
City of Grand Island



Tuesday, April 13, 2010

Council Session Packet

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

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.

Pledge of Allegiance

Roll Call

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.

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.

MAYOR COMMUNICATION

This is an opportunity for the Mayor to comment on current events, activities, and issues of interest to the community.



City of Grand Island

Tuesday, April 13, 2010

Council Session

Item C1

Proclamation "Child Abuse Prevention Month" April, 2010

Because all children deserve love, comfortable homes, and tender care from parents and adults who make them feel safe, happy and loved and because many children were involved in substantiated cases of abuse and neglect in 2009, and because the effects of child abuse are felt by whole communities and need to be addressed by the entire community, the Mayor has proclaimed the month of April, 2010 as "Child Abuse Prevention Month". See attached PROCLAMATION.

Staff Contact: Mayor Hornady

THE OFFICE OF THE MAYOR
City of Grand Island
State of Nebraska

PROCLAMATION

WHEREAS, the effects of child abuse are felt by whole communities and must be addressed by the entire community; and

WHEREAS, effective child abuse prevention programs succeed because of partnerships created among social service agencies, schools, religious organizations, law enforcement agencies, and the business community; and

WHEREAS, all citizens should become more aware of child abuse and its prevention within the community and become involved in supporting parents to ensure their children are valued, safe, and healthy.

NOW, THEREFORE, I, Margaret Hornady, Mayor of the City of Grand Island, Nebraska, do hereby proclaim the month of April 2010 as


"CHILD ABUSE PREVENTION MONTH"

in the City of Grand Island, and encourage all citizens to accept their responsibility for reporting and preventing child abuse and to wear a Blue Ribbon to show that it shouldn't hurt to be a child. Remembering that, every child should be valued, safe, and healthy and deserves a Blue Ribbon. You have the power to protect a child.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the City of Grand Island to be affixed this thirteenth day of April in the year of our Lord Two Thousand and Ten.


Margaret Hornady, Mayor

Attest:


RaNae Edwards, City Clerk





City of Grand Island

Tuesday, April 13, 2010

Council Session

Item C2

Proclamation "Nebraska Public Health Month" April, 2010

Public health is about ensuring healthy living and working environments through controlling the spread of disease, maintaining safe food and drinking water, and providing maternal and child health services to prevent deaths and improve our quality of life. The Mayor has proclaimed the month of April, 2010 as "Nebraska Public Health Month". See attached PROCLAMATION.

Staff Contact: Mayor Hornady

THE OFFICE OF THE MAYOR
City of Grand Island
State of Nebraska

PROCLAMATION

WHEREAS, public health efforts are credited with the majority of improvements in health status and expanded life expectancy; and

WHEREAS, public health succeeds by identifying and addressing patterns of disease, illness and injury in populations; and

WHEREAS, public health plays an essential role in controlling the spread of communicable diseases, including the novel H1N1 Influenza; and

WHEREAS, public health is a critical partner in the local and state plan for response to natural and man-made disasters in Central Nebraska; and

WHEREAS, public health measures such as maintaining safe food and drinking water, and providing maternal and child health services have prevented serious illness and death; and

WHEREAS, public health programs actively seek to eliminate unhealthy behaviors in nutrition and physical activity that lead to lifestyle-related illnesses such as obesity, high blood pressure, and heart disease and stroke; and

WHEREAS, public health services improve our quality of life and benefit all residents in Central Nebraska, regardless of age, culture or race; and

WHEREAS, it is important that we do not take public health for granted and that we recognize the need to maintain and improve our current public health efforts.

NOW, THEREFORE, I, Margaret Hornady, Mayor of the City of Grand Island, Nebraska, do hereby proclaim the month of April, 2010 as

“NEBRASKA PUBLIC HEALTH MONTH”


IN WITNESS WHEREOF,

I have hereunto set my hand and caused the Great Seal of the City of Grand Island to be affixed this thirteenth day of April in the year of our Lord Two Thousand and Ten.




Margaret Hornady, Mayor

Attest:


RaNae Edwards, City Clerk



City of Grand Island

Tuesday, April 13, 2010

Council Session

Item E1

**Public Hearing on Request from Highway Motels of Nebraska, Inc.
dba Holiday Inn Express, 3404 West Faidley Avenue for a Class “T”
Liquor License**

Staff Contact: RaNae Edwards

Council Agenda Memo

From: RaNae Edwards, City Clerk

Meeting: April 13, 2010

Subject: Public Hearing on Request from Highway Motels of Nebraska, Inc. dba Holiday Inn Express, 3404 West Faidley Avenue for a Class “I” 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

Highway Motels of Nebraska, Inc. dba Holiday Inn Express, 3404 West Faidley Avenue has submitted an application for a Class “I” Liquor License. A Class “I” Liquor License allows for the sale of alcohol on sale only 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 included with this application is a Manager Designation request from Melvin Wichman, 2518 Jan 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 this application.

Sample Motion

Move to approve the application for Highway Motels of Nebraska, Inc. dba Holiday Inn Express, 3404 West Faidley Avenue for a Class 'T' Liquor License contingent upon final inspections and Liquor Manager request from Melvin Wichman, 2518 Jan Street contingent upon Mr. Wichman completing a state approved alcohol server/seller training program.

03/24/10
14:24

Grand Island Police Department
LAW INCIDENT TABLE

Page: 450
1

City : Grand Island
Occurred after : 15:08:31 03/23/2010
Occurred before : 15:08:31 03/23/2010
When reported : 15:08:31 03/23/2010
Date disposition declared : 03/23/2010
Incident number : L10032935
Primary incident number :
Incident nature : Liquor Lic Inv Liquor License Investigation
Incident address : 3404 Faidley Ave W
State abbreviation : NE
ZIP Code : 68803
Contact or caller :
Complainant name number :
Area location code : PCID Police - CID
Received by : Viterra D
How received : T Telephone
Agency code : GIPD Grand Island Police Department
Responsible officer : Viterra D
Offense as Taken :
Offense as Observed :
Disposition : ACT Active
Misc. number : RaNae
Geobase address ID :
Long-term call ID :
Clearance Code : CL Case Closed
Judicial Status : NCI Non-criminal Incident
=====

INVOLVEMENTS:

| Px | Record # | Date | Description | Relationship |
|----|----------|----------|-------------------------------|-----------------|
| NM | 13804 | 03/23/10 | Wichman, Melvin B | Liquor Manager? |
| NM | 14388 | 03/23/10 | Wichman, Verla E | William's Wife |
| NM | 96714 | 03/23/10 | Marshall, William W III | President |
| NM | 146648 | 03/23/10 | Hagglund, Judith A | Director |
| NM | 152637 | 03/23/10 | Holiday Inn Express & Suites, | Business |

LAW INCIDENT CIRCUMSTANCES:

Se Circu Circumstance code Miscellaneous

1 LT14 Hotel/Motel/Etc.

LAW INCIDENT NARRATIVE:

I Received a Copy of a Liquor License Application for the Holiday Inn Express & Suites and a Copy of a Liquor Manager Application for Melvin Wichman.

LAW INCIDENT RESPONDERS DETAIL:

Se Responding offi Unit n Unit number

03/24/10
14:24

Grand Island Police Department
LAW INCIDENT TABLE

Page: 450
2

1 Vitera D 318 Vitera D

LAW SUPPLEMENTAL NARRATIVE:

| Seq | Name | Date |
|-----|----------|---------------------|
| 1 | Vitera D | 13:44:18 03/24/2010 |

03/24/10
14:24

Grand Island Police Department
LAW INCIDENT TABLE

450
Page: 3

318

Grand Island Police Department
Supplemental Report

Date, Time: Wed Mar 24 13:44:57 CDT 2010
Reporting Officer: Vitera
Unit- CID

I received a copy of a Class I liquor license application from the Holiday Inn Express & Suites. Class I is for beer, wine, and distilled spirits on sale only. I also received a copy of a liquor manager application from Melvin Wichman for the Holiday Inn Express & Suites.

The following people were listed on the application: William Marshall III, Sharon Marshall, Lawrence H. Huwaldt, Lawrence E. Huwaldt, Kathie Huwaldt, Judith Hagglund, Dennis Milfeld, Jennifer Hall, John Hall III, Pamela Sweeney, Walter Burgess, Tonya Milfeld, Christopher Sweeney, Sara Sweeney, Shannon Sweeney Kruse, Shawn Kruse, Patrick Sweeney, Victoria Sweeney, Melvin Wichman, and Verla Wichman.

I checked all of the people listed on the application through Spillman and NCJIS. William Marshall III, Judith Hagglund, Melvin Wichman, and Verla Wichman are all in Spillman. Lawrence H. Huwaldt has an OLN listed in NCJIS. William Marshall III, Melvin Wichman, and Verla Wichman are all listed in NCJIS. William has a speeding conviction from 6/1/09. Melvin has a speeding conviction on 3/2/99, and Verla has a speeding conviction on 11/10/08.

On the application, it clearly asks "Has anyone who is a party to this application, or their spouse, ever been convicted of or plead guilty to any charge. Charge means any charge alleging a felony, misdemeanor, violation of a federal or state law, a violation of a local law, ordinance or resolution." The "no" box was checked for all the people listed on both applications.

Three of the applicants' failure to disclose their speeding convictions technically makes the applications false according to the Nebraska Liquor Control Act (Part II Chapter 2 Section 010.01). The undisclosed convictions would fall under state law or local ordinance. Either way, the convictions are either an infraction or a misdemeanor that do not rise to the level of a Class I Misdemeanor in a specified crime under Nebraska State Statute Chapter 28 that would automatically nullify the liquor license.

From what I could find, there is nothing criminally alarming about the people involved in this application, at least through the State of Nebraska. However, there could be criminal history on the applicants in other states. If so, the history should show up on the applicants who had to submit fingerprints. Barring an unfavorable report from the Nebraska State Patrol, the Grand Island Police Department has no objection to the Holiday Inn Express & Suites obtaining a liquor license and no objection to Melvin Wichman being the liquor manager.



City of Grand Island

Tuesday, April 13, 2010

Council Session

Item E2

**Public Hearing on Utility Easement Located South Side of the
Alley Between 4th Street and the UPRR Tracks, East of Cedar
Street (Five Points Bank)**

Staff Contact: Steve Riehle

Council Agenda Memo

From: Steven Riehle, Public Works Director
Dale Shotkoski, City Attorney

Meeting: April 13, 2010

Subject: Acquisition of Utility Easement – Alley between 4th Street and UPRR Tracks, East of Cedar Street – Five Points Bank

Item #'s: E-2 & G-15

Presenter(s): Steven Riehle, Public Works Director

Background

Nebraska State Law requires that acquisition of property must be approved by City Council. A public utility easement is needed relative to the property of Five Points Bank located through a part of Lot One (1) Hometown Subdivision (along the south side of the alley between 4th Street and the Union Pacific Railroad tracks, east of Cedar Street) in the City of Grand Island, Hall County, in order to have access to install, upgrade, maintain, and repair power appurtenances, including lines and transformers.

Discussion

The owner of lots three (3) and four (4), Block 39, Original Town (see attached plat) is planning to construct a new U-Save Pharmacy on those lots. As part of the construction, a drive-up window is planned on the east side of the building. The plan is to locate the new building on the alley property line to maximize the parking area north of the new building.

It would be nearly impossible for a vehicle to make the turn (from the alley going east, then turning to the north) along the east side of the building. By purchasing a 20 foot wide strip of property immediately south of the alley and dedicating that strip as a public utility easement, the property owner will be able to relocate the driving area to enable a much easier turn from the alley to the drive-up window.

The alley has been vacated by Council action on March 23, 2010, so the new owner will have a continuous piece of property. The existing alley has been retained as a utility easement so existing sewer, electric, cable TV and gas utilities do not have to be relocated.

Alternatives

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

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

Recommendation

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

Sample Motion

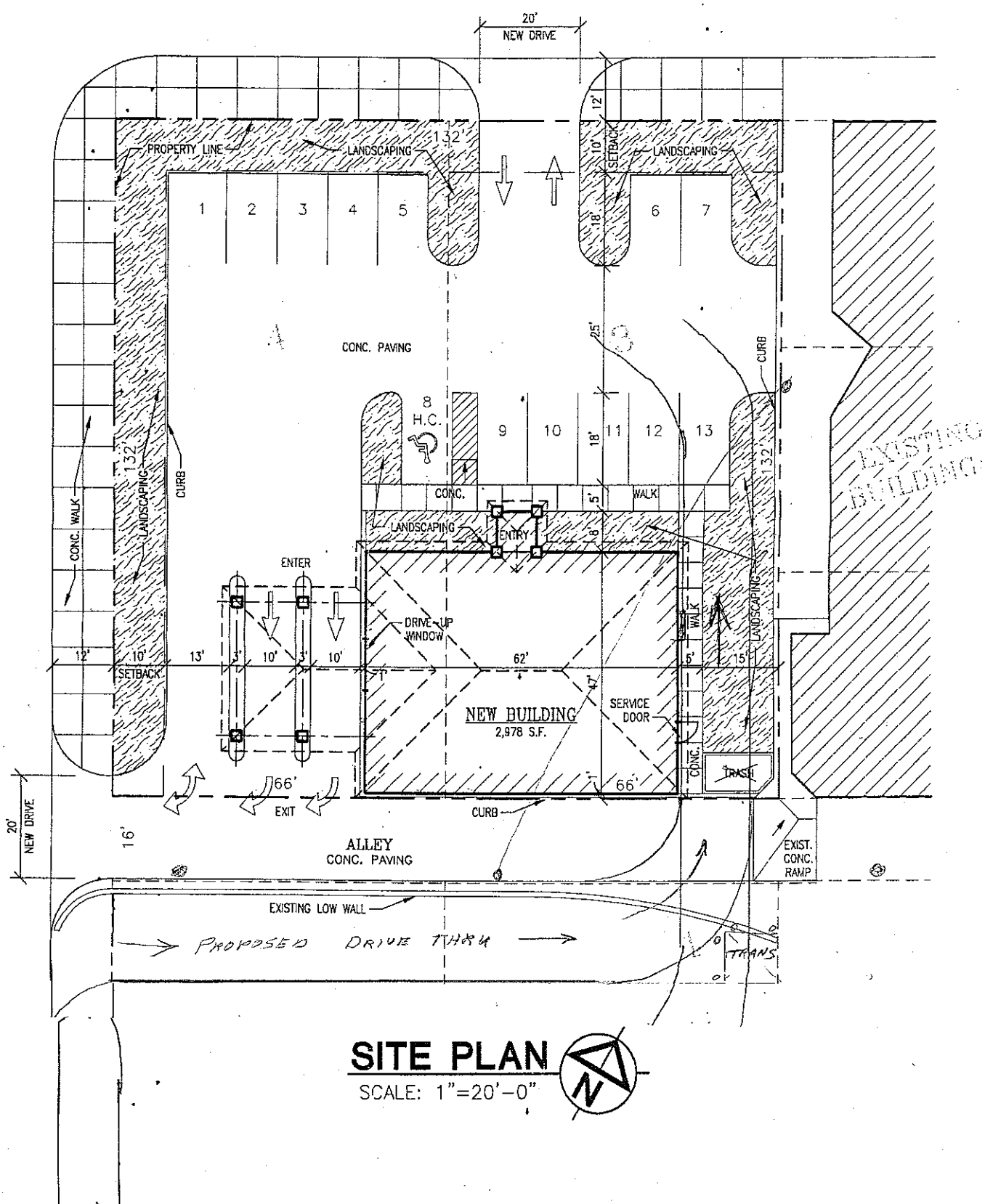
Move to approve acquisition of the Utility Easement.

CEDAR STREET N.
PUBLIC
(ASPHALT)

30' R.O.W.

80' R.O.W.

4th STREET W.
PUBLIC
(ASPHALT)



SITE PLAN

SCALE: 1"=20'-0"





City of Grand Island

Tuesday, April 13, 2010

Council Session

Item E3

Public Hearing for Neighborhood Stabilization Program Property Purchases

Staff Contact: Joni Kuzma

Council Agenda Memo

From: Joni Kuzma, Community Development Administrator

Meeting: April 13, 2010

Subject: Consideration of the Purchase of 522 N. Beal Street and 2811 W. 4th Street

Item #'s: E-3 & G-2

Presenter(s): Joni Kuzma, Community Development Administrator

Background

Community Development is proposing the purchase of the structures and properties at 522 N. Beal Street and 2811 W. 4th Street for demolition as a part of the Neighborhood Stabilization Program using Community Development Block Grant funds. The structures were inspected, deemed to be vacant, meet blighted criteria and are eligible for demolition. The Nebraska Department of Economic Development concurred with the blighted status of the structures and has given approval for the purchase and demolition of such. All structures on the properties are to be demolished and the lots redeveloped into new single-family homes to be sold to low-to-middle income first-time homebuyers.

Discussion

Third-party appraisals of the structures and properties were conducted by Alder Real Estate Appraisals who determined the market value of the properties. Per Neighborhood Stabilization Guidelines, property must be purchased at or below 1% below fair market value. The homeowners have accepted the offers of the City and signed Agreements for Sale of Real Estate.

The structures will be demolished and the properties redeveloped by a non-profit housing developer as was set forth in the original grant contract between the City and the Department of Economic Development as approved by Council.

Alternatives

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

1. Move to approve the purchase of the identified properties and structures
2. Postpone the issue to a future date.
3. Take no action on the issue.

Recommendation

City Administration recommends that the Council approve the purchase of identified properties and structures.

Sample Motion

Move to approve the purchase of identified properties and structures.

AGREEMENT FOR SALE OF REAL ESTATE

THIS AGREEMENT is made between Larry A. and Tami R. Welch, husband and wife, hereinafter called SELLER(S), and the City of Grand Island, Nebraska, hereinafter called the BUYER.

1. **Description.** The Seller agrees to sell to the Buyer and the Buyer agrees to purchase from the Seller the following real property:

Lots One (1) and Two (2), Block Four (4), Evans Addition to the City of Grand Island, Hall County, Nebraska

2. **Default.** It is agreed that if the Buyers default in the payments or in the performance of any other terms of this contract for a period of thirty (30) days after any of the payments are due, the Seller may take any action, including specific performance, afforded to the Seller under Nebraska Law.

3. **Consideration.** The Buyers agree to pay the sum of \$23,000.00 at closing.

4. **Warranty of Real Improvements.** The Buyer acknowledges that Buyer has made a full and complete inspection of all real improvements, including residence, if any, and have received from the Seller all information and data pertaining thereto which the Buyer desires or require. The Buyer acknowledges that neither the Seller nor anyone acting on behalf of the Seller has made any representation with respect to the real improvements including the premises, the physical condition of the real improvements or the state of repair or maintenance. The Buyer acknowledges that Buyer is not relying on any statement or representation with respect to any real improvements other than those obtained by the Buyer from sources other than the Sellers or any one acting on behalf of the Seller. Buyer agrees to accept the real improvements "as is" and in the real improvements' present condition and state of repair. The Buyer acknowledges that the Seller is making no warranties, express or implied, with respect to the conditions of the premises. The Buyer agrees that, except if specifically provided, the Seller is not liable or bound in any manner by express warranties pertaining to any real improvements on the real estate, including the residence. This purchase agreement includes all prior negotiations, conversations, understanding and agreements between the parties, oral or written, which are all merged in this agreement. The Seller has previously disclosed the presence of asbestos in the building

5. **Abstract or Title Insurance.** Title insurance shall be provided and shall be paid 0% by seller and 100% plus riders by the buyer.

6. **Type of Title.** The Seller will execute and convey a Warranty Deed free and clear of all liens and encumbrances except easements of record. The Grantee in the Deed is hereby specified by Buyer as follows:

The City of Grand Island, Nebraska

7. **Taxes.** The City was exempt from ad valorem taxes. However, as part of the consideration, the City will be responsible for all prior and current years' taxes.

8. **Possession - Closing.** Possession of the real property will be given the Buyer by the Seller at closing of the transaction.

9. **Title.** Title to the real property and any personal property conveyed will remain in Seller until closing.

10. **Transfer Tax.** The Buyer agrees to pay any transfer tax required by the State of Nebraska on the purchase price at the time of closing.

11. **Liens and encumbrances.** All parties agree to keep the property described free from any liens and encumbrances unless otherwise stated.

12. **Assignment.** The Buyer may not sell or assign this contract without the written consent of the Seller except that the title being conveyed may be placed in a partnership or a corporation formed by the Buyer, not to include any other parties except the Buyer or her spouse.

13. **Insurance.** Insurance need not be maintained for fire and extended coverage on the improvements until closing.

14. **Condition of Property Disclosure Statement.** The City is acquiring this property for the express purpose of redevelopment. The residential structure will be removed. For that reason, the parties acknowledge that the premises are not habitable and a condition of property disclosure statement is waived.

15. **Water, Sewer, Zoning and Survey.** The property and real improvements are sold and conveyed subject to the following matters which shall not constitute objections to title and will be permitted exceptions.

A. All zoning and building laws, ordinances and regulations of state, local and federal authorities having jurisdiction which effect the improvements and the use of the improvements, including private water sources; private septic tanks either in lands in the county or within city or village limits.

B. Any stated facts or conditions an accurate survey or personal inspection made of the premises at the time of closing would disclose, including any leasehold rights and including easements of record or easily visible or known to the Buyer.

16. **Lease.** The property is not currently subject to a lease.

17. **Covenants.** It is mutually agreed that all of the covenants contained shall extend to and be obligatory upon the heirs, personal representatives and assigns of the parties.

18. **Allocation of Expenses of Sale.** The parties agree that the expenses of closing

the sale transaction shall be allocated as follows: 100% Buyer 0% Seller.


