well Co Inc	2218 Kent Ave. Grand Island, NE 68803	\$29,890.00	Well and pump installation
Olsson Associates Inc	1111 Lincoln Mall PO Box 84608 Lincoln, NE 68501- 4608	\$2,367.58	Construction observation

The undersigned hereby certifies that:

(a) The amount requested for payment is for payment or reimbursement for a cost or costs of said Project, has not formed the basis of a previous request for payment and is now due and owing;

(b) A bill or bills or other evidence of each obligation of Lessee is attached herewith; and

(c) Owner will indemnify and hold Agent harmless from and against all claims, losses and damages, including legal fees and expenses that may be incurred in connection with the disbursement requested hereby.

In the event that the Payee named on this Requisition is a person, firm or corporation to which reimbursement is due for payment previously paid by such person, firm or corporation for the cost of the Project or portion thereof, written evidence of such prior payment and the amount thereof is also attached to this Requisition.

Executed this \_\_\_\_ day of \_\_\_\_\_,  
20\_\_.

**CITY OF GRAND ISLAND,**  
**NEBRASKA,** as Owner

By \_\_\_\_\_  
Owner Representative



Schedule of Bills

Vendor

<u>Org</u>	<u>Object</u>	<u>Name/Number</u>	<u>Description</u>	<u>Invoice</u>	<u>PO #</u>	<u>WO#</u>	<u>Check #</u>	<u>Amount</u>
40044450	90122	PARKS & RECREATION						
		ATHLETIC COMPLEX						
	1	180 ENSLEY ELECTRIC SERVICES INC	BALL FIELD LIGHTING VETS FIELD INSTALLATION	PMT #4	22119		154336	43,212.00
	1	8080 NATURE'S HELPER	PMT 3 TO INSTALL IRRIGATION SYSTEM	4605	21434		154434	4,254.14
	1	115 NUNNENKAMP WELL CO INC	WELL & PUMP INSTALLATION	09941	21411		154457	29,890.00
	1	190 OLSSON ASSOCIATES INC	CONSTRUCTION OBSERVATION	138047	21414		154461	2,367.58

40044450 Org Total

79,723.72

COPY

Grand Island, NE 68802  
308-382-8432

<b>Project:</b>	City of GI Parks & Recreation Dept.
<b>App. #</b>	4
<b>App. Date</b>	Jan. 29, 2010
<b>Period To:</b>	Jan. 29, 2011

**CONTINUATION SHEET**

[illegible]

Partial payment

Date 2-1-10

# Ancient

41004450-90122

43,212.00

## Page 1 of 2 Pages

Project: Vet's Athletic Field Complex  
PO #  
App. # 4  
Period To: Jan. 29, 2010

**Grand Island, Nebraska, 68802**

### 1. Original Contract Sum

1. Original Contract Sum	\$ 231,277.00
2. Net Change by Change Orders	\$ -
3. Contract Sum To Date (Line 1+2)	\$ 231,277.00
4. Total Complete & Stored to Date column G on next page	\$ 141,707.00
5. Retainage	\$ -
a. % of completed work (column D & E on next page)	
b. % of stored material (column F from next page)	
6. Total Earned Less Retainage	\$ 141,707.00
7. Less Previous Certs. For Payment	\$ (98,495.00)
8. Current Payment Due	\$ 43,212.00
9. Balance To Finish, Plus Retainage (line 3 less 6)	\$ 89,570.00

(line 3 less 6)

**My Commission expires:**

**GENERAL NOTARY - State of Nebraska**  
**MARCIA R. DAMMANN**  
My Comm. Exp. June 11, 2012

(current experience applied for)

(Attach explanation if amount certified differs from the amount applied for)

**ARCHITECT:** \_\_\_\_\_ By: \_\_\_\_\_ Date: \_\_\_\_\_

This certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the Contractor named herein. Issuance, payment and acceptance of payment are without prejudice to any rights of the owner or Contractor under this contract.

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

This certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the Contractor named herein. Issuance, payment and acceptance of payment are without prejudice to any rights of the owner or Contractor under this contract.