19. **Remonstrance and Public Hearing.** The sale of real estate by the City is subject to the citizens' right of remonstrance. In the event of remonstrance, this agreement shall become void and neither party shall be entitled to damages from the other. The purchase of real estate is subject to public hearing and approval by the Mayor and City Council of Grand Island. In the event such approval is not given, this agreement shall become void and neither party shall be entitled to damages from the other.

20. **FUNDS AT CLOSING.** STATE LAW NOW REQUIRES BUYER AND SELLER TO REMIT PURCHASE PRICE AND CLOSING COSTS BY GOOD FUNDS ONLY. THIS MEANS THAT ALL FUNDS NEEDED AT CLOSING MUST BE IN THE FORM OF A CASHIER'S CHECK, MONEY ORDER, CASH OR CERTIFIED BANK DRAFT. PERSONAL CHECKS WILL NOT BE ACCEPTED AT CLOSING AND WILL RESULT IN THE DELAY OF CLOSING.

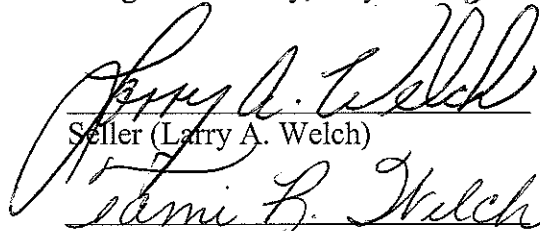
IN WITNESS WHEREOF the parties have hereunto executed this agreement in duplicate original counterparts on the dates as shown by their respective signatures.

The City of Grand Island, Nebraska


Dated: _____


Margaret Hornady, Mayor

Dated: 2/10/10


Seller (Larry A. Welch)

Dated: 2/10/10


Seller (Tami R. Welch)

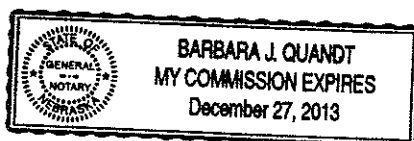
STATE OF NEBRASKA

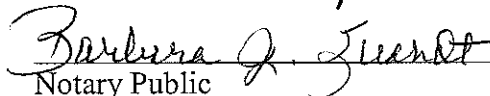
ss:

COUNTY OF HALL

Before me, a notary public duly qualified for said county, personally came Margaret Hornady, Mayor of Grand Island, Nebraska, known to me to be the identical persons who signed the foregoing instrument and acknowledged the execution thereof to be her voluntary act on behalf of the City of Grand Island.

Witness my hand and notary seal on the 10th day of February, 2010.




Notary Public

STATE OF NEBRASKA

SS:

COUNTY OF HALL

Before me, a notary public duly qualified for said county, personally came Larry A. Welch, a married person, known to me to be the identical person(s) who signed the foregoing instrument and acknowledged the execution thereof to be his voluntary act.

Witness my hand and notary seal on the 10th day of February, 2010.



Barbara J. Quandt
Notary Public

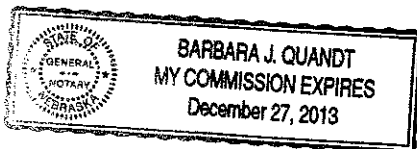
STATE OF NEBRASKA

SS:

COUNTY OF HALL

Before me, a notary public duly qualified for said county, personally came Tami R. Welch, a married person, known to me to be the identical person(s) who signed the foregoing instrument and acknowledged the execution thereof to be her voluntary act.

Witness my hand and notary seal on the 10th day of February, 2010.



Barbara J. Quandt
Notary Public

REAL ESTATE CONTRACT SUPPLEMENTAL INFORMATION

SELLER:

Name(s): Larry A. Welch () Single
Tami R. Welch (X) Husband & Wife

Address: P.O. Box 69

City, State, Zip: Greeley, NE 68842

Phone #: 308-383-7690 Day
 Evening

BUYER:

Name(s): City of Grand Island () Single
 () Husband & Wife
(Names in which Title to be taken) () JT WROS
() Ten. in Common

Address: 100 E. 1st St.

City, State, Zip: Grand Island, NE 68801

Phone #: 308-385-5444, ext. 248 Day
 Evening

LENDER:

Name:

Address:

City, State, Zip:

Phone #:

() Abstract () Title Ins. (Coverage Amt.)
() Owner's \$ () Lender's \$

AGREEMENT FOR SALE OF REAL ESTATE

THIS AGREEMENT is made between Joan Rapp, a single person, hereinafter called SELLER(S), and the City of Grand Island, Nebraska, hereinafter called the BUYER.

1. **Description.** The Seller agrees to sell to the Buyer and the Buyer agrees to purchase from the Seller the following real property:

Lot Forty Two (42) and East Thirty Feet (30') of North One Hundred Thirty Feet (130') of vacated Hancock Street in West Heights Addition to the City of Grand Island, Hall County, Nebraska;

2. **Default.** It is agreed that if the Buyers default in the payments or in the performance of any other terms of this contract for a period of thirty (30) days after any of the payments are due, the Seller may take any action, including specific performance, afforded to the Seller under Nebraska Law.

3. **Consideration.** The Buyers agree to pay the sum of \$28,000.00 at closing.

4. **Warranty of Real Improvements.** The Buyer acknowledges that Buyer has made a full and complete inspection of all real improvements, including residence, if any, and have received from the Seller all information and data pertaining thereto which the Buyer desires or require. The Buyer acknowledges that neither the Seller nor anyone acting on behalf of the Seller has made any representation with respect to the real improvements including the premises, the physical condition of the real improvements or the state of repair or maintenance. The Buyer acknowledges that Buyer is not relying on any statement or representation with respect to any real improvements other than those obtained by the Buyer from sources other than the Sellers or any one acting on behalf of the Seller. Buyer agrees to accept the real improvements "as is" and in the real improvements' present condition and state of repair. The Buyer acknowledges that the Seller is making no warranties, express or implied, with respect to the conditions of the premises. The Buyer agrees that, except if specifically provided, the Seller is not liable or bound in any manner by express warranties pertaining to any real improvements on the real estate, including the residence. This purchase agreement includes all prior negotiations, conversations, understanding and agreements between the parties, oral or written, which are all merged in this agreement. The Seller has previously disclosed the presence of asbestos in the building

5. **Abstract or Title Insurance.** Title insurance shall be provided and shall be paid 0% by seller and 100% plus riders by the buyer.

6. **Type of Title.** The Seller will execute and convey a Warranty Deed free and clear of all liens and encumbrances except easements of record. The Grantee in the Deed is hereby specified by Buyer as follows:

The City of Grand Island, Nebraska

7. **Taxes.** The City was exempt from ad valorem taxes. However, as part of the consideration, the City will be responsible for all prior and current years' taxes.

8. **Possession - Closing.** Possession of the real property will be given the Buyer by the Seller at closing of the transaction.

9. **Title.** Title to the real property and any personal property conveyed will remain in Seller until closing.

10. **Transfer Tax.** The Buyer agrees to pay any transfer tax required by the State of Nebraska on the purchase price at the time of closing.

11. **Liens and encumbrances.** All parties agree to keep the property described free from any liens and encumbrances unless otherwise stated.

12. **Assignment.** The Buyer may not sell or assign this contract without the written consent of the Seller except that the title being conveyed may be placed in a partnership or a corporation formed by the Buyer, not to include any other parties except the Buyer or her spouse.

13. **Insurance.** Insurance need not be maintained for fire and extended coverage on the improvements until closing.

14. **Condition of Property Disclosure Statement.** The City is acquiring this property for the express purpose of redevelopment. The residential structure will be removed. For that reason, the parties acknowledge that the premises are not habitable and a condition of property disclosure statement is waived.

15. **Water, Sewer, Zoning and Survey.** The property and real improvements are sold and conveyed subject to the following matters which shall not constitute objections to title and will be permitted exceptions.

A. All zoning and building laws, ordinances and regulations of state, local and federal authorities having jurisdiction which effect the improvements and the use of the improvements, including private water sources; private septic tanks either in lands in the county or within city or village limits.

B. Any stated facts or conditions an accurate survey or personal inspection made of the premises at the time of closing would disclose, including any leasehold rights and including easements of record or easily visible or known to the Buyer.

16. **Lease.** The property is not currently subject to a lease.

17. **Covenants.** It is mutually agreed that all of the covenants contained shall extend to and be obligatory upon the heirs, personal representatives and assigns of the parties.

18. **Allocation of Expenses of Sale.** The parties agree that the expenses of closing the sale transaction shall be allocated as follows: 100% Buyer 0% Seller.

19. **Remonstrance and Public Hearing.** The sale of real estate by the City is subject to the citizens' right of remonstrance. In the event of remonstrance, this agreement shall become void and neither party shall be entitled to damages from the other. The purchase of real estate is subject to public hearing and approval by the Mayor and City Council of Grand Island. In the event such approval is not given, this agreement shall become void and neither party shall be entitled to damages from the other.

20. **FUNDS AT CLOSING.** STATE LAW NOW REQUIRES BUYER AND SELLER TO REMIT PURCHASE PRICE AND CLOSING COSTS BY GOOD FUNDS ONLY. THIS MEANS THAT ALL FUNDS NEEDED AT CLOSING MUST BE IN THE FORM OF A CASHIER'S CHECK, MONEY ORDER, CASH OR CERTIFIED BANK DRAFT. PERSONAL CHECKS WILL NOT BE ACCEPTED AT CLOSING AND WILL RESULT IN THE DELAY OF CLOSING.

IN WITNESS WHEREOF the parties have hereunto executed this agreement in duplicate original counterparts on the dates as shown by their respective signatures.

The City of Grand Island, Nebraska

Dated: _____

Margaret Hornady, Mayor

STATE OF NEBRASKA

ss:

COUNTY OF HALL

Before me, a notary public duly qualified for said county, personally came Margaret Hornady, Mayor of Grand Island, Nebraska, known to me to be the identical persons who signed the foregoing instrument and acknowledged the execution thereof to be her voluntary act on behalf of the City of Grand Island.

Witness my hand and notary seal on the _____ day of _____, 2010.

Notary Public

Dated: 3-8-10

Joan Rapp
Seller (Joan Rapp)

STATE OF NEBRASKA

ss:

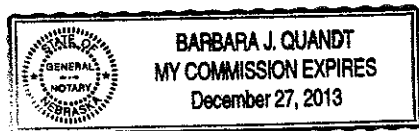
COUNTY OF HALL

Before me, a notary public duly qualified for said county, personally came Joan Rapp, a single person, known to me to be the identical person(s) who signed the foregoing instrument and acknowledged the execution thereof to be her voluntary act.

Witness my hand and notary seal on the 8th day of March, 2010.

Barbara J. Quandt

Notary Public



() Abstract () Title Ins. (Coverage Amt.)
() Owner's \$ () Lender's \$



City of Grand Island

Tuesday, April 13, 2010

Council Session

Item E4

**Public Hearing on the Semi-Annual Report by the Citizens' Review
Committee on the Economic Development Program Plan**

Staff Contact: Citizens' Review Committee

Council Agenda Memo

From: RaNae Edwards, City Clerk

Meeting: April 13, 2010

Subject: Public Hearing Concerning the Semi-Annual Report by the Citizen's Review Committee on the Economic Development Program Plan

Item #'s: E-4 & G-17

Presenter(s): Dale M. Shotkoski, City Attorney
Mark Stelk, Chairman,
Citizen's Advisory Review Committee

Background

The voters of the City of Grand Island approved an economic development plan at the May 6, 2003 election. Subsequent to the election, the city has adopted an ordinance that establishes the economic development plan and a Citizens' Advisory Review Committee to oversee the process of approving applications for economic development incentives. The Citizens Advisory Review Committee is required by State Statute and the Grand Island City Code to make a semi-annual report to the City Council.

Discussion

The Citizens Advisory Review Committee has been conducting regular meetings during the last six months as required by the City Code and the Nebraska Statutes. The committee looks forward to receiving and reviewing meritorious applications for consideration in the future. The committee received the semi-annual report from the Economic Development Corporation at its meeting of March 31, 2010, and voted to forward it on to the City Council for its review and acceptance.

Alternatives

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

1. Accept the semi-annual report of the Citizens' Advisory Review Committee.
2. Do not accept the semi-annual report of the Citizens' Advisory Review Committee.

Recommendation

City Administration recommends that the Council accept the semi-annual report of the Citizens' Advisory Review Committee.

Sample Motion

Move to accept the semi-annual report of the Citizens' Advisory Review Committee.



GRAND ISLAND AREA
ECONOMIC
DEVELOPMENT CORPORATION

308-381-7500 • 800-658-4283 • Fax 308-398-7205 • www.grandisland.org

P.O. Box 1151

GRAND ISLAND, NE 68802-1151

2010 - Semi-Annual Report to the Citizens Review Committee and City Council

Positive growth has been significant during the past several years. Future growth depends on availability of workforce, educational opportunities, pro business climate, and the availability of shovel ready sites.

Grand Island continues to face increasing competition for jobs. The future of our area's job growth depends not only on the success of our existing businesses continued growth, but on the successful recruitment of new businesses.

Grand Island has been fortunate in 2009; with the recent announcement of Structured Solutions and the numerous, confidential, "Request For Proposals".

EDC staff continues to submit proposals for potential projects. Over the past years our office has submitted 130 proposals for new industry/expansion projects. Each proposal has its own unique characteristics and key elements that need to be addressed. The assistance of key city staff, Workforce Development, Central Community College, Grand Island Public School Administration, NorthWestern Energy, and the Chamber to assist in the preparation of these proposals in a timely and efficient manner is critical.

Our pro-business attitude at both the City and County government levels makes Grand Island a perfect location for a company to locate or expand. In 2003, Grand Island voters approved \$7.5 million over a 10 year period to help existing businesses expand, and to recruit new business and industry to the area. We are now getting close to the end of the 10 year period whereas the citizens of Grand Island will need to evaluate the program and vote on its continuation.

Since the passage of LB-840, the program has assisted in the expansion and recruitment of 13 projects. Over 2,747 jobs were created or retained by these companies. Due to this impact, over 4,120.5 (1.5 x 2,747) secondary jobs were created. The cost to recruit these new jobs "\$1,962,500". However, the new jobs have generated close to \$17+ million in new payroll each year and around \$28 million in new real estate valuation. That is a \$45 million impact or a 900% return on the cities investment. Other ways these projects have impacted our community are: additional personal property tax, new retail businesses created, increase in home sales, additional service sector businesses, and new secondary industrial jobs created.

Insuring that each project funded continues to meet the guidelines of the program and the signed agreement on job creation, our office audits these projects annually. To recap just a few of the projects, on September 11, 2009, Standard Iron was requested to submit their final FTE report. On September 25th, that report was received which state they had created and retained 113 employees. Standard Iron was sent a formal letter stating they had met the terms of the Incentive Agreement and thanked them for fulfilling its requirements. This was our first project funded under LB-840.

O'Neill Wood Resources, under the same audit procedures, has surpassed their obligations by hiring 16 employees at an average rate of \$13.45. They still have two more years until their grant is forgiven.

Case IH grant was \$325,000 in December of 2008. On January 26, 2010 they complied with our audit by stating they had retained an employment level of 771 and currently were at 936.63 FTE's. Of the amount granted to Case IH, a balance of \$100,000 remains. Total forgiveness will occur on January 1, 2011.

Why is economic growth important? For each two manufacturing jobs created, one new service job is created. For each two service jobs created, one more service job is created, and for every dollar of new money created by a new job that dollar turns over within the community up to seven times.

Economic growth, specifically productive growth, is vital to improve the well being of each family in Grand Island and surrounding communities. Economic growth makes addressing many of the problems of our community easier. Higher economic growth could help meet the needs of entitlement programs.

We thank each of you who have assisted us in accomplishing our mission to stimulate the expansion of existing business and attract new enterprises, while enhancing our quality of life.



Marlan Ferguson

President

Grand Island Area Economic Development Corp.



City of Grand Island

Tuesday, April 13, 2010

Council Session

Item E5

**Public Hearing on Request from Upper Plains Contracting, Inc.
for a Conditional Use Permit for Concrete Batch Plant Site
Located at 3860 South Locust Street**

Staff Contact: Craig Lewis

Council Agenda Memo

From: Craig A. Lewis, Building Department Director

Meeting: April 13, 2010

Subject: Request of Upper Plains Contracting, Inc. for Approval of a Conditional Use Permit to Allow a Portable Concrete Batch Plant at 3860 South Locust Street

Item #'s: E-5 & H-1

Presenter(s): Craig Lewis – Building Department Director

Background

This request is for City Council approval to allow for the placement of a temporary concrete batch plant at 3860 South Locust Street. The temporary concrete batch plant will facilitate the reconstruction of South Locust Street. The property is zoned T-A or transitional agriculture. Batch plants are not a permitted principal use within that zoning classification. The proposal is to locate the plant on this site as a temporary location during May and June of 2010. Temporary uses are provided for in City Code Section 36-89, if approved by the City Council in the form of a conditional use.

Discussion

This location has been the site of a sand and gravel operation operated by Hooker Brothers Sand & Gravel since 1994 and the current approval of the sand and gravel operation continues until June 8, 2014. There have been two approved temporary asphalt batch plants in the past at this site, one in February of 2001 and the second in October of 2003.

The past operations appeared to have caused little disruption to the neighborhood, this proposal as another temporary operation of a concrete batch plant would not appear to create a negative influence on surrounding properties.

Alternatives

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

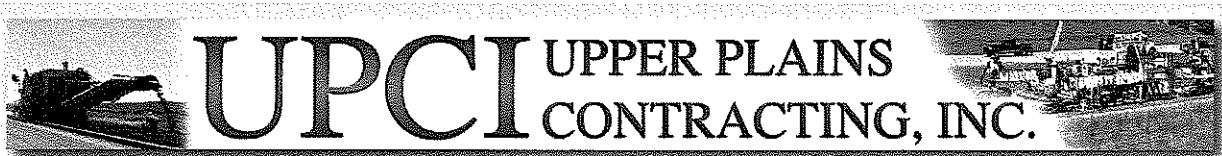
1. Approve the conditional use permit finding that the proposed use as a temporary use will not be detrimental to public health, safety, and the general welfare of the community.
2. Disapprove or deny the conditional use permit, finding that the proposal does not conform to the purpose of the zoning regulation.
3. Modify the conditional use to meet the wishes of the Council
4. Refer the matter to a special committee for a determination of a finding of fact.
5. Table the issue.

Recommendation

City Staff recommends that the Council approve the request for a conditional use permit to operate a concrete batch plant at the site for a six months period starting in April of 2010, finding that the request does promote the health, safety, and general welfare of the community, protects against blight and depreciation, and is generally harmonious with the surrounding neighborhood as a temporary use.

Sample Motion

Move to approve the request for a conditional use permit as specified in the staff recommendation published in the Council packet and presented at the City Council meeting and finding that the application will conform with the purpose of the zoning regulations.



5325 E Hwy 12 • Aberdeen, SD 57401

Phone: 605-225-7082 • Fax: 605-225-4425

www.upci.biz

March 23, 2010

RE: Conditional use permit

City Clerk
P.O. Box 1968
Grand Island, NE 68802



UPCI was recently awarded the Locust Street reconstruction. We are planning to use our portable concrete batch plant, which will allow us to increase our productivity and accelerate the project schedule.

Please find attached the Conditional Use Permit Application, along with a listing of the land owners within 200 feet of the property, and the application fee. The land is owned by Hooker Brothers Sand & Gravel, 3755 W Husker Hwy, Grand Island, NE. To contact Hooker Brothers call 308-384-2106 and ask for Scott Hooker.

Thank you,

Derek Louwagie

Conditional Use Permit Application

pc: Building, Legal, Utilities
Planning, Public Works

1. The specific use/construction requested is: Concrete batch plant site
2. The owner(s) of the described property is/are: Hooker Brothers Sand and Gravel
3. The legal description of the property is: NE 1/4 of SE 1/4 Sec 33 Township 11
4. The address of the property is: 3860 S Locust St.
5. The zoning classification of the property is: Transitional Agriculture
6. Existing improvements on the property is: None
7. The duration of the proposed use is: May + June 2010
8. Plans for construction of permanent facility is: Temporary - Portable Batch Plant
9. The character of the immediate neighborhood is: Agriculture / Industrial
10. There is hereby **attached** a list of the names and addresses of all property owners within 200' of the property upon which the Conditional Use Permit is requested.
11. Explanation of request: The Site will be used to produce concrete
for the reconstruction of Locust Street.

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

3-23-10

Date

Upper Plains Contracting Inc.

Owners(s)

605-225-7082

Phone Number

5325 E Hwy 12

Address

Aberdeen

City

SD

State

57401

Zip

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

RaNae Edwards

From: Derek Louwagie [DerekL@upci.biz]

Sent: Tuesday, March 30, 2010 1:07 PM

To: RaNae Edwards

Subject: Conditional Use permit

Importance: High

Attachments: Grand Island Plant Site.doc; Aerial Views.doc

Please find attached an aerial view of the property showing where we will be putting the plant and a document showing the placement of aggregate piles, the plant, and trailers.