BUS: 402-334-2625  
FAX: 402-334-2656

# Invoice

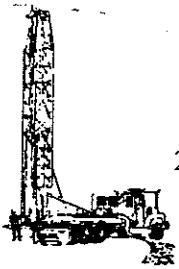
<b>BILL TO</b>
Grand Island Athletic Complex P.O. Box 1968 Grand Island, NE 68802-1968

DATE	INVOICE #
1/14/2010	4605

TERMS	PROJECT
Net 30	

QTY		DESCRIPTION	RATE	AMOUNT																
		Grand Island Soccer field parts:  Rainbird Rotors and Valves for the additional areas of the soccer field. I have ordered these parts before price increases took place with the ok of Steve Paustian.  <div>Partial payment</div> <div>Voucher #</div> <table><tr><td>PO #</td><td>21434</td></tr><tr><td>Vendor #</td><td>8080</td></tr><tr><td>Invoice #</td><td>4605</td></tr><tr><td>Description</td><td>payment # irrigation parts</td></tr><tr><td>Approved by</td><td>SP</td></tr><tr><td>Org-obj#</td><td>40044450 - 90122</td></tr><tr><td>Date</td><td>2-2-10</td></tr><tr><td>Amount</td><td>4,254.14</td></tr></table>	PO #	21434	Vendor #	8080	Invoice #	4605	Description	payment # irrigation parts	Approved by	SP	Org-obj#	40044450 - 90122	Date	2-2-10	Amount	4,254.14	4,254.14	4,254.14
PO #	21434																			
Vendor #	8080																			
Invoice #	4605																			
Description	payment # irrigation parts																			
Approved by	SP																			
Org-obj#	40044450 - 90122																			
Date	2-2-10																			
Amount	4,254.14																			
Thank you for your business!			Total	\$4,254.14																
We accept MasterCard & Visa.			Payments/Credits	\$0.00																
A Service Charge of 1.33% per month, 16% APR, with a minimum of \$3.00 will be added to all overdue accounts. A late fee of \$20.00 will be added to all accounts unpaid for 90 days. Customers are also liable for all legal and collection fees.			Balance Due	\$4,254.14																

• Sprinkler Systems • Holiday Lighting •  
2129 S. 156<sup>TH</sup> CIR. • OMAHA, NE 68130  
• natureshelperinc.com • info@natureshelperinc.com •



Invoice

No 09941

# Nunnenkamp Well Co., Inc.

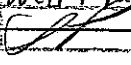
2218 Kent Ave.

Grand Island, Nebraska 68803

Phone 384-0474

Date:  
1-26-2010

NAME City of Grand Island, Parks & Recreation Dept.  
ADDRESS 100 E 1<sup>st</sup> St. Box 1968  
Grand Island, NE. 68802-1968  
REF. W/O # Steve Paustian - Veterans Athletic Field Complex

LABOR				
MATERIAL				
Total Labor & Materials for				
Installation of New Well & Pump.				
Per Bid Agreement				29,890. <sup>00</sup>
Voucher #				
PO #	21411			
Voucher #	115			
SALES TAX	Invoice # 9941			
	Description Well + Pump Installation	Exempt		0. <sup>00</sup>
TOTAL DUE	Approved by 			29,890. <sup>00</sup>
	Original # 1-27-10			
TERMS NET	40044450-90122	29,890.00		
PAYMENT DUE UPON RECEIPT OF INVOICE				
1 1/2% INTEREST CHARGED ON PAST DUE ACCOUNTS.				

WHITE: Customer Copy

YELLOW: Office Copy

PINK: File Copy

Bid Proposal For Furnishing And Installation of Well For New Veterans Athletic Field Complex.

# NUNNENKAMP WELL CO INC

2218 KENT AVE  
GRAND ISLAND  
308-384-0474

## WORK ORDER

Date 7-23-2009

CUSTOMERS NAME: GI Parks & Rec Ref: Steve Paustian

ADDRESS 100 E 1<sup>st</sup> St. Ext 260

CITY Grand Island NE. 68801

PHONE 385- 5444 Ext 290 Fax 385-5488

DIRECTIONS New Ball Fields, North of Vets Home GI NE.

Setup New Well & Pump Variable Speed Controlled to 850gpm 70psi.

Drill & Case 90' x 16" Pvc Irrigation Well.	4230.00
Gravel Pack & Bentonite Seal.	350.00
NRD Well Permit.	50.00
State DNR Well Registration.	110.00
Install 60' x 8" Turbine Pump Setup for 800-850gpm 70psi.	350.00
1-Pre-Cast Concrete Pump Base.	210.00
1-4-Stage 12kcal Full WLR Pump Bowl Assembly	3850.00
6-10' x 1 1/4" Waterlube Columns Complete. 1 1/4" Shafts with 1 1/2" SS Sleeves.	3600.00
1-8m Pump Dishcharge Head Complete. Waterlube.	1575.00
1-60hp US Vhs Electric Motor.	3480.00
1-8" Chem Check Valve & 1-8" Dishcharge Pipe.	490.00
Misc: Bolts & Nuts, Gaskets	40.00
1-Size 3 1/2 200amp 60v FUR Pump Panel & Fuses.	1895.00
1-ABB vfd Variable Speed Control Panel.	9660.00
Total Job Cost.	29890.00

Note: This Bid Does Not Include Electrical Wiring to Control Boxes or Pump Motor. We Will Need a Certified Person to Program ABB VFD Variable Speed Control Panel. My Supplier Can Do This. Fee 500.00



# Purchase Order

100 E 1st St \* PO Box 1968 \* Grand Island NE 68802-1968  
(308) 385-5444 Ext 193

Fiscal Year 2009

Page 1 of 1

**B I L L T O**  
PARKS ADMINISTRATION  
100 E 1ST ST  
PO BOX 1968  
GRAND ISLAND, NE 68801  
308-385-5444 EXT 290  
308-385-5488 FAX

THIS NUMBER MUST APPEAR ON ALL INVOICES,  
PACKAGES AND SHIPPING PAPERS

Purchase Order # **21411-00**

**V E N D O R**  
NUNNENKAMP WELL CO INC  
2218 KENT AVE  
GRAND ISLAND NE 68803

**S H I P T O**  
PARKS ADMINISTRATION  
100 E 1ST ST  
PO BOX 1968  
GRAND ISLAND, NE 68801  
308-385-5444 EXT 290  
308-385-5488 FAX

Federal Tax ID #47-6006205 State Tax ID # 21-0244767

Vendor Phone Number		Vendor Fax Number	Requisition Number	Delivery Reference		
(308) 384-0474			20667			
Date Ordered	Vendor Number	Entered By	Requested By	Department/Location		
09/10/2009	115	pattib	Patti Buettner	PARKS & RECREATION		
Item#	Description/Part No.		Qty	UOM	Unit Price	Extended Price
-	FURNISHING AND INSTALLATION OF WELL AT THE NEW VETERANS ATHLETIC FIELD COMPLEX AS PER BID.		1.0	JOB	\$29,890.000	\$29,890.00
	40044450 - 90122					\$29,890.00
	40044450 - 90122					\$29,890.00

The City of Grand Island is an Affirmative Action/Equal Opportunity Employer

**PO Total** **\$29,890.00**

**Invoice**

1111 Lincoln Mall  
PO Box 84608  
Lincoln, NE 68501-4608  
Tel 402.474.6311, Fax 402.474.5160

Voucher #

January 20, 2010

PO #	21414	Invoice No:	138047
Vendor #	190		
Invoice #	138047		
Description	Construction Observation Vets Field #4		
Approved by		Date	1-25-10
Org. obj#	40044450-90122	Amount	2,367.58

*Partial  
Payment*

Steve Paustian  
Parks and Recreation Director  
City of Grand Island NE  
100 E First St  
PO Box 1968  
Grand Island, NE 68802-1968

OA Project No. 009-1973

GI New Vets Athletic Field Complex

PO #21414-00 dated 9/10/09

Professional services rendered from December 6, 2009 through January 16, 2010. Services this period include progress meeting with City to relay information to finish construction engineering services, preparing data for the construction staking, and pre-construction conference for paving and utilities including meeting preparation and distribution of minutes.

Phase	600	Construction Observation
-------	-----	--------------------------

**Professional Personnel**

	Hours	Rate	Amount
Loomis, Zack	19.75	62.01	1,224.70
Rief, Matthew	9.25	123.10	1,138.68
Totals	29.00		2,363.38
Total Labor			2,363.38

**Internal Unit Billing**

Cell Phone	28.0 Each @ 0.15	4.20
Total Internal Units		4.20

Total this Phase	\$2,367.58
------------------	------------

**Billing Limits**

	Current	Prior	To-Date
Total Billings	2,367.58	4,726.60	7,094.18
Limit			7,500.00
Balance Remaining			405.82

AMOUNT DUE THIS INVOICE	\$2,367.58
-------------------------	------------

Authorized By: Matthew Rief





# City of Grand Island

Tuesday, February 23, 2010

Council Session

## Item J3

**Approving Payment of Claims for the Period of February 10, 2010 through February 23, 2010 for the State Fair Recreation Building**