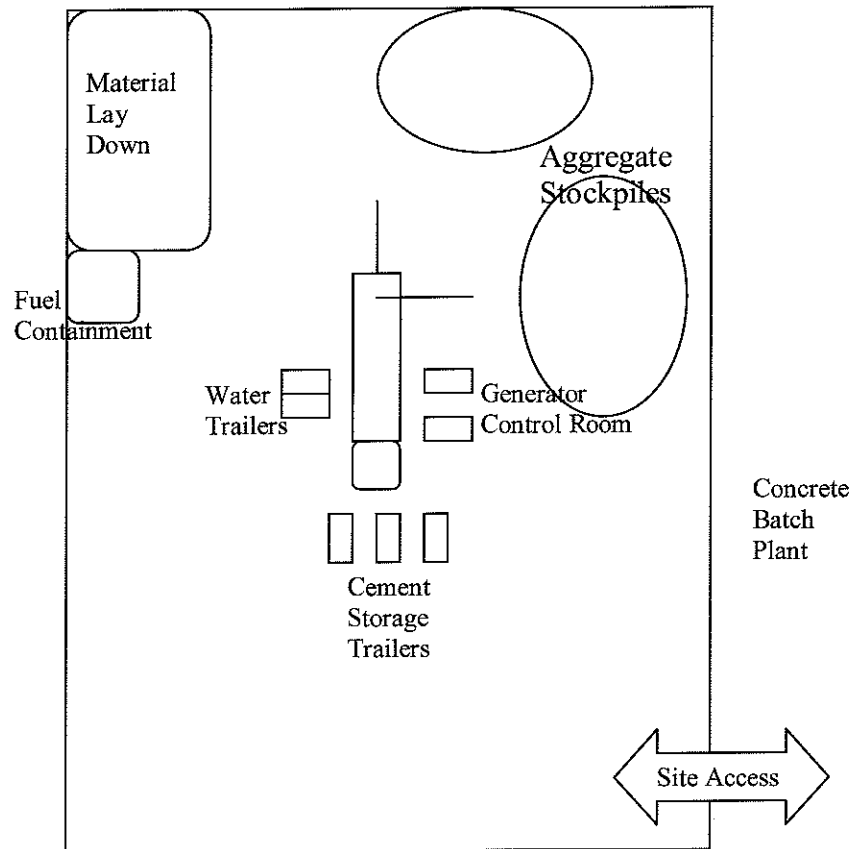
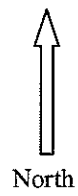
The duration will be May and June. The plant should only be there a couple of weeks, but we do not have the final schedule put together yet.

We will be using the existing driveways to access the property. The plant site will be approximately 8 acres in the north east corner of the property.

Thank you,

Derek Louwagie
Upper Plains Contracting Inc
5325 E Hwy 12
Aberdeen, SD 57401
Cell - 605-380-0132

3/30/2010







City of Grand Island

Tuesday, April 13, 2010

Council Session

Item E6

**Public Hearing on Acquisition of Utility Easement Located
Between White Cloud and Abbot Roads, and Between Engleman
and North Roads (Glen and Betty Weise)**

Staff Contact: Gary R. Mader

Council Agenda Memo

From: Gary R. Mader, Utilities Director
Dale Shotkoski, City Attorney

Meeting: April 13, 2010

Subject: Acquisition of Utility Easement – Between White Cloud and Abbot Roads, and Engleman and North Roads – Glen E. and Betty J. Wiese

Item #'s: E-6 & G-9

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

Background

The Electric Department has electric distribution substations connected at various distances along a 115 kV transmission loop. The loop generally runs along the outer edge of the urban area, providing power to the substations and providing power supply redundancy by use of the looped configuration. A map of the transmission system is attached for reference. Substations reduce voltage from the 115,000 volt level to 13,800 volts for distribution to individual customers across the City. Substations “E,” located north of Swift on the east side of the loop, and “F,” located north of Menards on the west side of the loop, are the newest substations. They were placed in initial service in 2001, and completed in 2007.

Power Generation and regional interconnections to NPPD are concentrated on the south and east side of the transmission system loop. The northern portion of the transmission loop has no interconnections. And while it can sustain a single line segment loss contingency, any additional failure could result in loss of several major substations, resulting in power loss to major portions of the City. With power plant and regional grid interconnections, the southern portion of the transmission loop has more redundancy.

Recognizing that the City is continuing to grow, that future transmission line construction will occur and that reliability improvement is always important, Substations “E” and “F” were constructed with provisions to accept additional 115 kV transmission interconnections. In the long range plan of the Electric Department, these substations are designed for new transmission interconnections as future load growth may require.

Advantage Engineering (AE) was contracted in 2006 to perform a Transmission and Substation System Study for the City of Grand Island Utilities Department (GIUD).

Various alternatives and solutions were analyzed for the logical and economic expansion of the GIUD's 115 kV transmission loop, power interconnections with Nebraska Public Power District (NPPD), substations, distribution, and communications. The system study period was ten (10) years (2006-2016) taking into account projected City expansion and load growth. When fully implemented, the major substation and transmission requirements should be satisfied through 2027.

The Transmission and Substation System Study was completed in 2007 and contained a detailed analysis of previous studies and reports; surrounding area power provider plans; state wide planned improvements; contractual obligations; the City's comprehensive development plans; system capabilities and capacities; land use issues; and schedule related items. The study resulted in recommendations to expand the GIUD's transmission system to serve load growth and assure reliability. The results of the Transmission and Substation System Study were presented to the Grand Island City Council on January 8, 2008. One of the system improvements identified in the Transmission and Substation System Study was the need for providing an additional 115 kV power supply to GIUD's Substation F.

Discussion

As work progressed, several presentations were made to the City Council. At the City Council Study Session of April 21, 2009, the route of the proposed transmission line was presented by Advantage Engineering, the consulting engineers for the project. The new line would provide a fifth connection, to the regional grid and increased reliability to the northern portion of the City. On April 28, 2009, City Council authorized the Utilities Department to proceed with transmission line easement acquisitions. And, as required by State Law, a Public Hearing was held on December 15, 2009, thirty days prior to beginning negotiations with landowners.

Since Council authorization, easement acquisition is progressing. Nebraska State Law requires that acquisition of property must be approved by City Council. The Utilities Department needs to acquire an easement relative to the property of Glen E. and Betty J. Wiese, located near the north/south section line between White Cloud Road and Abbot Road, and Engleman Road and North Road, in Hall County, in order to have access to install, upgrade, maintain and repair the new 115 kV transmission line to the northwest of the City.

Alternatives

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

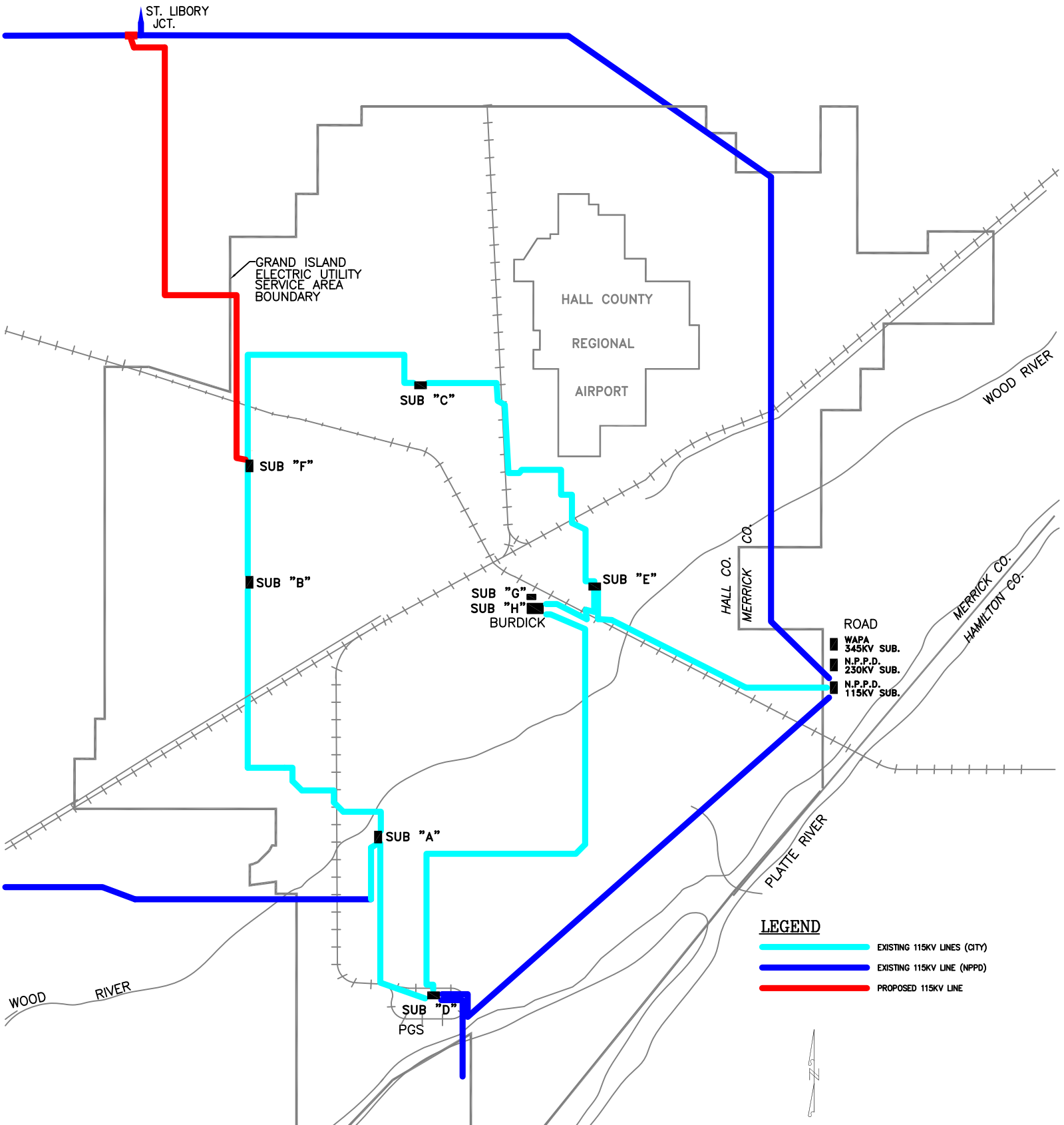
1. Make a motion to approve
2. Refer the issue to a Committee
3. Postpone the issue to future date
4. Take no action on the issue

Recommendation

City Administration recommends that the Council approve the resolution for the acquisition of the easement for One Thousand Seven Hundred Seventy and No/100 Dollars (\$1,770.00).

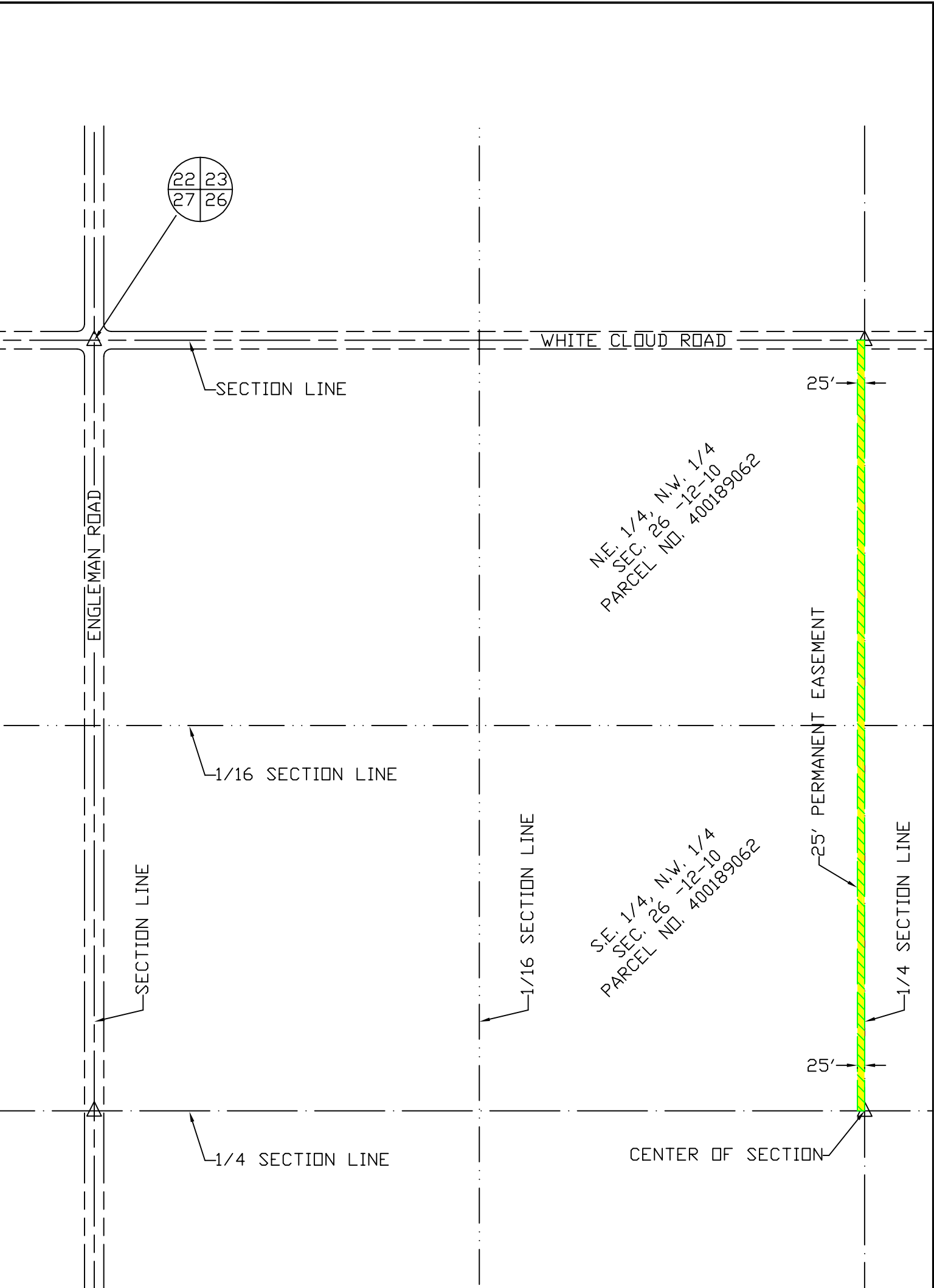
Sample Motion

Move to approve acquisition of the Utility Easement.



LEGEND

- EXISTING 115KV LINES (CITY)
- EXISTING 115KV LINE (NPPD)
- PROPOSED 115KV LINE



LEGEND

- SECTION LINE
- 1/4 SEC. LINE
- 1/16 SEC. LINE
- ROAD
- EASEMENT

CITY OF
GRAND ISLAND
UTILITIES DEPARTMENT

EXHIBIT "A"

| | |
|------------------|------------------|
| DRN BY: A.C.H. | SCALE: 1" = 400' |
| DATE: 11/09/2009 | # WIESE |



City of Grand Island

Tuesday, April 13, 2010

Council Session

Item E7

**Public Hearing on Acquisition of Utility Easement Located
Between One R and Chapman Roads and Between North and
Engleman Roads (Robert and Kay Fielding)**

Staff Contact: Gary R. Mader

Council Agenda Memo

From: Gary R. Mader, Utilities Director
Dale Shotkoski, City Attorney

Meeting: April 13, 2010

Subject: Acquisition of Utility Easement – Between One R Road and Chapman Road, and Engleman Road and North Road – Robert M. and Kay M. Fielding

Item #'s: E-7 & G-10

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

Background

The Electric Department has electric distribution substations connected at various distances along a 115 kV transmission loop. The loop generally runs along the outer edge of the urban area, providing power to the substations and providing power supply redundancy by use of the looped configuration. A map of the transmission system is attached for reference. Substations reduce voltage from the 115,000 volt level to 13,800 volts for distribution to individual customers across the City. Substations “E,” located north of Swift on the east side of the loop, and “F,” located north of Menards on the west side of the loop, are the newest substations. They were placed in initial service in 2001, and completed in 2007.

Power Generation and regional interconnections to NPPD are concentrated on the south and east side of the transmission system loop. The northern portion of the transmission loop has no interconnections. And while it can sustain a single line segment loss contingency, any additional failure could result in loss of several major substations, resulting in power loss to major portions of the City. With power plant and regional grid interconnections, the southern portion of the transmission loop has more redundancy.

Recognizing that the City is continuing to grow, that future transmission line construction will occur and that reliability improvement is always important, Substations “E” and “F” were constructed with provisions to accept additional 115 kV transmission interconnections. In the long range plan of the Electric Department, these substations are designed for new transmission interconnections as future load growth may require.

Advantage Engineering (AE) was contracted in 2006 to perform a Transmission and Substation System Study for the City of Grand Island Utilities Department (GIUD).

Various alternatives and solutions were analyzed for the logical and economic expansion of the GIUD's 115 kV transmission loop, power interconnections with Nebraska Public Power District (NPPD), substations, distribution, and communications. The system study period was ten (10) years (2006-2016) taking into account projected City expansion and load growth. When fully implemented, the major substation and transmission requirements should be satisfied through 2027.

The Transmission and Substation System Study was completed in 2007 and contained a detailed analysis of previous studies and reports; surrounding area power provider plans; state wide planned improvements; contractual obligations; the City's comprehensive development plans; system capabilities and capacities; land use issues; and schedule related items. The study resulted in recommendations to expand the GIUD's transmission system to serve load growth and assure reliability. The results of the Transmission and Substation System Study were presented to the Grand Island City Council on January 8, 2008. One of the system improvements identified in the Transmission and Substation System Study was the need for providing an additional 115 kV power supply to GIUD's Substation F.

Discussion

As work progressed, several presentations were made to the City Council. At the City Council Study Session of April 21, 2009, the route of the proposed transmission line was presented by Advantage Engineering, the consulting engineers for the project. The new line would provide a fifth connection, to the regional grid and increased reliability to the northern portion of the City. On April 28, 2009, City Council authorized the Utilities Department to proceed with transmission line easement acquisitions. And, as required by State Law, a Public Hearing was held on December 15, 2009, thirty days prior to beginning negotiations with landowners.

Since Council authorization, easement acquisition is progressing. Nebraska State Law requires that acquisition of property must be approved by City Council. The Utilities Department needs to acquire an easement relative to the property of Robert M. Fielding and Kay M. Fielding, located between One R Road and Chapman Road and between Engleman Road and North Road, in Hall County, in order to have access to install, upgrade, maintain and repair the new 115 kV transmission line to the northwest of the City.

Alternatives

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

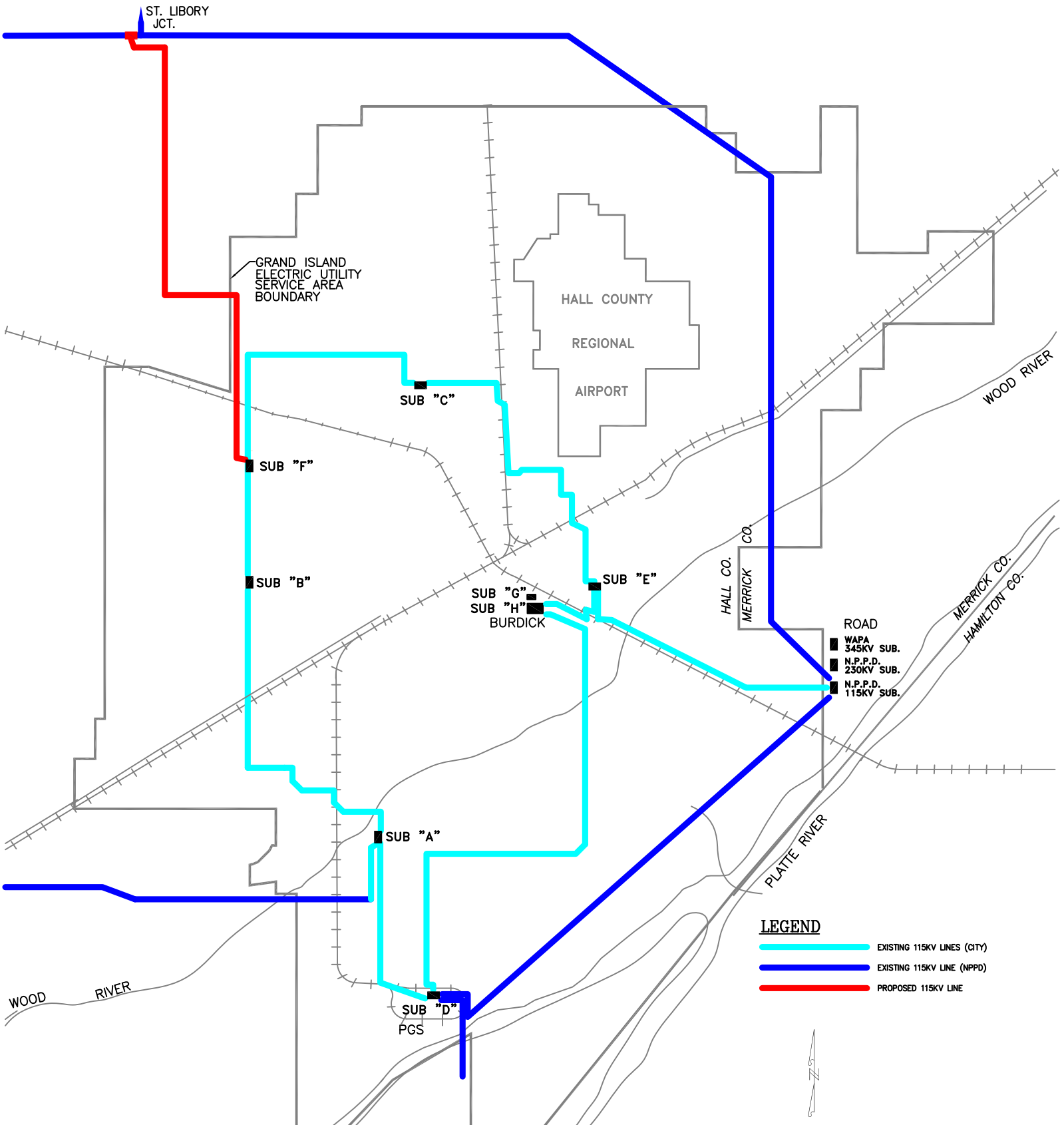
1. Make a motion to approve
2. Refer the issue to a Committee
3. Postpone the issue to future date
4. Take no action on the issue