*The Claims for the Period of February 10, 2010 through February 23, 2010 for the State Fair Recreational Building for the following requisitions:*

#12     \$234,000.00

*A MOTION is in order.*

Staff Contact: Mary Lou Brown

**Exhibit A to Escrow Agreement**

**(FORM OF PAYMENT REQUEST)**

Payment Request No. 012

The City of Grand Island, Nebraska, as lessee (the "Lessee") under that Lease-Purchase Agreement dated as of July 1, 2009 (the "Lease") between Lessee and Wells Fargo Brokerage Services, LLC, (the "Lessor"), hereby requests Wells Fargo Bank, National Association, as escrow agent (the "Escrow Agent") under the Escrow Agreement dated as of July 1, 2009 (the "Escrow Agreement") among the Escrow Agent, the Lessor and the Lessee, to make payment from the Escrow Fund (as defined in the Escrow Agreement) to the following party or parties, at the addresses set forth below:

<i>Payee</i>	<i>Address</i>	<i>Amount To Be Paid</i>	<i>Cost of Issuance or Project Description</i>
Sampson Construction Co., Inc.	3730 So. 14 <sup>th</sup> Street Lincoln, NE 68502	\$234,000.00	Building erection, masonry and general

In connection therewith, the undersigned officer of the Lessee hereby certifies as follows:

1. All of the provisions of the Lease and the Escrow Agreement are incorporated herein by reference and capitalized terms used herein and not defined shall have the meanings assigned to them in the Loan Agreement and the Escrow Agreement.
2. The payments to be made to the payees set forth above are for costs of construction and/or acquisition of the Project (as defined in the Escrow Agreement) described above, or reimbursement to Lessee therefor, and the payments have not been the basis for a prior request which has been paid. Any amounts to be reimbursed to the Lessee are for advances made by the Lessee from its own funds not earlier than May 1, 2009.
3. All of Lessee's representations, covenants and warranties contained in the Lease and the Certificate with Respect to Tax Matters (the "Tax Certificate") were true and accurate in all material respects as of the date made, and remain true and accurate in all material respects as of the date of this Payment Request, and the Lessee has fully and satisfactorily performed all of its covenants, representations and obligations to date required under the Lease, the Escrow Agreement and the Tax Certificate. No Default Event has occurred under the Lease.
4. The Lessee understands that the Lessor is relying on the certifications herein with regard to and in connection with approving the disbursement requested hereby.

no. 12

5. Please indicate if this Payment Request relates to the final disbursement from the Escrow Fund: Yes X No.

If this Payment Request relates to the final disbursement from the Escrow Fund, the Lessee and the Lessor hereby instruct Escrow Agent to disburse to Lessor the remaining moneys held in the Escrow Fund to be applied to make a partial prepayment on the Rental Payments as set forth in the Lease.

6. Please indicate if this Payment Request reimburses Lessee for any payment or payments previously made by Lessee: Yes X No.

If this Payment Request requests such a reimbursement, the payment or payments for any obligations originally paid by Lessee, for federal income tax purposes, was after May 1, 2009.

7. Lessee attaches hereto the following items:

(a) invoices and/or bills of sale and/or contractor's payment certifications relating to the Project and, if such invoices have been paid by Lessee, evidence of payment thereof;

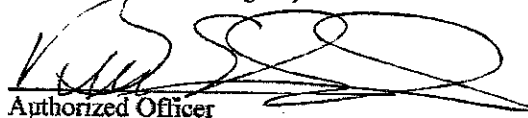
(b) an insurance certificate showing coverages as required by the Lease if such insurance certificate has not been previously provided by Lessee to the Lessor.

LESSEE:

THE CITY OF GRAND  
ISLAND, NEBRASKA

By: Mary Jo Brown  
Title: Finance Director  
Date: 2/15/10

REQUEST APPROVED BY WELLS FARGO BANK, NATIONAL ASSOCIATION (Grand Island Branch, as assignee)

  
Authorized Officer

- Attachments:
1. Invoices/Certificates for Payment
  2. Insurance Certificate (if not previously provided)



ARCHITECTURE  
ENGINEERING  
INTERIOR DESIGN

Principals:

JON P. DALTON, PE  
MATTHEW C. METCALF, AIA  
WADE W. STANGE, AIA  
MICHAEL A. WACHAL, PE

Associate Principal:

MICHAEL D. MARSH, AIA

SENIOR ASSOCIATES:

J. EDWARD BUKACEK, AIA  
RONALD G. HACKETT, AIA  
DAN L. HEMSATH  
BRYCE G. JOHNSON, MS PE  
JAMES K. LUEDKE, PE  
RENEE M. SHEIL  
GREGORY T. SMITH, AIA  
LEROY P. SVATORA, AIA

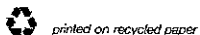
Lincoln:

211 NORTH 14TH STREET  
LINCOLN, NEBRASKA 68508  
PHONE: (402) 476-9700  
FAX: (402) 476-9722

OMAHA:

4245 SOUTH 143RD STREET  
SUITE 5  
OMAHA, NEBRASKA 68137  
PHONE: (402) 341-6600  
FAX: (402) 341-6611

www.davisdesign.com



February 5, 2010

Nebraska State Fair Park  
Attn: Joseph McDermott  
P.O. Box 81223  
Lincoln, NE 68501

**RE: State Fair Park – Fonner Park  
Exhibition Building 3  
Grand Island, Nebraska  
Davis Design Project 08-0192**

Joseph,

Enclosed is Sampson Construction Co., Inc.'s. Application and Certification for Payment No.6 dated January 28, 2010.

Based upon our on-site observations, the work has progressed to the point indicated and to the best of our knowledge; the quality of the work is in accordance with the contract documents. Therefore, we recommend that payment be made to Sampson Construction Co., Inc. in the amount of \$234,000.00.

Please retain the "Owner" copy for your files and forward the "Contractor" copy together with your payment to Sampson Construction Co., Inc.

Please call me at our Lincoln office if you have any questions or concerns regarding this application for payment.

Sincerely,

DAVIS DESIGN

**Chad Vogel  
Construction Administrator**

Enclosure

cc: Chad Vogel, Construction Administrator Files - Davis Design, Inc.  
Leroy Savarta, Project Architect - Davis Design, Inc.  
Nate Kastens, Project Manager - Sampson Construction Co., Inc.  
Craig Gies, Executive Team - Sampson Construction Co., Inc.  
Jon Thomas - Village Development

# APPLICATION AND CERTIFICATION FOR PAYMENT

AIA DOCUMENT G702

PAGES

PAGE ONE OF

TO OWNER: Nebraska State Fair Board  
P.O. Box 81223  
Lincoln, NE 68501

FROM CONTRACTOR:  
Sampson Construction Co., Inc.  
3730 So. 14th St.  
Lincoln, NE 68502

PROJECT: Nebraska State Fair Park  
Fonner Park - Grand Island, Nebraska  
Exhibition Building 3  
VIA: Chad Vogel  
Davis Design, Inc.  
211 North 14th Street  
Lincoln, NE 68508

APPLICATION NO 6

PERIOD TO: 1/31/2010

PROJECT NOS: 09028

CONTRACT DATE: 7/10/09

Distribution to:

☐ OWNER

☐ ARCHITECT

☐ CONTRACTOR

## CONTRACTOR'S APPLICATION FOR PAYMENT

Application is made for payment, as shown below, in connection with the Contract. Continuation Sheet, AIA Document G703, is attached.

1. ORIGINAL CONTRACT SUM
2. Net change by Change Orders
3. CONTRACT SUM TO DATE (Line 1 + 2)
4. TOTAL COMPLETED & STORED TO DATE (Column G on G703)
5. RETAINAGE:
  - a. 10 % of Completed Work (Column D + E on G703)
  - b. 10 % of Stored Material (Column F on G703)
6. TOTAL EARNED LESS RETAINAGE (Line 4 Less Line 5 Total)
7. LESS PREVIOUS CERTIFICATES FOR PAYMENT (Line 6 from prior Certificate)
8. CURRENT PAYMENT DUE
9. BALANCE TO FINISH, INCLUDING RETAINAGE (Line 3 less Line 6)

\$ 3,972,000.00

\$ 342,893.00

\$ 4,314,893.00

\$ 2,285,000.00

\$ 228,500.00

\$ 2,056,500.00

\$ 1,822,500.00

\$ 234,000.00

\$ 2,258,393.00

CHANGE ORDER SUMMARY	ADDITIONS	DEDUCTIONS
Total changes approved in previous months by Owner	\$342,893.00	
Total approved this Month		
TOTALS	\$342,893.00	\$0.00
NET CHANGES by Change Order	\$342,893.00	

The undersigned Contractor certifies that to the best of the Contractor's knowledge, information and belief the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for Work for which previous Certificates for Payment were issued and payments received from the Owner, and that current payment shown herein is now due.