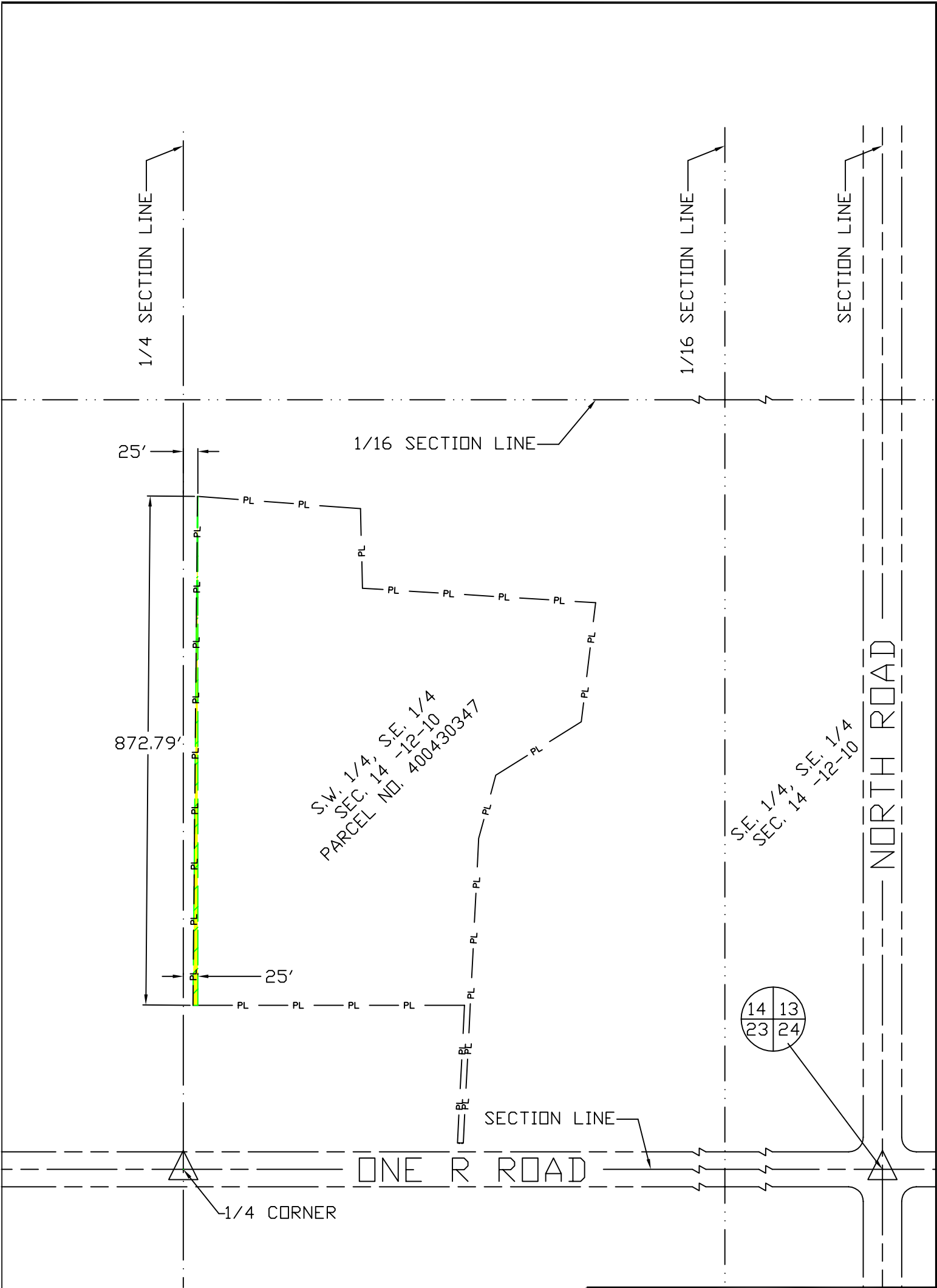
Recommendation

City Administration recommends that the Council approve the resolution for the acquisition of the easement for Eighty and No/100 Dollars (\$80.00).

Sample Motion

Move to approve acquisition of the Utility Easement.





LEGEND

- SECTION LINE
- 1/4 SEC. LINE
- 1/16 SEC. LINE
- ROAD
- PL PROPERTY LINE
- EASEMENT



CITY OF
GRAND ISLAND
UTILITIES DEPARTMENT

EXHIBIT "A"

DRN BY: A.C.H. SCALE: 1" = 200'
DATE: 11/09/2009 # FIELDING



City of Grand Island

Tuesday, April 13, 2010

Council Session

Item E8

**Public Hearing on Acquisition of Utility Easement Located
Between One R and Chapman Roads, and Between Engleman and
North Roads (Parcel #1) (Thomas and Linda Atkins)**

Staff Contact: Gary R. Mader

Council Agenda Memo

From: Gary R. Mader, Utilities Director
Dale Shotkoski, City Attorney

Meeting: April 13, 2010

Subject: Acquisition of Utility Easements – Between One R Road and Chapman Road, and Engleman Road and North Road - Thomas and Linda Atkins

Item #'s: E-8 & G-11

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

Background

The Electric Department has electric distribution substations connected at various distances along a 115 kV transmission loop. The loop generally runs along the outer edge of the urban area, providing power to the substations and providing power supply redundancy by use of the looped configuration. A map of the transmission system is attached for reference. Substations reduce voltage from the 115,000 volt level to 13,800 volts for distribution to individual customers across the City. Substations “E,” located north of Swift on the east side of the loop, and “F,” located north of Menards on the west side of the loop, are the newest substations. They were placed in initial service in 2001, and completed in 2007.

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Recognizing that the City is continuing to grow, that future transmission line construction will occur and that reliability improvement is always important, Substations “E” and “F” were constructed with provisions to accept additional 115 kV transmission interconnections. In the long range plan of the Electric Department, these substations are designed for new transmission interconnections as future load growth may require.

Advantage Engineering (AE) was contracted in 2006 to perform a Transmission and Substation System Study for the City of Grand Island Utilities Department (GIUD).

Various alternatives and solutions were analyzed for the logical and economic expansion of the GIUD's 115 kV transmission loop, power interconnections with Nebraska Public Power District (NPPD), substations, distribution, and communications. The system study period was ten (10) years (2006-2016) taking into account projected City expansion and load growth. When fully implemented, the major substation and transmission requirements should be satisfied through 2027.

The Transmission and Substation System Study was completed in 2007 and contained a detailed analysis of previous studies and reports; surrounding area power provider plans; state wide planned improvements; contractual obligations; the City's comprehensive development plans; system capabilities and capacities; land use issues; and schedule related items. The study resulted in recommendations to expand the GIUD's transmission system to serve load growth and assure reliability. The results of the Transmission and Substation System Study were presented to the Grand Island City Council on January 8, 2008. One of the system improvements identified in the Transmission and Substation System Study was the need for providing an additional 115 kV power supply to GIUD's Substation F.

Discussion

As work progressed, several presentations were made to the City Council. At the City Council Study Session of April 21, 2009, the route of the proposed transmission line was presented by Advantage Engineering, the consulting engineers for the project. The new line would provide a fifth connection, to the regional grid and increased reliability to the northern portion of the City. On April 28, 2009, City Council authorized the Utilities Department to proceed with transmission line easement acquisitions. And, as required by State Law, a Public Hearing was held on December 15, 2009, thirty days prior to beginning negotiations with landowners.

Since Council authorization, easement acquisition is progressing. Nebraska State Law requires that acquisition of property must be approved by City Council. The Utilities Department needs to acquire two easements relative to the properties of Thomas M. Atkins, and Linda J. Atkins, located between One R Road and Chapman Road and between Engleman Road and North Road, in Hall County, in order to have access to install, upgrade, maintain and repair the new 115 kV transmission line to the northwest of the City.

Alternatives

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

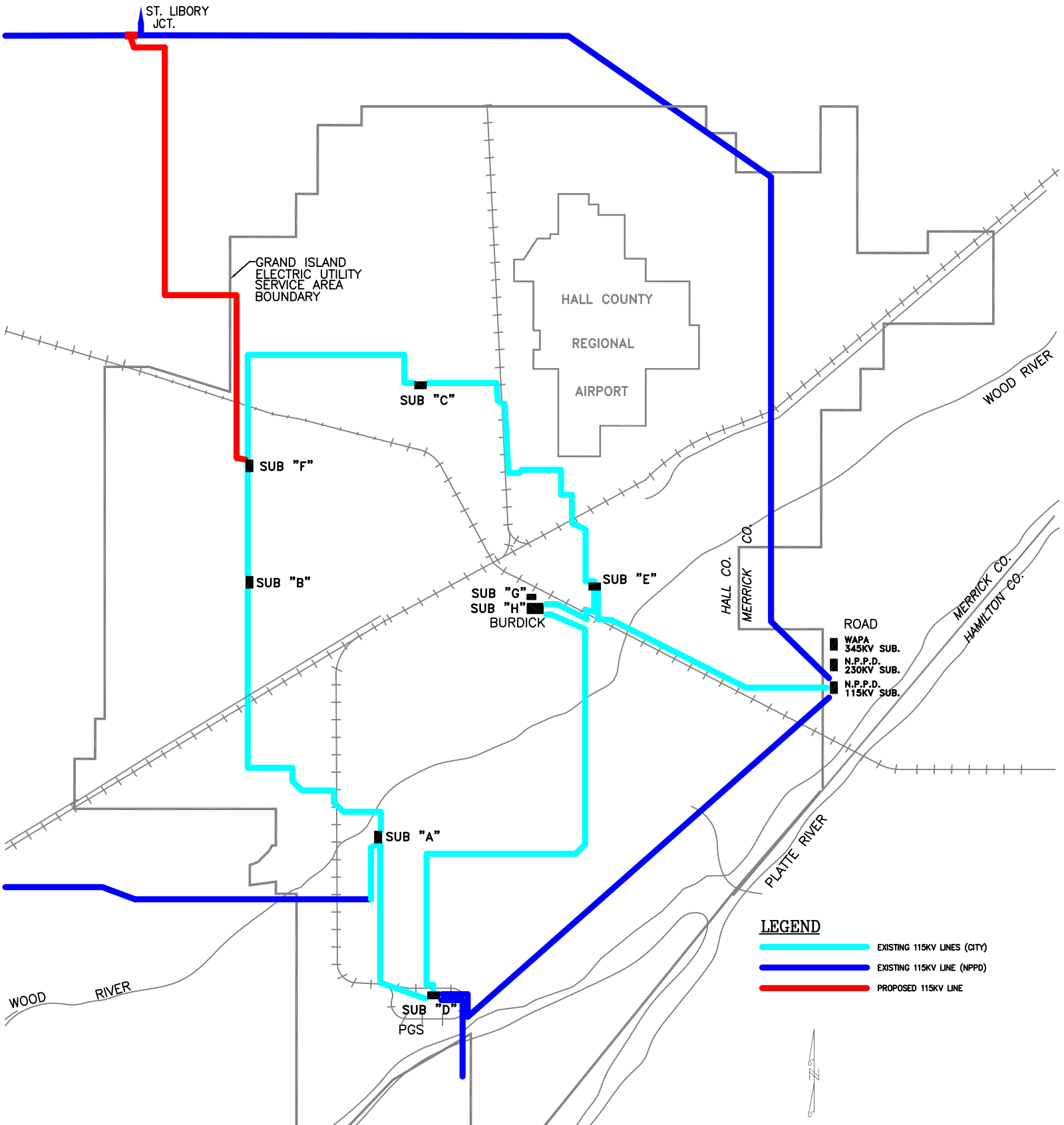
1. Make a motion to approve
2. Refer the issue to a Committee
3. Postpone the issue to future date
4. Take no action on the issue

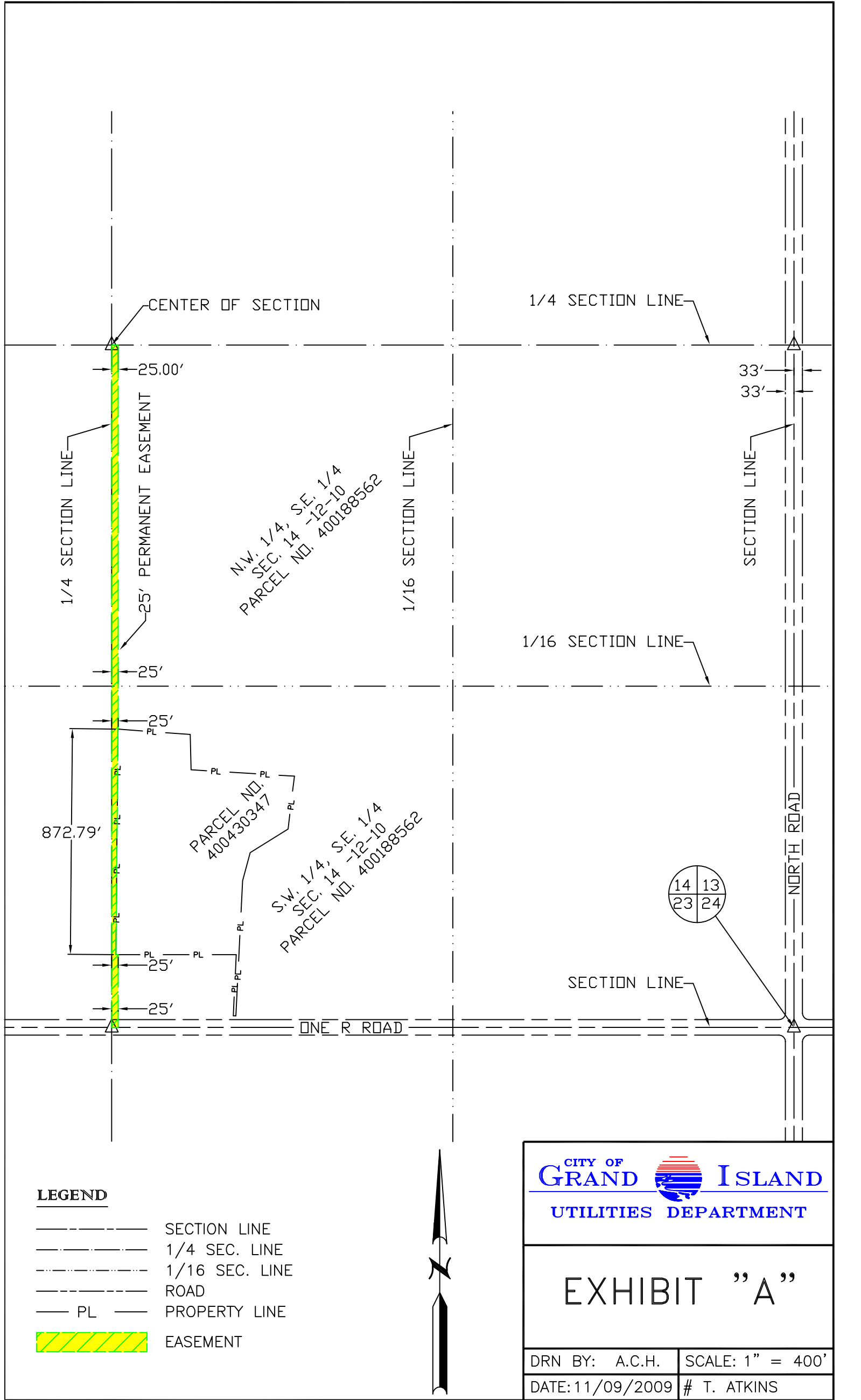
Recommendation

City Administration recommends that the Council approve the resolutions for the acquisition of the two easements in the amounts of Three Thousand One Hundred Twenty Three and 75/100 Dollars (\$3,123.75), and Three Thousand Two Hundred Thirty and No/100 Dollars \$(3,230.00), for a total of \$6,353.75.

Sample Motion

Move to approve acquisition of the Utility Easements.





LEGEND

- SECTION LINE
- 1/4 SEC. LINE
- 1/16 SEC. LINE
- ROAD
- PL PROPERTY LINE
- EASEMENT

CITY OF
GRAND ISLAND
UTILITIES DEPARTMENT

EXHIBIT "A"

| | |
|------------------|------------------|
| DRN BY: A.C.H. | SCALE: 1" = 400' |
| DATE: 11/09/2009 | # T. ATKINS |



City of Grand Island

Tuesday, April 13, 2010

Council Session

Item E9

**Public Hearing on Acquisition of Utility Easement Located
Between One R and Chapman Roads, and Between Engleman and
North Roads (Parcel #2) (Thomas and Linda Atkins)**

Staff Contact: Gary R. Mader

Council Agenda Memo

From: Gary R. Mader, Utilities Director
Dale Shotkoski, City Attorney

Meeting: April 13, 2010

Subject: Acquisition of Utility Easements – Between One R Road and Chapman Road, and Engleman Road and North Road - Thomas and Linda Atkins

Item #'s: E-9 & G-12

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

Background

The Electric Department has electric distribution substations connected at various distances along a 115 kV transmission loop. The loop generally runs along the outer edge of the urban area, providing power to the substations and providing power supply redundancy by use of the looped configuration. A map of the transmission system is attached for reference. Substations reduce voltage from the 115,000 volt level to 13,800 volts for distribution to individual customers across the City. Substations “E,” located north of Swift on the east side of the loop, and “F,” located north of Menards on the west side of the loop, are the newest substations. They were placed in initial service in 2001, and completed in 2007.

Power Generation and regional interconnections to NPPD are concentrated on the south and east side of the transmission system loop. The northern portion of the transmission loop has no interconnections. And while it can sustain a single line segment loss contingency, any additional failure could result in loss of several major substations, resulting in power loss to major portions of the City. With power plant and regional grid interconnections, the southern portion of the transmission loop has more redundancy.

Recognizing that the City is continuing to grow, that future transmission line construction will occur and that reliability improvement is always important, Substations “E” and “F” were constructed with provisions to accept additional 115 kV transmission interconnections. In the long range plan of the Electric Department, these substations are designed for new transmission interconnections as future load growth may require.

Advantage Engineering (AE) was contracted in 2006 to perform a Transmission and Substation System Study for the City of Grand Island Utilities Department (GIUD).

Various alternatives and solutions were analyzed for the logical and economic expansion of the GIUD's 115 kV transmission loop, power interconnections with Nebraska Public Power District (NPPD), substations, distribution, and communications. The system study period was ten (10) years (2006-2016) taking into account projected City expansion and load growth. When fully implemented, the major substation and transmission requirements should be satisfied through 2027.

The Transmission and Substation System Study was completed in 2007 and contained a detailed analysis of previous studies and reports; surrounding area power provider plans; state wide planned improvements; contractual obligations; the City's comprehensive development plans; system capabilities and capacities; land use issues; and schedule related items. The study resulted in recommendations to expand the GIUD's transmission system to serve load growth and assure reliability. The results of the Transmission and Substation System Study were presented to the Grand Island City Council on January 8, 2008. One of the system improvements identified in the Transmission and Substation System Study was the need for providing an additional 115 kV power supply to GIUD's Substation F.

Discussion

As work progressed, several presentations were made to the City Council. At the City Council Study Session of April 21, 2009, the route of the proposed transmission line was presented by Advantage Engineering, the consulting engineers for the project. The new line would provide a fifth connection, to the regional grid and increased reliability to the northern portion of the City. On April 28, 2009, City Council authorized the Utilities Department to proceed with transmission line easement acquisitions. And, as required by State Law, a Public Hearing was held on December 15, 2009, thirty days prior to beginning negotiations with landowners.

Since Council authorization, easement acquisition is progressing. Nebraska State Law requires that acquisition of property must be approved by City Council. The Utilities Department needs to acquire two easements relative to the properties of Thomas M. Atkins, and Linda J. Atkins, located between One R Road and Chapman Road and between Engleman Road and North Road, in Hall County, in order to have access to install, upgrade, maintain and repair the new 115 kV transmission line to the northwest of the City.