CONTRACTOR: Sampson Construction Co., Inc.

By:

Date:

State of: Nebraska

County of: Lancaster

Subscribed and sworn to before me this 28th day of January

Notary Public:

My Commission expires 5-14-2012

2010 GENERAL NOTARY - State of Nebraska  
JULIE A. SCHEELE  
My Comm. Exp. May 14, 2012

## ARCHITECT'S CERTIFICATE FOR PAYMENT

In accordance with the Contract Documents, based on on-site observations and the data comprising the application, the Architect certifies to the Owner that to the best of the Architect's knowledge, information and belief the Work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the AMOUNT CERTIFIED.

AMOUNT CERTIFIED ..... \$ 234,000.00

(Attach explanation if amount certified differs from the amount applied. Initial all figures on this Application and on the Continuation Sheet that are changed to conform with the amount certified.)

ARCHITECT: Davis Design, Inc.

By:

Date:

This Certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the Contractor named herein. Issuance, payment and acceptance of payment are without prejudice to any rights of the Owner or Contractor under this Contract.

# CONTINUATION SHEET

AIA DOCUMENT G703

PAGE OF PAGES

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AIA Document G702, APPLICATION AND CERTIFICATION FOR PAYMENT, containing

Contractor's signed certification is attached.

In tabulations below, amounts are stated to the nearest dollar.

Use Column I on Contracts where variable retainage for line items may apply.

APPLICATION NO:

APPLICATION DATE: 1/28/2010

PERIOD TO: 1/31/2010

ARCHITECT'S PROJECT NO: 09028

NEBRASKA STATE FAIR PARK, FONNER PARK, GRAND ISLAND, NEBRASKA

A ITEM NO.	B DESCRIPTION OF WORK	C SCHEDULED VALUE		D WORK COMPLETED FROM PREVIOUS APPLICATION (D + E)		E THIS PERIOD		F MATERIALS PRESENTLY STORED (NOT IN D OR E)	G TOTAL COMPLETED AND STORED TO DATE (D+E+F)		H BALANCE TO FINISH (C - G)	I RETAINAGE (IF VARIABLE RATE)	
EXHIBITION BUILDING #3													
1	FOUNDATIONS	220,000		220,000					220,000	100%	22,000		
2	SLABS	245,000		5,000					5,000	2%	240,000	500	
3	PRECAST	60,000		40,000		20,000			60,000	100%	6,000		
4	MASONRY	380,000		250,000		40,000			290,000	76%	90,000	29,000	
5	STEEL	75,000		10,000		35,000			45,000	60%	30,000	4,500	
6	CARPENTRY	45,000									45,000	0	
7	SEALANTS	15,000									15,000	0	
8	HM/DOORS/HARDWARE	125,000									125,000	0	
9	ALUMINUM & GLASS	140,000									140,000	0	
10	OVERHEAD DOORS	15,000									15,000	0	
11	METAL STUDS/DRYWALL	65,000									65,000	0	
12	ACT	18,000									18,000	0	
13	PAINTING	52,000									52,000	0	
14	FLOOR SEALER	24,000									24,000	0	
15	SPECIALTIES	34,000									34,000	0	
16	METAL BUILDING-MATERIAL	610,000		610,000					610,000	100%	61,000		
17	METAL BUILDING-INSULATION	85,000		70,000		15,000			85,000	100%	8,500		
18	METAL BUILDING-ERECTION	340,000		240,000		50,000			290,000	85%	29,000		
19	FIRE SPRINKLER	130,000				10,000			10,000	8%	120,000	1,000	
20	HVAC	290,000		100,000					100,000	34%	190,000	10,000	
21	PIPING	300,000		205,000		20,000			205,000	68%	95,000	20,500	
22	ELECTRICAL	399,000		100,000					130,000	30%	279,000	12,000	
23	PAYMENT & PERFORMANCE BOND	25,000		25,000					25,000	100%	2,500		
24	GENERAL CONDITIONS	280,000		60,000		40,000			100,000	36%	180,000	10,000	
25	CHANGE ORDER #1	342,893		90,000		30,000			120,000	35%	222,893	12,000	
GRAND TOTALS		4,314,893		2,025,000		260,000		0	2,285,000	53%	2,029,893	228,500	