Alternatives

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

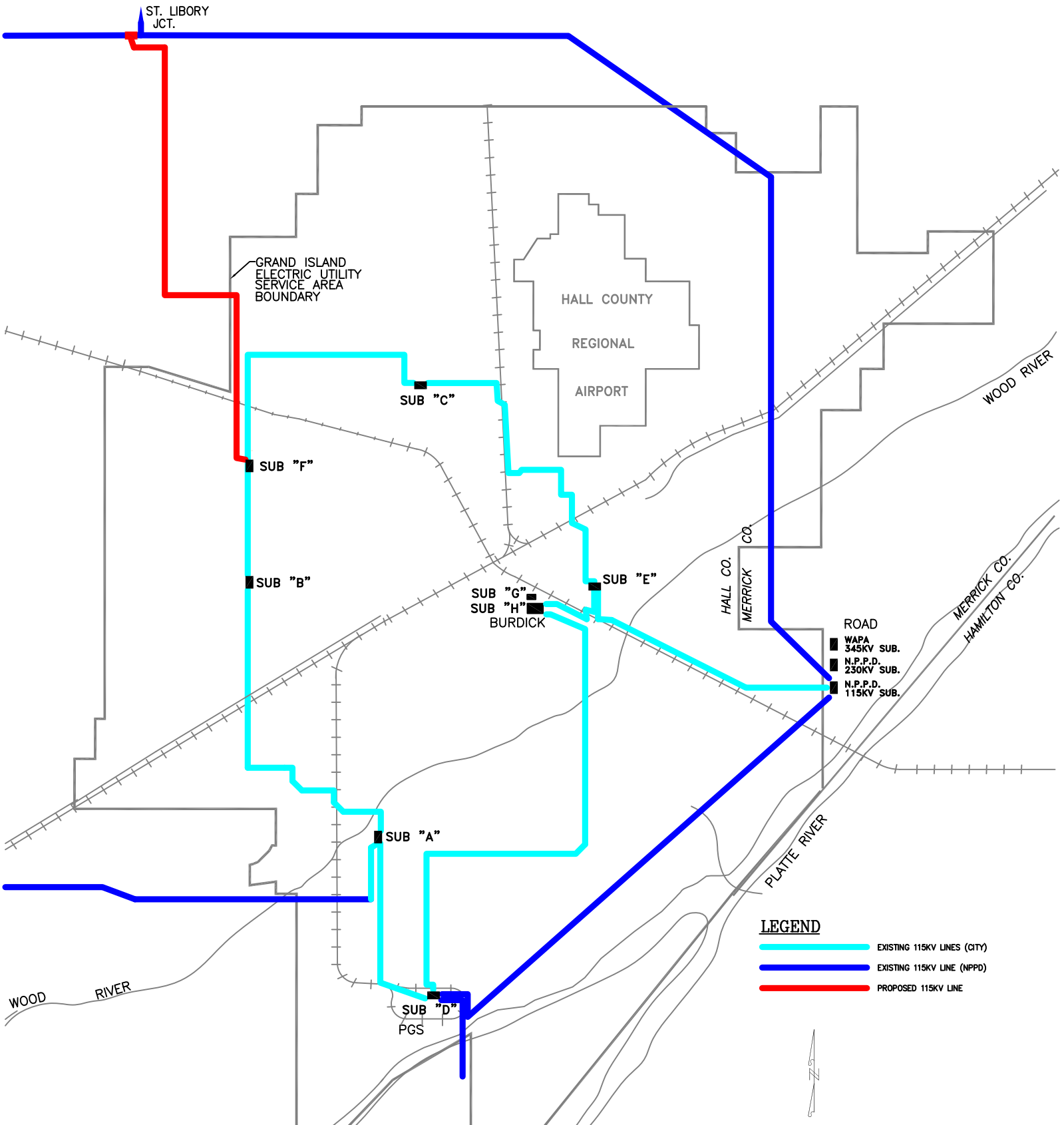
1. Make a motion to approve
2. Refer the issue to a Committee
3. Postpone the issue to future date
4. Take no action on the issue

Recommendation

City Administration recommends that the Council approve the resolutions for the acquisition of the two easements in the amounts of Three Thousand One Hundred Twenty Three and 75/100 Dollars (\$3,123.75), and Three Thousand Two Hundred Thirty and No/100 Dollars \$(3,230.00), for a total of \$6,353.75.

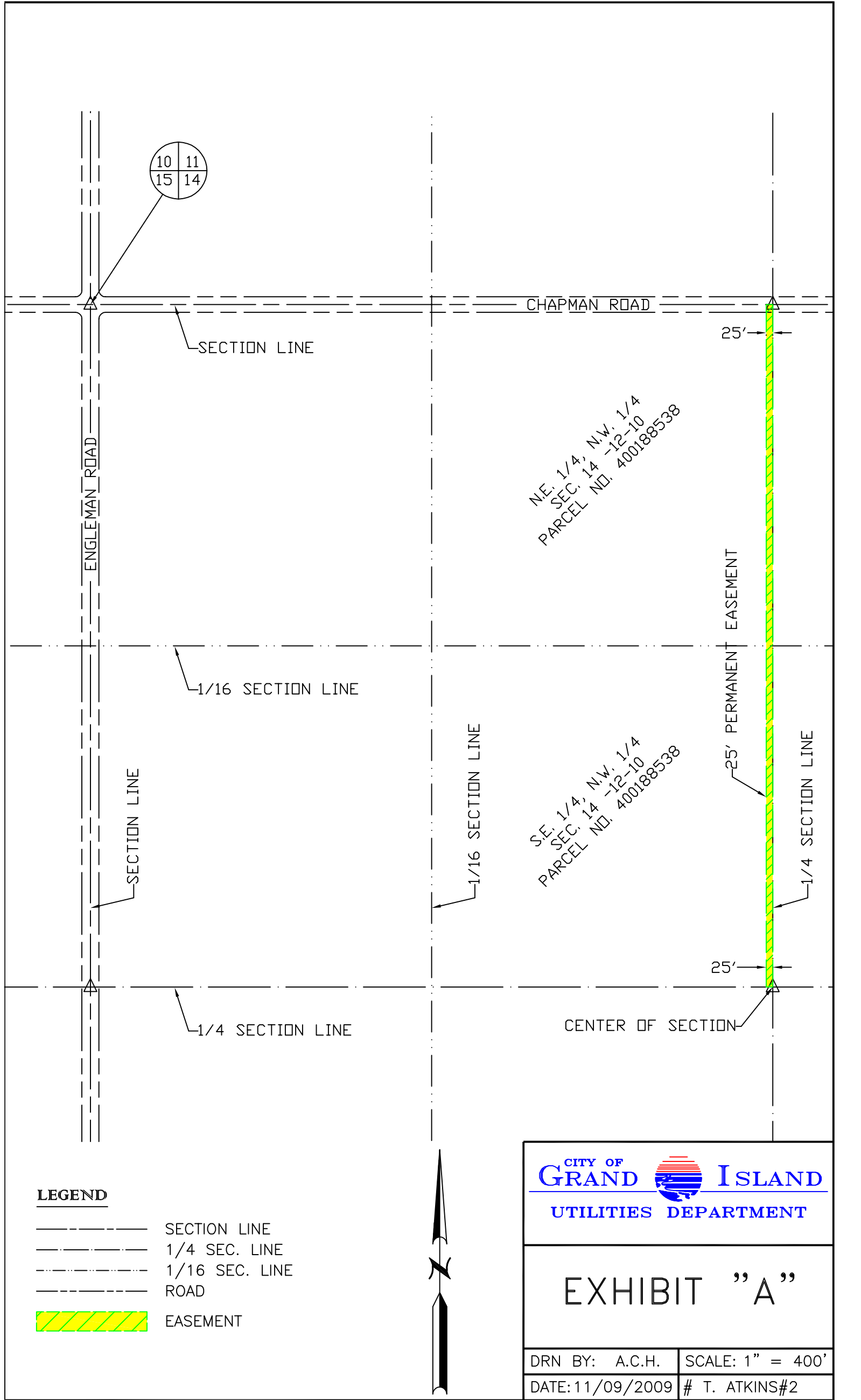
Sample Motion

Move to approve acquisition of the Utility Easements.



LEGEND

- EXISTING 115KV LINES (CITY)
- EXISTING 115KV LINE (NPPD)
- PROPOSED 115KV LINE



LEGEND

- SECTION LINE
- 1/4 SEC. LINE
- 1/16 SEC. LINE
- ROAD
- EASEMENT

CITY OF
GRAND ISLAND
UTILITIES DEPARTMENT

EXHIBIT "A"

| | |
|------------------|------------------|
| DRN BY: A.C.H. | SCALE: 1" = 400' |
| DATE: 11/09/2009 | # T. ATKINS#2 |



City of Grand Island

Tuesday, April 13, 2010

Council Session

Item E10

**Public Hearing on Acquisition of Utility Easement Located
Between Prairie and Chapman Roads, and Between Engleman and
North Roads (Elmer E. Pollock)**

Staff Contact: Gary R. Mader

Council Agenda Memo

From: Gary R. Mader, Utilities Director
Dale Shotkoski, City Attorney

Meeting: April 13, 2010

Subject: Acquisition of Utility Easement – Between Prairie Road and Chapman Road, and Engleman Road and North Road – Elmer E. Pollock

Item #'s: E-10 & G-13

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

Background

The Electric Department has electric distribution substations connected at various distances along a 115 kV transmission loop. The loop generally runs along the outer edge of the urban area, providing power to the substations and providing power supply redundancy by use of the looped configuration. A map of the transmission system is attached for reference. Substations reduce voltage from the 115,000 volt level to 13,800 volts for distribution to individual customers across the City. Substations “E,” located north of Swift on the east side of the loop, and “F,” located north of Menards on the west side of the loop, are the newest substations. They were placed in initial service in 2001, and completed in 2007.

Power Generation and regional interconnections to NPPD are concentrated on the south and east side of the transmission system loop. The northern portion of the transmission loop has no interconnections. And while it can sustain a single line segment loss contingency, any additional failure could result in loss of several major substations, resulting in power loss to major portions of the City. With power plant and regional grid interconnections, the southern portion of the transmission loop has more redundancy.

Recognizing that the City is continuing to grow, that future transmission line construction will occur and that reliability improvement is always important, Substations “E” and “F” were constructed with provisions to accept additional 115 kV transmission interconnections. In the long range plan of the Electric Department, these substations are designed for new transmission interconnections as future load growth may require.

Advantage Engineering (AE) was contracted in 2006 to perform a Transmission and Substation System Study for the City of Grand Island Utilities Department (GIUD).

Various alternatives and solutions were analyzed for the logical and economic expansion of the GIUD's 115 kV transmission loop, power interconnections with Nebraska Public Power District (NPPD), substations, distribution, and communications. The system study period was ten (10) years (2006-2016) taking into account projected City expansion and load growth. When fully implemented, the major substation and transmission requirements should be satisfied through 2027.

The Transmission and Substation System Study was completed in 2007 and contained a detailed analysis of previous studies and reports; surrounding area power provider plans; state wide planned improvements; contractual obligations; the City's comprehensive development plans; system capabilities and capacities; land use issues; and schedule related items. The study resulted in recommendations to expand the GIUD's transmission system to serve load growth and assure reliability. The results of the Transmission and Substation System Study were presented to the Grand Island City Council on January 8, 2008. One of the system improvements identified in the Transmission and Substation System Study was the need for providing an additional 115 kV power supply to GIUD's Substation F.

Discussion

As work progressed, several presentations were made to the City Council. At the City Council Study Session of April 21, 2009, the route of the proposed transmission line was presented by Advantage Engineering, the consulting engineers for the project. The new line would provide a fifth connection, to the regional grid and increased reliability to the northern portion of the City. On April 28, 2009, City Council authorized the Utilities Department to proceed with transmission line easement acquisitions. And, as required by State Law, a Public Hearing was held on December 15, 2009, thirty days prior to beginning negotiations with landowners.

Since Council authorization, easement acquisition is progressing. Nebraska State Law requires that acquisition of property must be approved by City Council. The Utilities Department needs to acquire an easement relative to the property of Elmer E. Pollock, located between Prairie Road and Chapman Road and between Engleman Road and North Road, in Hall County, in order to have access to install, upgrade, maintain and repair the new 115 kV transmission line to the northwest of the City.

Alternatives

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

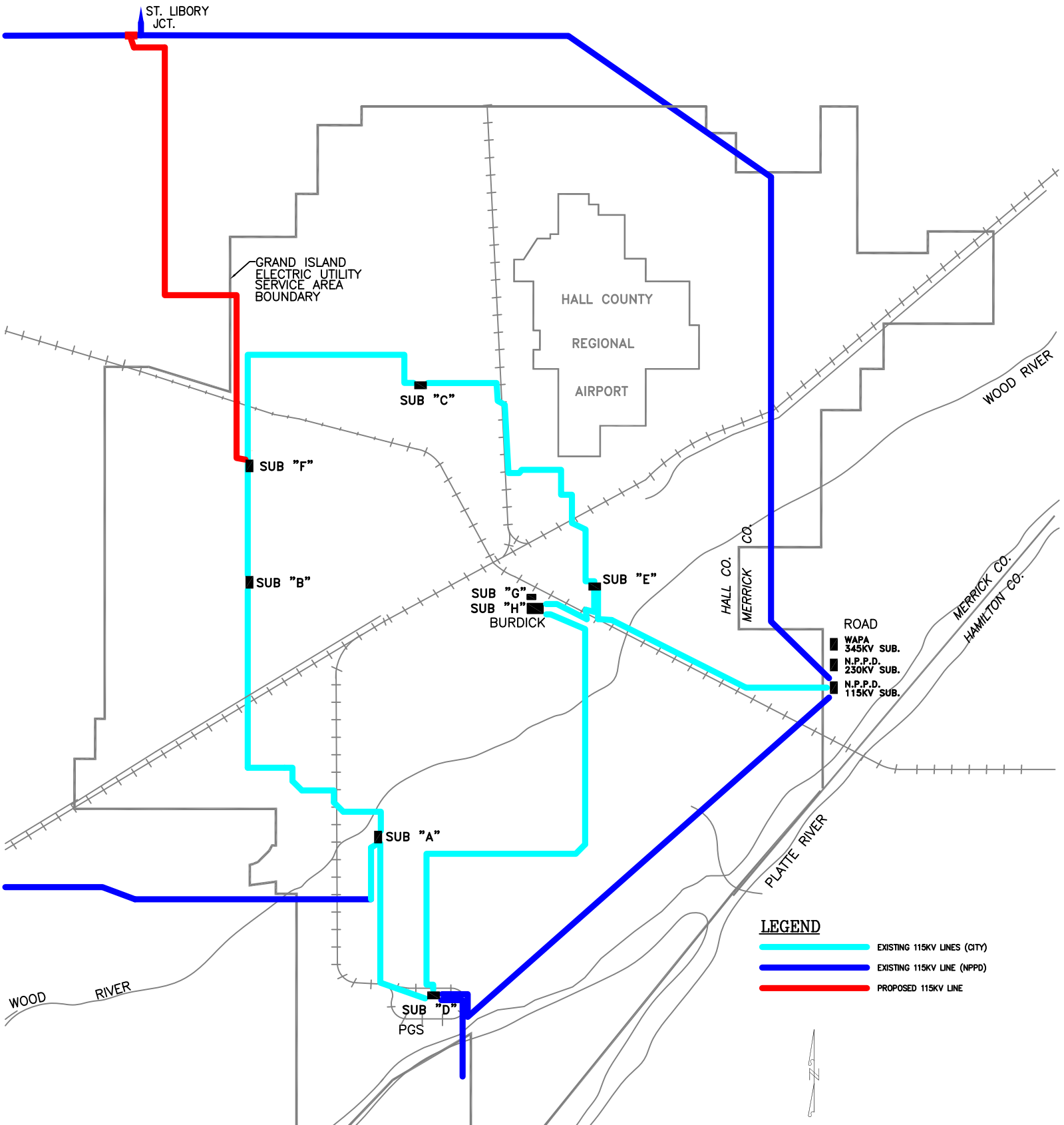
1. Make a motion to approve
2. Refer the issue to a Committee
3. Postpone the issue to future date
4. Take no action on the issue

Recommendation

City Administration recommends that the Council approve the resolution for the acquisition of the easement for One Thousand Five Hundred Eight Four and No/100 Dollars (\$1,584.00).

Sample Motion

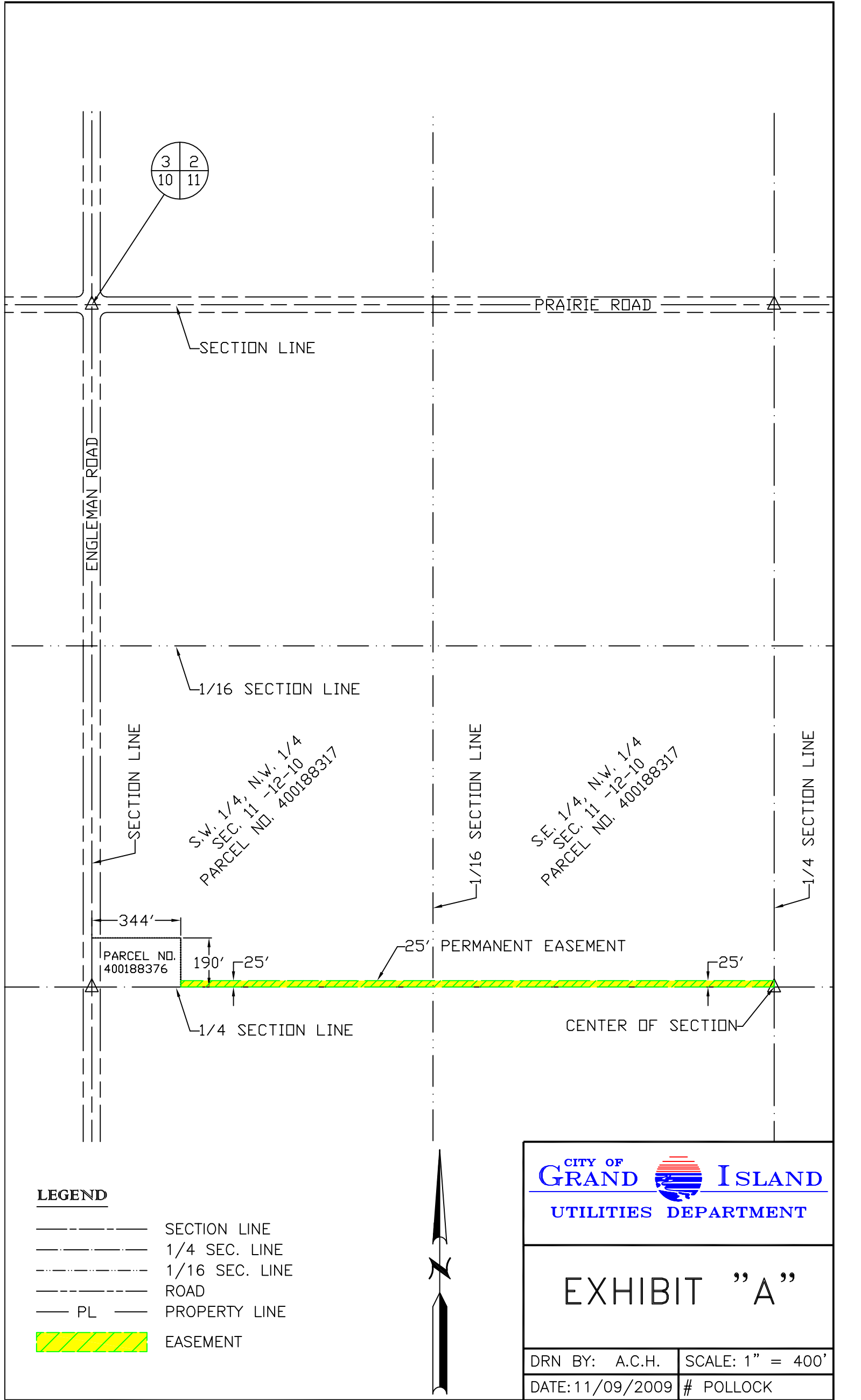
Move to approve acquisition of the Utility Easement.



LEGEND

- EXISTING 115KV LINES (CITY)
- EXISTING 115KV LINE (NPPD)
- PROPOSED 115KV LINE







City of Grand Island

Tuesday, April 13, 2010

Council Session

Item E11

**Public Hearing on Acquisition of Utility Easement Located
Between White Cloud and One R Roads, and Between Engleman
and North Roads (Jeff and Susan Koch)**

Staff Contact: Gary R. Mader

Council Agenda Memo

From: Gary R. Mader, Utilities Director
Dale Shotkoski, City Attorney

Meeting: April 13, 2010

Subject: Acquisition of Utility Easement – Between One R Road and White Cloud Road, and Engleman Road and North Road – Jeff and Susan Koch

Item #'s: E-11 & G-14

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

Background

The Electric Department has electric distribution substations connected at various distances along a 115 kV transmission loop. The loop generally runs along the outer edge of the urban area, providing power to the substations and providing power supply redundancy by use of the looped configuration. A map of the transmission system is attached for reference. Substations reduce voltage from the 115,000 volt level to 13,800 volts for distribution to individual customers across the City. Substations “E,” located north of Swift on the east side of the loop, and “F,” located north of Menards on the west side of the loop, are the newest substations. They were placed in initial service in 2001, and completed in 2007.

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Various alternatives and solutions were analyzed for the logical and economic expansion of the GIUD's 115 kV transmission loop, power interconnections with Nebraska Public Power District (NPPD), substations, distribution, and communications. The system study period was ten (10) years (2006-2016) taking into account projected City expansion and load growth. When fully implemented, the major substation and transmission requirements should be satisfied through 2027.

The Transmission and Substation System Study was completed in 2007 and contained a detailed analysis of previous studies and reports; surrounding area power provider plans; state wide planned improvements; contractual obligations; the City's comprehensive development plans; system capabilities and capacities; land use issues; and schedule related items. The study resulted in recommendations to expand the GIUD's transmission system to serve load growth and assure reliability. The results of the Transmission and Substation System Study were presented to the Grand Island City Council on January 8, 2008. One of the system improvements identified in the Transmission and Substation System Study was the need for providing an additional 115 kV power supply to GIUD's Substation F.

Discussion

As work progressed, several presentations were made to the City Council. At the City Council Study Session of April 21, 2009, the route of the proposed transmission line was presented by Advantage Engineering, the consulting engineers for the project. The new line would provide a fifth connection, to the regional grid and increased reliability to the northern portion of the City. On April 28, 2009, City Council authorized the Utilities Department to proceed with transmission line easement acquisitions. And, as required by State Law, a Public Hearing was held on December 15, 2009, thirty days prior to beginning negotiations with landowners.

Since Council authorization, easement acquisition is progressing. Nebraska State Law requires that acquisition of property must be approved by City Council. The Utilities Department needs to acquire an easement relative to the property of Jeff and Susan Koch, located between One R Road and White Cloud Road and between Engleman Road and North Road, in Hall County, in order to have access to install, upgrade, maintain and repair the new 115 kV transmission line to the northwest of the City.

Alternatives

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

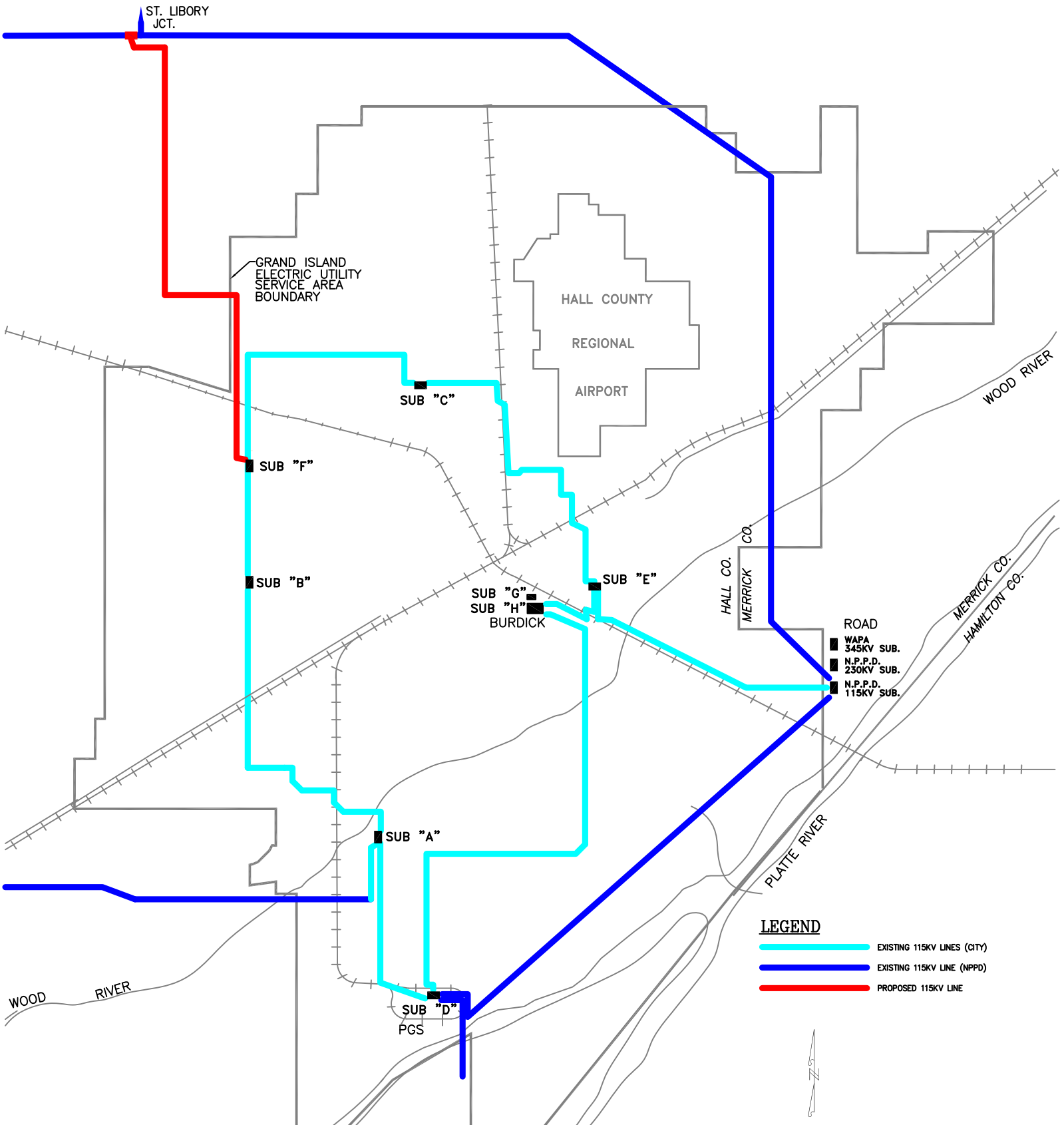
1. Make a motion to approve
2. Refer the issue to a Committee
3. Postpone the issue to future date
4. Take no action on the issue

Recommendation

City Administration recommends that the Council approve the resolution for the acquisition of the easement for One Thousand Four Hundred Fifty and No/100 Dollars (\$1,450.00).

Sample Motion

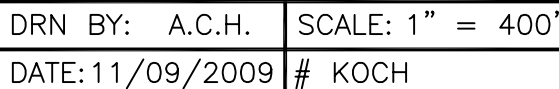
Move to approve acquisition of the Utility Easement.



LEGEND

- EXISTING 115KV LINES (CITY)
- EXISTING 115KV LINE (NPPD)
- PROPOSED 115KV LINE







City of Grand Island

Tuesday, April 13, 2010

Council Session

Item F1

#9254 - Consideration of Annexation Request of a Tract of Land Being Platted as Shady Bend Subdivision and Adjacent Right of Way Located South of U.S. Highway 30 and West of the New Shady Bend Road (Second Reading)

Staff Contact: Chad Nabity

Council Agenda Memo

From: Regional Planning Commission

Meeting: April 13, 2010

Subject: Annexation (C-10-2010GI) Ordinance (Second Reading)

Item #'s: F-1

Presenter(s): Chad Nabity AICP, Regional Planning Director

Background

Annexation of land, located at 3609 E US Hwy 30 and 803 N Shady Bend Road., into the Grand Island City Limits see the attached map. The owner of this property has submitted Shady Bend Subdivision as an addition to the City of Grand Island and by doing so asked Council to consider annexation of this property.

Discussion

On March 3, 2010 the Hall County Regional Planning Commission held a public hearing before considering this matter.

O'Neill opened the Public Hearing.

No members of the public testified at the hearing held by the Regional Planning Commission.

Nabity explained this property is contiguous with the Grand Island City Limits. The owners have requested that Shady Bend Subdivision be approved as an addition to the City.

These properties are within the Grand Island Utilities Electrical Service District. These properties are all within the Cedar Hollow/Northwest School District. These annexations will not impact the two-mile extraterritorial jurisdiction of Grand Island.

Water is available to the property included in this annexation request. Sewer is available to the property. This property is within the Grand Island Utilities Electrical Service District. This property is within the Grand Island School District. Annexing this property **will not** impact the two mile extraterritorial jurisdiction of Grand Island.

On March 27, 2010 Council held a public hearing on this matter and passed the annexation ordinance on first reading.

This is the second reading of the ordinance to annex property.

Alternatives

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

1. Approve the annexation as presented
2. Modify the annexation to meet the wishes of the Council
3. Table the issue

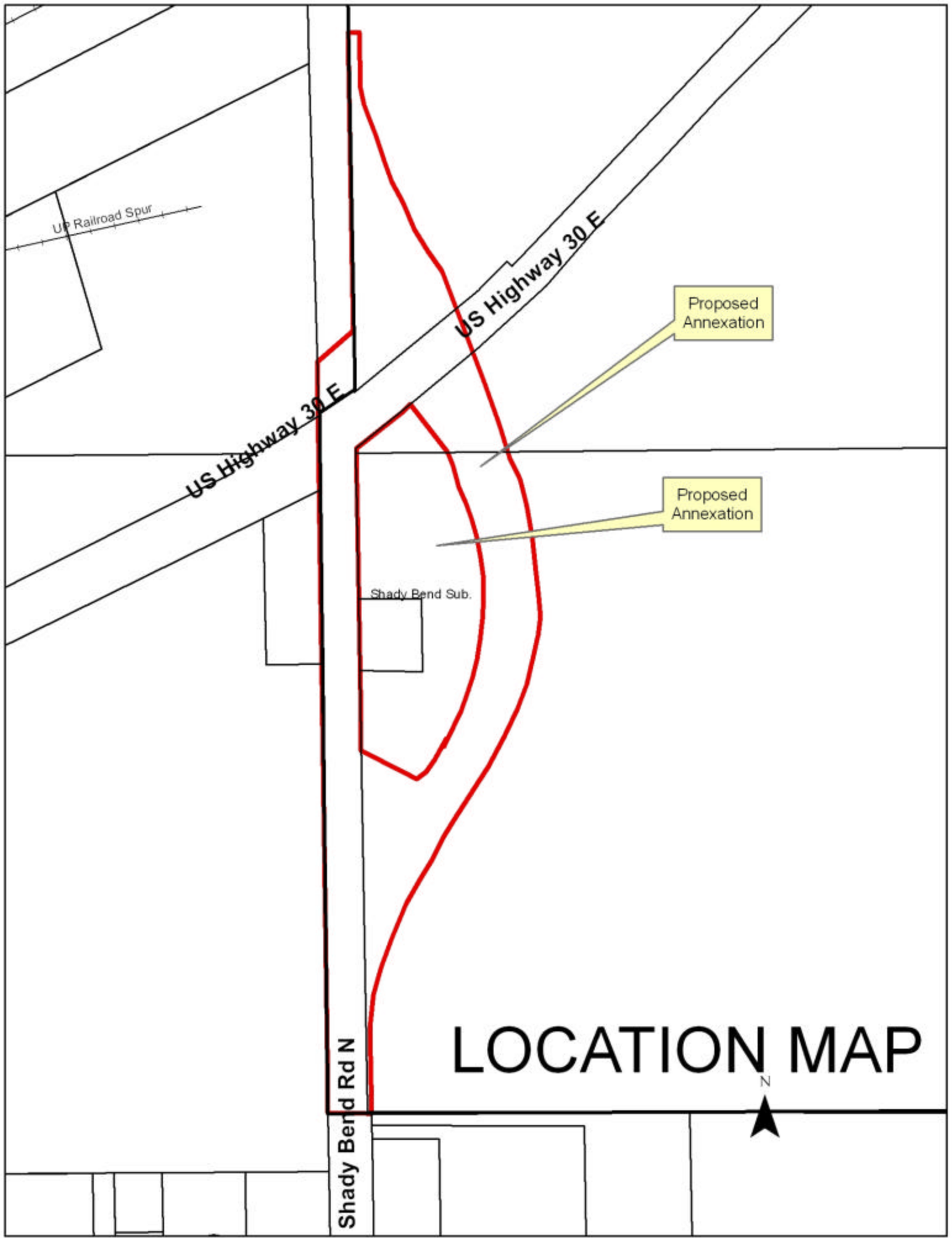
Recommendation

A motion was made by Haskins to approve the annexation request and seconded by Eriksen.

A roll call vote was taken and the motion passed with 8 members present (Amick, O'Neill, Ruge, Eriksen, Haskins, Bredthauer, Snodgrass, Connelly) all voting in favor.

Sample Motion

Approve the annexation as Submitted.



Proposed
Annexation

Proposed
Annexation

Shady Bend Sub.

US Highway 30 E

US Highway 30 E

Shady Bend Rd N

LOCATION MAP

N

* This Space Reserved For Register of Deeds *

ORDINANCE NO. 9254

An ordinance to extend the boundaries and include within the corporate limits of, and to annex into the City of Grand Island, Nebraska, a tract of land at U.S. Highway 30 and Shady Bend Road being platted as Shady Bend Subdivision an Addition to the City of Grand Island along with all adjoin public Right-of-Way in Hall County, Nebraska as more particularly described hereinafter and as shown on Exhibit "A" attached hereto; to provide service benefits thereto; to repeal any ordinance or resolutions or parts of thereof in conflict herewith; to provide for publication in pamphlet form; and to provide the effective date of this ordinance.

WHEREAS, after public hearing on March 3, 2010, the Regional Planning Commission recommended the approval of annexing into the City of Grand Island, the following tract of land in Hall County, Nebraska:

A tract of land comprised of Lots One (1) and Two (2) of Shady Bend Subdivision an Addition to the City of Grand Island and all adjoining public Right-of-Way in Hall County, Nebraska,

WHEREAS, after public hearing on March 23, 2010, the City Council of the City of Grand Island found and determined that such annexation be approved; and

| | |
|---------------------|--|
| Approved as to Form | <input type="checkbox"/> _____ |
| April 8, 2010 | <input type="checkbox"/> City Attorney |

ORDINANCE NO. 9254 (Cont.)

WHEREAS, on March 23, 2010, the City Council of the City of Grand Island approved such annexation on first reading.

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

SECTION 1. It is hereby found and determined that:

(A) The above-described tracts of land are urban or suburban in character, and that the subject properties are contiguous or adjacent to the corporate limits of said City.

(B) The subject lands will receive the material benefits and advantages currently provided to land within the City's corporate limits including, but not limited to police, fire, emergency services, street maintenance, and utilities services upon annexation to the City of Grand Island, Nebraska, and that City electric, water and sanitary sewer service is available, or will be made available, as provided by law.

(C) The various zoning classifications of the land shown on the Official Zoning Map of the City of Grand Island, Nebraska, are hereby confirmed and that this annexation will have no impact on the extraterritorial zoning jurisdiction.

(D) There is unity of interest in the use of the said tract of land, lots, tracts, highways and streets (lands) with the use of land in the City, and the community convenience and welfare and in the interests of the said City will be enhanced through incorporating the subject land within the corporate limits of the City of Grand Island.

(E) The plan for extending City services adopted by the City Council by the passage and approval of Resolution No. 2010-69 is hereby approved and ratified as amended.

ORDINANCE NO. 9254 (Cont.)

SECTION 2. The boundaries of the City of Grand Island, Nebraska, be and are hereby extended to include within the corporate limits of the said City the contiguous and adjacent tract of land located within the boundaries described above.

SECTION 3. The subject tract of land is hereby annexed to the City of Grand Island, Hall County, Nebraska, and said land and the persons thereon shall thereafter be subject to all rules, regulations, ordinances, taxes and all other burdens and benefits of other persons and territory included within the City of Grand Island, Nebraska.

SECTION 4. The owners of the land so brought within the corporate limits of the City of Grand Island, Nebraska, are hereby compelled to continue with the streets, alleys, easements, and public rights-of-way that are presently platted and laid out in and through said real estate in conformity with and continuous with the streets, alleys, easements and public rights-of-way of the City.

SECTION 5. That a certified copy of this Ordinance shall be recorded in the office of the Register of Deeds of Hall County, Nebraska and indexed against the tracts of land.

SECTION 6. Upon taking effect of this Ordinance, the services of said City shall be furnished to the lands and persons thereon as provided by law, in accordance with the Plan for Extension of City Services adopted herein.

SECTION 7. That all ordinances and resolutions or parts thereof in conflict herewith are hereby repealed.

SECTION 8. This ordinance shall be in full force and effect from and after its passage, approval and publication, in pamphlet form, as provided by law.

Enacted: April 13, 2010.

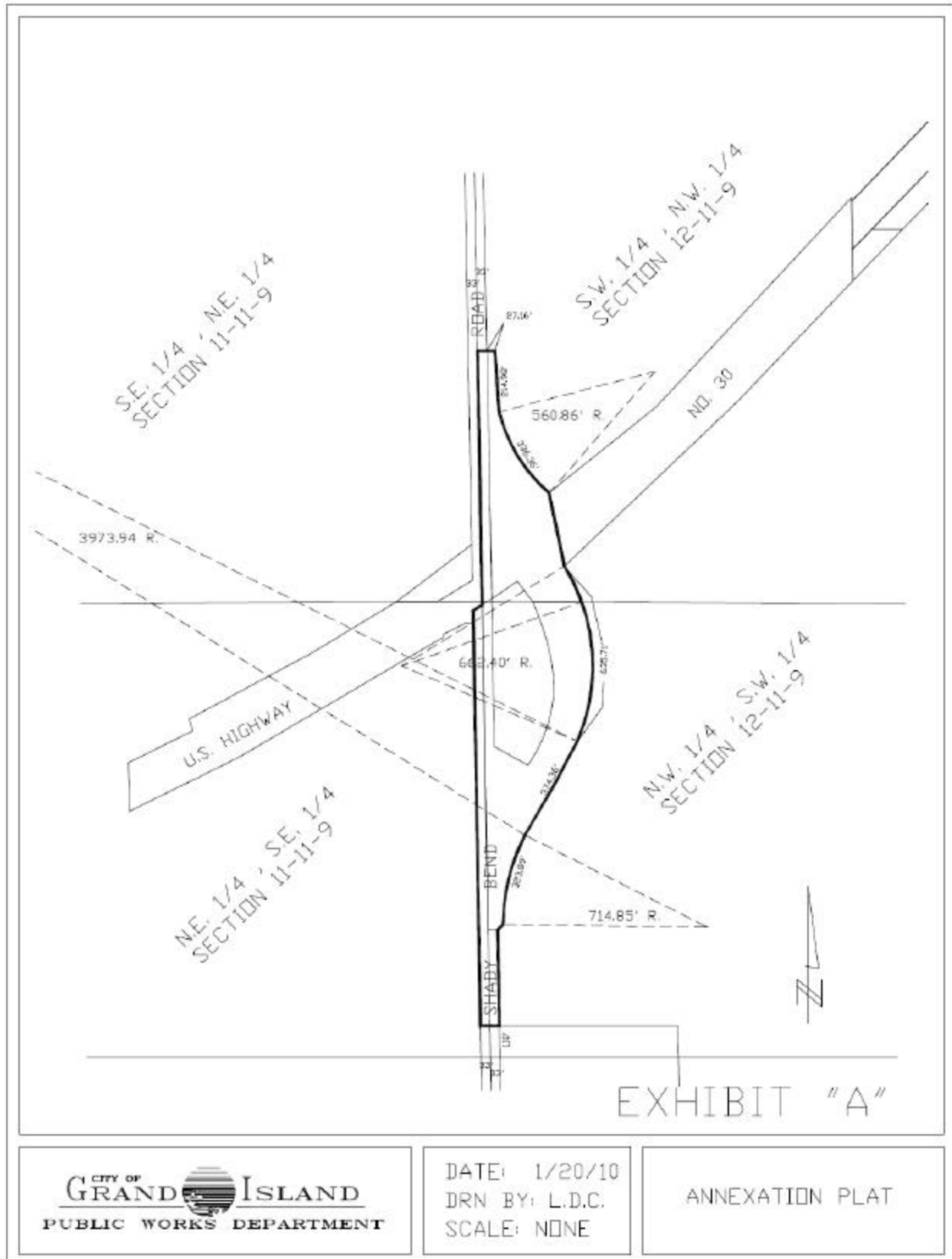
ORDINANCE NO. 9254 (Cont.)

Margaret Hornady, Mayor

Attest:

RaNae Edwards, City Clerk

ORDINANCE NO. 9254 (Cont.)



CITY OF
GRAND ISLAND
PUBLIC WORKS DEPARTMENT

DATE: 1/20/10
DRN BY: L.D.C.
SCALE: NONE

ANNEXATION PLAT



City of Grand Island

Tuesday, April 13, 2010

Council Session

Item F2

**#9258 - Consideration of the Conveyance of 522 N. Beal Street and
2811 W. 4th Street**

Staff Contact: Joni Kuzma

Council Agenda Memo

From: Joni Kuzma, Community Development Administrator

Meeting: April 13, 2010

Subject: Consideration of Conveyance of Property at 522 N. Beal Street and 1128 W. 4th Street

Item #'s: F-2

Presenter(s): Joni Kuzma, Community Development Administrator

Background

The City purchased the structures and property at 522 N. Beal Street and 2811 W. 4th Street on April 13, 2010 as 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 and Habitat for Humanity, in compliance with the previously approved contract between the City and the Nebraska Department of Economic Development, will build new single-family homes according to NSP and City regulations. A Housing Development Agreement between the City and the Housing Development Corporation and the Grand Island Area Habitat for Humanity was approved by Council on December 15, 2009.

Discussion

Nebraska law requires Council to approve the conveyance of the property at 522 N. Beal Street to Habitat for Humanity and the property at 2811 W. 4th Street to the Housing Development Corporation by ordinance subject to remonstrance.. 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 adopt the ordinance to convey 522 N. Beal Street to Habitat for Humanity and 2811 W. 4th to the Housing Development Corporation and begin the 30 day remonstrance period.

ORDINANCE NO. 9258

An ordinance directing and authorizing the sale of real estate to the Housing Development Corporation and the Grand Island Area Habitat for Humanity; 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, a tract of land legally described as:

Lot Forty Two (42) and East Thirty Feet (30') of North One Hundred Thirty Feet (130') of vacated Hancock Street in West Heights Addition to the City of Grand Island, Hall County, Nebraska (2811 W. 4th)

and to the GRAND ISLAND AREA HABITAT FOR HUMANITY, a tract of land legally described as:

Lots One (1) and Two (2), Block Four (4), Evans Addition to the City of Grand Island, Hall County, Nebraska (522 N. Beal St.)

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. and the City and the Grand Island Area Habitat for Humanity. 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

ORDINANCE NO. 9258 (Cont.)

passage and publication of this ordinance, the City Clerk is hereby directed and instructed to prepare and publish said notice.

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 and to the Grand Island Area Habitat for Humanity, a warranty deed for identified parcels of said real estate, and the execution of such deeds are 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: April 13, 2010.

Margaret Hornady, Mayor

Attest:

RaNae Edwards, City Clerk



City of Grand Island

Tuesday, April 13, 2010

Council Session

Item F3

#9259 - Consideration of Amending Chapter 31 of the Grand Island City Code Relative to Signs

Staff Contact: Craig Lewis

Council Agenda Memo

From: Craig A. Lewis, Building Department Director

Meeting: April 13, 2010

Subject: Amending Chapter 31 of the Grand Island City Code to Modify Regulations Regarding Signs within the AC-Arterial Commercial Zone

Item #'s: F-3

Presenter(s): Craig Lewis – Building Department Director

Background

The Grand Island City Code Chapter 31 regulates the installation of signage, specifically Section 31-35 regulates the installation of signage within the zoning classification AC-Arterial Commercial along South Locust Street corridor from Fonner Road south to Highway #34.

The Building Department has received a request for modifications to those regulations from Fonner Park and Business Improvement District #4.

The request is to increase the allowable square footage for signage on tracts of land in excess of 350' of frontage along Locust and allow for a maximum of 350 square feet for any one sign. The current regulations allow for 1 foot of sign for each one foot of frontage for the first 150 feet of frontage and .75 foot for each one foot of frontage thereafter, limiting any one sign to a maximum of 200 square feet.

The proposed amendment would increase the total square footage of signage for tracts of land of 300 or more lineal feet of frontage to one square foot of sign for each one foot of frontage for the first 150 feet and 1.18 square foot of signage for each one foot of frontage thereafter, with a maximum of no single sign being larger than 350 square feet.

Discussion

This request was initiated because of an application to modify the existing Fonner Park sign at the Locust Street entrance. The proposal was to incorporate an existing message center from the State Fair signage in Lincoln which would increase the square footage of the sign from 215 square feet to 350 square feet. The existing sign was installed prior to

the current A-C sign regulations as such has legal nonconforming “grandfather” rights, however those nonconforming rights may not increase the degree nonconformity.

The Business Improvement District #4 Board at its April 1, 2010 meeting approved in concept to increase the allowable square footage for properties with 300 feet or more of frontage and allow single signage to be increased to 350 square feet.

The proposed ordinance will accomplish that concept by allowing the square footage of signage to be increased to 1.18 square foot of signage for each one foot of frontage in excess of the first 150 feet and allow any single sign square footage to be increase from 200 to 350 square feet.

There currently appear to be 4 properties along the Locust Street A-C corridor from Fonner Park Road to Stolley Park Road that would benefit from this proposed increase.

Alternatives

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

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

Recommendation

City Staff recommends that the Council approve the ordinance to modify Chapter 31.

Sample Motion

Move to approve Ordinance #9259 to amend Chapter 31 of the Grand Island City Code.

ORDINANCE NO. 9259

An ordinance to amend Grand Island City Code Section 31-35, pertaining to the size of signage allowed for tracts of land with three hundred lineal feet or more of street frontage; to repeal any ordinance or parts of ordinances in conflict herewith; and to provide for publication and the effective date of this ordinance.

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

SECTION 1. Section 31-35, (B) of the Grand Island City Code, is hereby amended by adding the following;

(3). For tracts of land with three hundred (300) lineal feet or more of street frontage the total allowable square footage of ground signage shall be one square foot of sign for each one foot of street frontage for the first one hundred and fifty (150) feet and one point one eight (1.18) square foot of signage for each lineal foot thereafter. No single sign shall exceed three hundred and fifty (350) square feet. This section applicable within the AC Zone from Fonner Park Road to Stolley Park Road.

SECTION 2. 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 3. That this ordinance shall be in force and take effect from and after its passage and publication and on May 10, 2010.

Enacted: April 13, 2010.

Margaret Hornady, Mayor

Attest:

RaNae Edwards, City Clerk

| | |
|---------------------|-----------------|
| Approved as to Form | ☐ _____ |
| April 8, 2010 | ☐ City Attorney |

Article II. Signs in AC-Arterial Commercial Zone

§31-35. Authorized Signs In AC-Arterial Commercial Zone

All signs placed in the AC-Arterial Commercial Zone shall be subject to the following requirements:

(A) Signs Allowed. Ground signs, monument signs, roof signs, wall signs (flat or projecting), and freestanding ground signs. (Monument signs shall be those ground signs in which the base width is fifty percent (50%) or more of the width of the sign.)

(B) Size.

(1) Total ground signage allowed per tract of land shall be one square foot of sign for each one lineal foot of street frontage for the first one hundred fifty feet and .75 foot of signage for each lineal foot thereafter. The total ground signage on the property shall not exceed three hundred square feet. (The area of a double-faced sign is calculated on the largest face only).

(2) No single ground sign shall exceed two hundred square feet.

(3) For tracts of land with 300 lineal feet or more of street frontage the total allowable square footage of ground signage shall be one square foot of sign of each one foot of street frontage for the first one hundred and fifty feet and 1.18 square foot of signage for each lineal foot there after. No single sign shall exceed three hundred and fifty square feet. This section applicable within the AC Zone between Fonner Park Road to Stolley Park Road.

(C) Location.

(1) All signs shall be set back from the front property line a minimum of five feet, and a minimum of ten feet from all other property lines. Exception: the side property line adjacent to a public street shall have a minimum setback of five feet. Monument signs shall be set back from the front property line a minimum of twelve feet, and ten feet from all other property lines.

(2) All ground and monument signs shall be set back from the side property line a distance equal to or greater than 25% of the lot frontage. Exception: the side lot line adjacent to a public street or City owner property legally described as Lot 1 Mil-Nic Second Subdivision (2515 S. Locust) and directional signs not exceeding four square feet with a maximum of forty inches (3'-4") in height.

(3) Ground signs on the same tract of land shall be separated by a minimum of fifty lineal feet. The one exception shall be directional signs not exceeding four square feet in size.

(D) Height.

(1) The maximum height of ground signs shall be thirty feet.

(2) Signs shall maintain twelve feet of clearance above all adjacent walking or driving surfaces.

(3) Signs may project over a sidewalk or drive on private property, but shall not extend beyond such surface.

(E) All other provisions of the city code shall apply; the most restrictive requirement shall be enforced.

(F) Billboards.

(1) The maximum size of any billboard shall be three hundred square feet. (The area of double-faced, or back-to-back signs will be calculated on the largest face only).

(2) The maximum height of any billboard shall be thirty feet.

(3) Billboards shall not be located in the required front yard and shall maintain a ten foot setback from all other property lines.

(4) Billboards shall maintain a 1,000 foot separation between other billboards located along the same side of the Locust Street right-of-way and shall be a minimum of fifty feet from any ground sign.

(5) Billboards shall not be calculated in the maximum allowable on-site signage.

(6) There currently exist five signs defined as billboards in the AC-Arterial Commercial Zone from Stolley Park Road south to U.S. Highway 34. Those signs shall be legal non-conforming signs and allowed to remain with the provisions as stated in section 31-42.

(7) No billboards shall be allowed within the AC-Arterial Commercial Zone within the area bounded by Stolley Park Road on the south and Fonner Park Road on the north.

Amended by Ord. No. 8787, eff. 12-18-2002

Amended by Ord. No. 9177, eff. 07-22-2008

§36-36. Reserved

§36-37. Reserved

§36-38. Reserved

§36-39. Reserved



City of Grand Island

Tuesday, April 13, 2010

Council Session

Item G1

Approving Minutes of March 23, 2010 City Council Regular Meeting

Staff Contact: RaNae Edwards

CITY OF GRAND ISLAND, NEBRASKA

MINUTES OF CITY COUNCIL REGULAR MEETING

March 23, 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 March 23, 2010. Notice of the meeting was given in *The Grand Island Independent* on March 17, 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, and Public Works Director Steve Riehle.

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

MAYOR COMMUNICATION: Mayor Hornady introduced CYC members Ava Mackey and Aaron Oswald. Also mentioned was that City Clerk RaNae Edwards was honored at the Nebraska Municipal Clerk's Association banquet last week with the 2010 Outstanding Clerk's Award in the 1st Class and Larger cities category.

PUBLIC HEARINGS:

Public Hearing on Request from Balz Banquet and Reception Hall, Inc. dba Balz Banquet and Reception Hall, 211 North Sycamore Street for an Addition to Class "C-82906" Liquor License. RaNae Edwards, City Clerk reported that an application for an addition to Class "C-82906" Liquor License had been received from Balz Banquet and Reception Hall, Inc. dba Balz Banquet and Reception Hall, 211 North Sycamore Street. Ms. Edwards presented the following exhibits for the record: application submitted to the Liquor Control Commission and received by the City on March 1, 2010; notice to the general public of date, time, and place of hearing published on March 13, 2010; notice to the applicant of date, time, and place of hearing mailed on March 1, 2010; along with Chapter 4 of the City Code. The addition would cover the entire building. Staff recommended approval contingent upon final inspections. No public testimony was heard.

Public Hearing on Request from Alpha Center, LLC dba Alpha Center Receptions & Banquets, 520 West 3rd Street for a Class "I" Liquor License. This item was pulled from the agenda at the request of the applicant.

Public Hearing on Annexation of a Tract of Land Being Platted as Shady Bend Subdivision and Adjacent Right-of-Way Located South of U.S. Highway 30 and West of the New Shady Bend Road. Chad Nabity, Regional Planning Director reported that the owner of land located at 3609 East US Highway 30 and 803 North Shady Bend Road had submitted Shady Bend Subdivision as an addition to the City and requested annexation of this property. Staff recommended approval. Ron Miller, 704 South Cherry spoke in opposition. No further public testimony was heard.

Public Hearing on Zoning Change for Land Located East of Stuhr Road between Seedling Mile Road and Swift Road from M1 – Light Manufacturing to M2 – Heavy Manufacturing. Chad Nabity, Regional Planning Director reported that JBS Swift had purchased the property at 435 Stuhr Road and planned to expand their current operation, which required a change in zoning. Staff recommended approval. No public testimony was heard.

Public Hearing on Text Amendment to Chapter 36 of the Grand Island City Code Relative to Light Manufacturing, Heavy Manufacturing – Appendix A, and Landscaping Regulations. Chad Nabity, Regional Planning Director reported that the amendments pertained to; allowing parking lot as a permitted principal use in light and heavy manufacturing areas; landscaping along federal and state funded highways; and landscaping for parking lots with more than 500 spaces. Staff recommended approval. No public testimony was heard.

Public Hearing on Acquisition of Ingress/Egress Easement Located at Fonner Park (Hall County Livestock Improvement Association). Steve Riehle, Public Works Director reported that a public ingress/egress easement was needed on the south side of the Fonner Park access road off of South Locust Street to accommodate public access to a piece of property owned by the Nebraska State Fair. Staff recommended approval. No public testimony was heard.

Public Hearing #3 Concerning Community Revitalization Grant, Phase III and Contract Amendment. Barbara Quandt, Community Development Administrator reported that budget and contract extension amendments were needed to the current Community Development Block Grant (CDBG) received in 2008 from the Nebraska Department of Economic Development (DED) to recruit qualified applicants. The contract amendment would extend the project to March 31, 2011. Staff recommended approval. No public testimony was heard.

ORDINANCES:

#9254 – Consideration of Annexation Request of a Tract of Land Being Platted as Shady Bend Subdivision and Adjacent Right-of-Way Located South of U.S. Highway 30 and West of the New Shady Bend Road (First Reading)

This item was related to the aforementioned Public Hearing. This was the first of three readings.

Motion by Nickerson, second by Zapata to approve Ordinance #9254 on first reading. Upon roll call vote, all voted aye. Motion adopted.

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

#9255 – Consideration of Zoning Change for Land Located East of Stuhr Road between Seedling Mile Road and Swift Road from M1 – Light Manufacturing to M2 – Heavy Manufacturing

#9256 – Consideration of Text Amendment to Chapter 36 of the Grand Island City Code Relative to Light Manufacturing, Heavy Manufacturing – Appendix A, and Landscaping Regulations

#9257 – Consideration of Vacation of a Portion of the Alley Right-of-Way South of 4th Street, from Cedar Street to Walnut Street (USave Pharmacy)

#9258 – Consideration of the Conveyance of 522 N. Beal Street and 2811 West 4th Street (Ordinance #9258 item was pulled from the agenda.)

be considered for passage on the same day upon reading by number only and that the City Clerk be permitted to call out the number of these ordinances on first reading and then upon final passage and call for a roll call vote on each reading and then upon final passage.” Councilmember Ramsey second the motion. Upon roll call vote, all voted aye. Motion adopted.

#9255 – Consideration of Zoning change for Land Located East of Stuhr Road between Seedling Mile Road and Swift Road from M1 – Light Manufacturing to M2 – Heavy Manufacturing

#9256 – Consideration of Text Amendment to Chapter 36 of the Grand Island City Code Relative to Light Manufacturing, Heavy Manufacturing – Appendix A, and Landscaping Regulations

#9257 – Consideration of Vacation of a Portion of the Alley Right-of-Way South of 4th Street, from Cedar Street to Walnut Street (USave Pharmacy)

#9258 – Consideration of the Conveyance of 522 N. Beal Street and 2811 West 4th Street (Ordinance #9258 was pulled from the agenda)

Ordinances #9255 and #9256 related to the aforementioned Public Hearings.

Steve Riehle, Public Works Director reported that Ordinance #9257 was requested from USave Pharmacy to vacate a portion of the alley south of 4th Street, from Cedar Street to Walnut Street to allow adequate space for traffic using the drive thru.

#9255 – Consideration of Zoning Change for Land Located East of Stuhr Road between Seedling Mile Road and Swift Road from M1 – Light Manufacturing to M2 – Heavy Manufacturing

Discussion was held regarding Ordinance #9255 and odors from the JBS Swift plant.

Motion by Meyer, second by Nickerson to approve Ordinance #9255.

City Clerk: Ordinance #9255 on first reading. All those in favor of the passage of this ordinance on first reading, answer roll call vote. Upon roll call vote, Councilmember's Meyer, Niemann, Carney, Dugan, Nickerson, and Gericke voted aye. Councilmember's Gilbert, Haase, Ramsey, and Zapata voted no. Motion adopted.

City Clerk: Ordinance #9255 on final passage. All those in favor of the passage of this ordinance on final passage, answer roll call vote. Upon roll call vote, Councilmember's Meyer, Niemann, Carney, Dugan, Nickerson, and Gericke voted aye. Councilmember's Gilbert, Haase, Ramsey, and Zapata voted no. Motion adopted.

Mayor Hornady: By reason of the roll call votes on first reading and then upon final passage, Ordinance #9255 is declared to be lawfully adopted upon publication as required by law.

#9256 – Consideration of Text Amendment to Chapter 36 of the Grand Island City Code Relative to Light Manufacturing, Heavy Manufacturing – Appendix A, and Landscaping Regulations

Motion by Ramsey, second by Gilbert to approve Ordinance #9256.

City Clerk: Ordinance #9256 on first reading. All those in favor of the passage of this ordinance on first reading, answer roll call vote. Upon roll call vote, all voted aye. Motion adopted.

City Clerk: Ordinance #9256 on final passage. All those in favor of the passage of this ordinance on final passage, answer roll call vote. Upon roll call vote, all voted aye. Motion adopted.

Mayor Hornady: By reason of the roll call votes on first reading and then upon final passage, Ordinance #9256 is declared to be lawfully adopted upon publication as required by law.

#9257 – Consideration of Vacation of a Portion of the Alley Right-of-Way South of 4th Street, from Cedar Street to Walnut Street (USave Pharmacy)

Bill Francis, 222 North Cedar Street spoke in support. Mr. Francis answered question about contacting the neighbors.

Motion by Dugan, second by Gilbert to approve Ordinance #9257.

City Clerk: Ordinance #9257 on first reading. All those in favor of the passage of this ordinance on first reading, answer roll call vote. Upon roll call vote, all voted aye. Motion adopted.

City Clerk: Ordinance #9257 on final passage. All those in favor of the passage of this ordinance on final passage, answer roll call vote. Upon roll call vote, all voted aye. Motion adopted.

Mayor Hornady: By reason of the roll call votes on first reading and then upon final passage, Ordinance #9257 is declared to be lawfully adopted upon publication as required by law.

CONSENT AGENDA: Consent Agenda items G-21 and G-22 were pulled for further discussion. Motion by Zapata, second by Nickerson to approve the Consent Agenda excluding items G-21 and G-22. Upon roll call vote, all voted aye. Motion adopted.

Receipt of Official Document – Tort Claim filed by Eric Steward.

Approving Minutes of March 6, 2010 City Council Special Study Session (Retreat).

Approving Minutes of March 9, 2010 City Council Regular Meeting.

Approving Appointment of Derek Apfel to the Business Improvement District #6 Board.

#2010-73 – Approving Final Plat and Subdivision Agreement for JBS Subdivision. It was noted that JBS USA LLC and Swift Beef Company, owners had submitted the Final Plat and Subdivision Agreement for JBS Subdivision for the purpose of creating 2 lots on a tract of land in part of the West Half (W1/2) of the Northwest Quarter (NW1/4) of Section 14-11-9 comprising of approximately 73 acres.

#2010-74 – Approving Final Plat and Subdivision Agreement for Meadowlark West Eighth Subdivision. It was noted that Paul J. Younes, owner had submitted the Final Plat and Subdivision Agreement for Meadowlark West Eighth Subdivision for the purpose of creating 2 lots on a tract of land comprising all of Lot One (1), Meadowlark West Fifth Subdivision and comprising of approximately 3.69 acres.

#2010-75 – Approving Setting Board of Equalization Hearing Date of April 27, 2010 to Determine Benefits – 2009 Weed/Nuisance Abatement Program.

#2010-76 – Approving Bid Award for Replacing Concrete at Fire Station 2 with the Diamond Engineering Company of Grand Island, Nebraska in an Amount of \$28,575.00.

#2010-77 – Approving the Adoption of the Resolution to Comply with Title VI Requirements.

#2010-78 – Approving the Adoption of the Resolution to Comply with American's with Disability act (ADA) and Section 504 of the Rehabilitation Act.

#2010-79 – Approving Bid Award for One (1) 2010 Model, 127 Cubic Yard Solid Waste Transfer Trailer with STECO of Morris, Minnesota in an Amount of \$58,100.00 with a trade-in Amount of \$19,500.00.

#2010-80 – Approving Bid Award for Water Main Project 2010-W-1 – Poplar Street from 9th Street to 12th Street with the Diamond Engineering Company of Grand Island, Nebraska in an Amount of \$89,287.08.

#2010-81 – Approving the Agreement to allow Project for Invasive Plant Control and River Restoration between the City of Grand Island and the Platte Valley Weed Management Area.

#2010-82 – Approving Issuance of Building Permit to the Nebraska State Fair Board for Two Storage Buildings Located at 1525 South Locust Street.

#2010-83 – Approving Contract with US Cellular for Cellular Telephone Services for the Police Department.

#2010-84 – Approving Acquisition of Ingress/Egress Easement Located at Fonner Park (Hall County Livestock Improvement Association).

#2010-85 – Approving Community Revitalization Grant, Phase III and Contract Amendment.

#2010-86 – Approving Bid Award Concurrence with the Nebraska Department of Roads (NDOR) on the Construction of the Northbound Lanes on South Locust Street North of I-80 with Upper Plains Contracting, Inc. of Aberdeen, South Dakota.

#2010-87 – Approving Revised Agreement for Installation of Private Well by Goodwill Industries to Service HVAC System.

#2010-88 – Approving Contract Extension to May 15, 2010 Installation of Utilities and Parking Lot at the Veterans Athletic Field Complex with the Diamond Engineering Company of Grand Island, Nebraska.

#2010-91 – Approving Letter of Agreement with Nebraska Emergency Management Agency (NEMA) for Handling Hazardous Materials.

#2010-89 – Approving Change Order #2 for Utility Improvements at the Veterans Athletic Field Complex with the Diamond Engineering Company of Grand Island, Nebraska for an Increase of \$12,428.22 and a Revised Contract Amount of \$212,266.60. Councilmember Meyer apologized to Steve Paustian, Parks and Recreation Director for an earlier comment regarding the Veterans Athletic Field Complex.

Motion by Meyer, second by Dugan to approve Resolution #2010-89. Upon roll call vote, all voted aye. Motion adopted.

#2010-90 – Approving Changes to the 2009-2010 Fee Schedule. Discussion was held regarding the Heartland Public Shooting Park (HPSP) fees and the reason for the increase. Mr. Paustian explained the use of the public and instructors at HPSP.

Motion by Gericke to amend the motion to retain the fee of \$10.00 and \$15.00 for use of the range. Motion died due to lack of a second.

Upon roll call vote on the main motion, all voted aye. Motion adopted.

RESOLUTIONS:

#2010-92 – Consideration of Request from Balz Banquet and Reception Hall, Inc. dba Balz Banquet and Reception Hall, 211 North Sycamore Street for an Addition to Class “C-82906” Liquor License. This item related to the aforementioned Public Hearing.

Motion by Ramsey, second by Zapata to approve Resolution #2010-92 contingent upon final inspections. Upon roll call vote, all voted aye. Motion adopted.

#2010-93 – Consideration of Request from Alpha Center, LLC dba Alpha Center Receptions & Banquets, 520 West 3rd Street for a Class “I” Liquor License and Liquor Manager Designation for Nellie Ries, 3736 South Locust Street. This item was pulled from the agenda at the request of the applicant.

PAYMENT OF CLAIMS:

Motion by Dugan, second by Gericke to approve the Claims for the period of March 10, 2010 through March 23, 2010, for a total amount of \$3,276,884.83. Unanimously approved.

Motion by Dugan, second by Gericke to approve the Claims for the period of March 10, 2010 through March 23, 2010 for the State Fair Recreation Building for a total amount of \$189,000.00. Unanimously approved.

ADJOURNMENT: The meeting was adjourned at 7:50 p.m.

RaNae Edwards
City Clerk



City of Grand Island

Tuesday, April 13, 2010

Council Session

Item G2

#2010-94 - Approving the Purchase of 522 N. Beal Street and 2811 W. 4th Street

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

Staff Contact: Joni Kuzma

RESOLUTION 2010-94

WHEREAS, the City of Grand Island, Nebraska was awarded a \$993,000 Neighborhood Stabilization Program (NSP) grant from the Nebraska Department of Economic Development; and

WHEREAS, the grant has enabled the city to purchase and demolish at least six (6) vacant, blighted structures and redevelop the lots into six (6) new homes,

WHEREAS, the properties and structures at 522 N. Beal Street and 2811 W. 4th Street meet the vacant and blighted criteria as set by the Neighborhood Stabilization Program and the Nebraska Department of Economic Development and are eligible for demolition;

WHEREAS, a public hearing was held on April 13, 2010 for the purpose of discussing the proposed acquisition of the following real estate for demolition:

Lots One (1) and Two (2), Block Four (4), Evans Addition to the City of Grand Island, Hall County, Nebraska (522 N. Beal)

Lot Forty Two (42) and East Thirty Feet (30') of North One Hundred Thirty Feet (130') of vacated Hancock Street in West Heights Addition to the City of Grand Island, Hall County, Nebraska (2811 W. 4th)

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

The City of Grand Island, Nebraska is hereby authorized to acquire the properties and structures at 522 N. Beal Street and 2811 W. 4th Street and the Mayor is hereby authorized and directed to execute such contracts.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, April 13, 2010.

Margaret Hornady, Mayor

Attest:

RaNae Edwards, City Clerk

| | |
|---------------------|-----------------|
| Approved as to Form | ☐ _____ |
| April 8, 2010 | ☐ City Attorney |



City of Grand Island

Tuesday, April 13, 2010

Council Session

Item G3

**#2010-95 - Approving Interlocal Agreement for Compact for
Apprehension of Narcotics Dealers and Offenders (CANDO)**

Staff Contact: Steve Lamken

Council Agenda Memo

From: Steven Lamken, Police Chief

Meeting: April 13, 2010

Subject: Compact for Apprehension of Narcotics Dealers and Offenders Interlocal Agreement

Item #'s: G-3

Presenter(s): Steven Lamken, Police Chief

Background

The Police Department has been a member agency of the Compact for Apprehension of Narcotics Dealers and Offenders, CANDO, for over two decades. CANDO has served successfully as a regional effort in combating drug abuse and distribution in central Nebraska and in our City. Federal funding for the Compact has been increased and allowed us to contract with an agency for an investigator who will work mainly in the more rural areas of the Compact. The Interlocal agreement has been amended to reflect the contracted investigator as part of the Compact and needs the approval of the participating governing bodies.

Discussion

CANDO is a regional drug enforcement compact that has historically been supported by Federal Byrne grant funds. CANDO targets mid and lower level drug dealers for enforcement and works closely with the Tri City Drug Task Force. CANDO has historically used funding to contract for law enforcement officers to work as drug investigators for the compact.

Byrne funding decreased in recent years to where the compact could no longer afford to contract for investigators. The compact used the funding that was received to support agency investigations with buy money and overtime support. The loss of the contract investigators left a void in enforcement in the more rural areas of the compact. This loss affects all areas of the region including Grand Island. There is no pressure on dealers living in the rural areas who are selling drugs in our cities. We also lose important intelligence about drug activity in these areas. The smaller member agencies do not have personnel they can assign to drug investigations.

This year Federal funding for Byrne grants was restored and CANDO received grant funding that allows for the contracting of one investigator who is a member of the Phelps County Sheriff's Office. The restoration of this position will provide for more effective drug enforcement in our region. The Compact will support the investigator position so long as adequate Federal grant funding is available. The amending of the CANDO Interlocal and contracting for the investigator will not have an impact on City's match funding being provided to the compact.

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 future date
3. Take no action on the issue

Recommendation

City Administration recommends that the Council approve the Compact for Apprehension of Narcotics Dealers and Offenders inter-local agreement.

Sample Motion

Move to approve the Compact for Apprehension of Narcotics Dealers and Offenders inter-local agreement.

**INTER-LOCAL COOPERATION ACT AGREEMENT
COMPACT FOR APPREHENSION OF NARCOTICS
DEALERS AND OFFENDERS (C.A.N.D.O.)**

Now on this _____ day of _____, 2009, this agreement is made and entered into by and between the following entities: Adams County Sheriff's Office, Buffalo County Sheriff's Office, Franklin County Sheriff's Office, Hall County Sheriff's Office, Kearney County Sheriff's Office, and Phelps County Sheriff's Office, all in the state of Nebraska; and the cities of Franklin, Grand Island, Hastings, Kearney, Minden and Holdrege, also all in the State of Nebraska. This Inter-local Agreement shall be referred to as a compact, and more specifically as the Compact for Apprehension of Narcotics Dealers and Offenders (C.A.N.D.O.). The aforementioned members hereby enter into an Inter-local Agreement consistent with Neb. Rev. Statutes §13-802 et. seq.; Laws 1963, c. 333 §23-2201; Laws 1991, LB 731 §2; Laws 1996, LB 1177, §14.

1. This agreement shall be made by and between the aforementioned political subdivisions of the State of Nebraska, and shall take effect until the C.A.N.D.O. project is terminated by mutual agreement of a majority of the participating members.
2. At any time during the operative dates of this agreement, any member of this compact that wishes to terminate its participation in the compact may do so by providing written notice of such intent not less than thirty (30) days prior to said termination date.
3. The purpose of this compact shall be to identify, investigate, apprehend and facilitate the prosecution of narcotics dealers and offenders in the compact region and within the jurisdictions of the aforementioned participating agencies. Specific attention will be directed at narcotics and drug activity that involves hand-to-hand or individual sales as well as illegal activities between the seller and their supplier. Narcotics offenses include those involving controlled substances as defined by Nebraska Statutes §28-416 et. seq.
4. The Sheriff or Chief of Police for each of the participating member agencies will make up the C.A.N.D.O. Governing Board for the compact. The Governing Board will develop necessary forms for the recording and reporting of expenditures and hours committed to the activities of the compact. The Governing Board will develop an operating budget, and manage and approve expenditures of said budget; determine dues and see that an accounting of funds is made on a regular basis and kept current.
5. The compact, through the C.A.N.D.O. Project Director/Coordinator or Assistant Director/Coordinator, will contract with the Phelps County Sheriff's Office for a full-time drug investigator who will

**INTER-LOCAL COOPERATION ACT AGREEMENT
COMPACT FOR APPREHENSION OF NARCOTICS
DEALERS AND OFFENDERS (C.A.N.D.O.)**

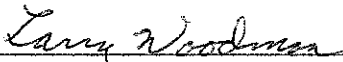
carry out investigations pertaining to the illegal use and distribution of controlled substances on a full-time basis throughout the geographic territory of the member agencies but who will place greatest/primary emphasis in the counties of Kearney, Franklin and Phelps; and the cities of Minden, Franklin and Holdrege. This position is guaranteed through December 31, 2011; and its continuance will be reviewed on a yearly basis after that time.


6. The C.A.N.D.O. Drug Investigator contracted through the Phelps County Sheriff's Office shall have the power and authority to enforce the laws of the State of Nebraska and to perform the functions of his or her office anywhere within the geographic territory of any party (C.A.N.D.O. agency) while so contracted.
7. At all times while serving as the contracted C.A.N.D.O. Drug Investigator, this individual shall remain the employee of the Phelps County Sheriff's Office. The Phelps County Sheriff's Office shall provide liability insurance and indemnification for its own personnel as provided by Neb.Rev.Stat. §13-1802.
8. It is the responsibility of the C.A.N.D.O. Drug Investigator and/or his or her departmental supervisor to promptly and accurately complete all required forms and reports and insure that these and investigatory reports are forwarded to the Chief Project Director/Coordinator in a timely and regular fashion.
9. The compact will establish a committee which will consist of one person from each participating agency who will function as a C.A.N.D.O. Coordinator for the agency. The Governing Board will select and appoint a person from this group who will be designated Chief Project Director/Coordinator who will administer the operations and actions of the committee under standard parliamentary procedures.
9. Each member agency of the compact will supply adequate manpower to assist in investigations of narcotics violations and offenders within the jurisdictional boundaries of the compact members. Each member agency will provide manpower to assist in the investigations, execution of any search or arrest warrants and provide surveillance activities and provide testimony as required.

**INTER-LOCAL COOPERATION ACT AGREEMENT
COMPACT FOR APPREHENSION OF NARCOTICS
DEALERS AND OFFENDERS (C.A.N.D.O.)**

11. It is the responsibility of each agency coordinator to promptly and accurately complete all required forms and reports and insure that these and investigatory reports are forwarded to the Chief Project Director/Coordinator in a timely and regular fashion.
12. Any sheriff, deputy sheriff, marshal, deputy marshal, police officer or peace officer employed by any party (C..A.N.D.O. member agency) shall have the power and authority to enforce the laws of the State of Nebraska and to perform the functions of his or her office anywhere within the geographic territory of any party (C.A.N.D.O. agency) when acting or participating in a cooperative investigation or cooperative law enforcement activity at the request of any Party's (member agency's) Sheriff or Chief of Police or an authorized designee of any such Sheriff or Chief of Police
13. At all times while acting or participating in a cooperative investigation or cooperative law enforcement activity, any such participating sheriff, deputy sheriff, marshal, deputy marshal, police officer or peace officer shall remain the employee of the Party (member agency) supplying such officer. Each Party(member agency) shall provide liability insurance and indemnification for its own personnel as provided by Neb.Rev.Stat. §13-1802.
14. Any seizure of property or funds and the distribution of those items resulting from an investigation by members of the C.A.N.D.O. compact will be returned to the respective jurisdiction consistent with State and Federal guideline, regulations and laws.
15. Any modification of this agreement shall be in writing and signed by all active members of the compact.
16. Any and all resolutions passed by the governing political subdivisions of the participating agencies to this Inter-local Agreement shall become a part of this Agreement by reference and are hereby attached.


**INTER-LOCAL COOPERATION ACT AGREEMENT
COMPACT FOR APPREHENSION OF NARCOTICS
DEALERS AND OFFENDERS (C.A.N.D.O.)**



Chairperson, Adams County Board
of Supervisors



Adams County Sheriff's Office
Sheriff Gregg Magee

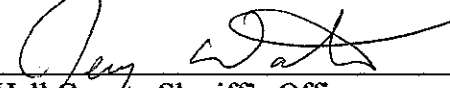
Chairperson, Buffalo County Board
of Supervisors

Buffalo County Sheriff's Office
Sheriff Neil Miller


Chairperson, Phelps County Board
of Supervisors

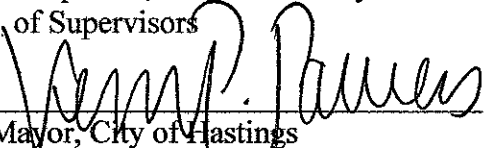

Phelps County Sheriff's Office
Sheriff Tom Nutt

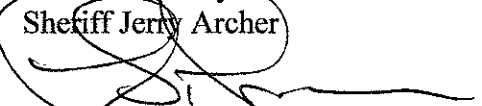

Chairperson, Hall County Board
of Supervisors

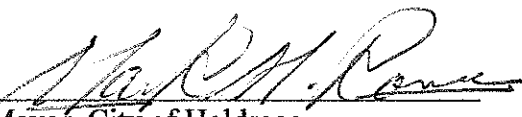

Hall County Sheriff's Office
Sheriff Jerry Watson

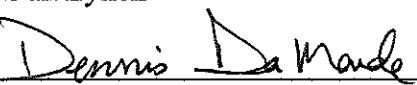
Chairperson, Kearney County Board
of Supervisors

Kearney County Sheriff's Office
Sheriff Scott White

Chairperson, Franklin County Board
of Supervisors

Mayor, City of Hastings

Franklin County Sheriff's Office
Sheriff Jerry Archer

City of Hastings Police Chief
Larry Thoren

Mayor, City of Kearney

Mayor, City of Holdrege

City of Kearney Police Chief
Dan Lynch

City of Holdrege Police Chief
Dennis DeMoude

Mayor, City of Grand Island


City of Grand Island Police
Chief Steve Lamken

Mayor, City of Minden

City of Minden Police Chief
Jim Huff

Mayor, City of Franklin

City of Franklin Police Chief
Bryon Detlefsen

RESOLUTION 2010-95

WHEREAS, The City of Grand Island has been a member of the Compact for Apprehension of Narcotics Dealers and Offenders, CANDO, inter-local drug enforcement effort, and

WHEREAS, CANDO has been an effective program in drug enforcement against mid and lower level drug dealers, and

WHEREAS, CANDO has received restored Federal Byrne grant funding to provide for the contracting of a drug investigator, and

WHEREAS, The Phelps County Sheriff's Office has agreed to provide a deputy to serve as the contract drug investigator,

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the Mayor be, and hereby is, authorized and directed to execute the inter-local agreement with the Compact for Apprehension of Narcotics Dealers and Offenders.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, April 13, 2010.

Margaret Hornady, Mayor

Attest:

RaNae Edwards, City Clerk

| | |
|---------------------|-----------------|
| Approved as to Form | ☐ _____ |
| April 8, 2010 | ☐ City Attorney |



City of Grand Island

Tuesday, April 13, 2010

Council Session

Item G4

#2010-96 - Approving Contract for HIDTA Funding for 2010/2011

Staff Contact: Steve Lamken

Council Agenda Memo

From: Steven Lamken, Police Chief

Meeting: April 13, 2010

Subject: HIDTA Funds

Item #'s: G-4

Presenter(s): Steven Lamken, Police Chief

Background

The Police Department has been a recipient of HIDTA funding to support the Tri City Drug Task Force for several years. The Department has received \$53,692.00 in the 2010/2011 HIDTA award. The funding goes towards equipment for one Police Department investigator, operations of the Task Force offsite facility and funds for the purchase of drugs and payments to informants.

Discussion

The Police Department has received HIDTA funding for several years that is directed to support the Tri City Drug Task Force. The Department has been awarded \$53,692 in HIDTA funds for the 2010/2011 year. The funds support a vehicle and cell phone for one Police Department drug investigator, the operation of the Task Force's offsite facility and operational funds for the purchase of drugs and payments to informants.

The Task Force is a valuable asset in our efforts to combat drug and violent crime in the Tri Cities areas. Grand Island receives significant benefit from the work and efforts of the Task Force. The HIDTA funding provides resources to the Task Force that would otherwise not be available.

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 future date

3. Take no action on the issue

Recommendation

City Administration recommends that the Council approve the contract for HIDTA funding for 2010/2011 to be used in support of the Tri City Drug Task Force.

Sample Motion

Move to approve the contract for HIDTA funding for 2010/2011 to be used in support of the Tri City Drug Task Force.

CONTRACT AWARD

Nebraska State Patrol
P.O. Box 94907
Lincoln, NE 68509

HIDTA Initiative

| | | |
|---|------------------------------|-------------------------------|
| CONTRACTOR: Grand Island Police Department | AWARD NO. 10HD06 | AWARD DATE: March 15, 2010 |
| CONTRACT TITLE Tri City Drug Task Force | Contract Amount: \$53,692 | |

CONTRACTOR'S BUDGET

| COST CATEGORY | Federal Share | State/Local Share | Total Project |
|-----------------------------|---------------|-------------------|---------------|
| Travel – Administrative | \$4,020 | | \$4,020 |
| Facilities – Utilities | \$12,000 | | \$12,000 |
| Facilities – Support | \$4,800 | | \$4,800 |
| Supplies – Office | \$2,600 | | \$2,600 |
| Services – Vehicle Lease | \$5,700 | | \$5,700 |
| Services – Cell Phones | \$900 | | \$900 |
| Services – Service Contract | \$2,800 | | \$2,800 |
| Other – PE/PI | \$20,872 | | \$20,872 |
| Total | \$53,692 | | \$53,692 |
| Contribution Percentage | 100 | | |

This Contract Award is subject to all current State and Federal Policies and Procedures established by the Executive Office of the President – Office of National Drug Control Policy, (ONDCP) and the Nebraska State Patrol (NSP). If applicable, this award may be subject to special conditions.

The contract period will be from 01-01-2010 through 12-31-2011. The contract will become effective on the above stated date, provided the NSP has received the signed Contract Award from the Contractor. After the remaining signatures have been obtained, a copy of the Contract Award will be provided to the Contractor.

The Patrol may cancel the contract at any time for breach of contractual obligations by providing the Contractor with a written notice of cancellation. Should the Patrol exercise its right to cancel the contract for such reasons, the cancellation shall become effective on the date as specified in the notice of cancellation sent to the Contractor.

The Patrol reserves the right to make modifications, deletions, or additions to the Contract Award at any time. Modifications that change any part of the Contract Award must be made by mutual agreement of both parties.

Where modifications are mandated by law or other requirements, over which the Patrol has no discretion or control, the Contractor agrees to accept the necessary modifications whenever possible. If however, the Contractor cannot accept the changes; this Contract Award can be terminated. Failure to agree to such modifications is not a dispute within the meaning of the Disputes paragraph of the Contract Award Guidelines.

FINANCIAL MANAGEMENT

The Contractor must maintain a financial management system which records all Contract Award related costs following generally accepted accounting procedures. Adequate documentation for all contract costs must be maintained.

The Contractor will maintain, using accepted accounting practices and procedures, such books, records, documents, and other evidence, and accepted accounting procedures that will accurately document all costs relating to this Contract Award. This documentation must be kept for a period of at least three years (3) following completion of the project and final payment. All such documents will be subject to periodic on-site review as deemed necessary by ONDCP, the Patrol, and Federal audit agencies.

The Contractor agrees that the Patrol, the Executive Office of the President – Office of National Drug Control Policy, and/or the Comptroller General of the United States, the Auditor of the State of Nebraska or any of their duly authorized representatives may have access for purposes of audit and examination to any book, document, papers, or records maintained by the Contractor pertaining to this contract, and the Contractor further agrees to maintain such books and records for the period of three years after the date of the final audit. If any litigation, claim, negotiation, audit, or other action involving the records has been started before the expiration of the three years, the records shall be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular three year period, whichever is later.

STOP WORK

The Patrol may issue and the Contractor will accept a written order to hold or Stop Work on activities funded under this Contract Award for a period of 30 days. Such orders will be issued only for sufficient cause, such as reason to believe work is being performed outside of the terms of the Contract Award, for financial improprieties found during a monitoring inspection or voucher and records review, or a change in relevant laws or regulations.

A Stop Work may be continued, cancelled, or reissued as an order of termination.

The Contractor is responsible for any costs incurred after the completion of the project and the issuance of final payment by the Patrol unless by mutual agreement.

BREACH OF AGREEMENT

In the event full services are not provided by the Contractor unless as a result of fire, riot, or other Act of God or other emergency acceptable to the Patrol, the Contractor will reimburse the Patrol for all funding provided by the Contract Award. These provisions will be exercised by the Patrol only after Contract Award violation(s) has been established and negotiations between the Patrol and recipient have not resulted in a mutually acceptable resolution. A written notice of Breach of Contract must be issued by the Patrol.

ACCEPTANCE OF CONDITIONS

It is understood and agreed by the undersigned that this contract and any subsequent Contract Awards are subject to the Nebraska State Patrol Multiple HIDTA Initiative Cooperative Agreement award G10MW0007A, dated January 2010, and to all special conditions as identified by the NSP. The signatures, with the original Contract Proposal, certify that this document has been received and read in its entirety.



Signature of NSP Superintendent

Signature of Project Director

Bryan Tuma, Colonel - Superintendent
Typed Name of Official and Title

3/17/10
Date

Typed Name and Title

Date

Signature of Authorized Official
(Mayor, County Board Chairman, State Department Head, etc.)

Signature of Financial Officer
(Treasurer, City Clerk, City Finance Department, Etc)

Typed Name of Official and Title

Date

Typed Name and Title

Date

CFDA: G10MW0001A

Confidential Funds Certification

This is to certify that I have read, understand, and agree to abide by all of the conditions for confidential funds as set forth in the effective edition of the ONDCP Financial and Administrative Guide.

Date: 3/22/10

Signature: 

Project Director: _____

Grant No: 10HD06

SPECIAL CONDITIONS

NEBRASKA STATE PATROL MIDWEST HIDTA MULTIPLE INITIATIVES

| | |
|---|---|
| Contractor: Grand Island Police Department | |
| Contract Number: 10HD06 | Contract Title: Tri City Drug Task Force |

This subgrant is subject to the standard conditions agreed to in the contract award, certified assurances, the Executive Office of the President, Office of National Drug Control Policy, HIDTA Multiple Initiatives and the following special conditions:

A. General Provisions

1. This grant is subject to:

- OMB Circular A-87 "Cost Principles for State, Local, and Indian Tribal Governments" (or, if applicable, OMB Circular A-21 "Cost Principles for Educational Institutions");
- OMB Circular A-102 "Grants and Cooperative Agreements with State and Local Governments" (or, if applicable, OMB Circular A-100 "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations");
- OMB Circular A-133 "Audits of States, Local Governments and Non-Profit Institutions";
- "Government-wide Debarment and Suspension (Non procurement)," codified at 21 CFR § 1401 et. seq.;
- "Government-wide Requirements for Drug-Free Workplace (Grants)" (codified at 21 CFR § 1401 et. seq.);
- "New Restrictions of Lobbying" (codified at 18 USC § 1903 and 31 USC § 1352).
- Nondiscrimination in Federally Assisted Programs and Equal Opportunity Plans requirements are codified at USC, Title VI (42 UUSC § 2000d et seq.).
- Immigration and Naturalization Service Employment Eligibility Verification Form (I-9)

2. Audits conducted pursuant to OMB Circular A-133, "Audits of State and Local Governments", must be submitted no later than nine (9) months after the close of the grantee's audited fiscal year. An original and one copy of the audit report shall be sent to the cognizant Federal Agency. The management letter must be submitted with the audit report. In addition, a copy of the audit report and management letter must be sent to:

EOP/ONDCP
Attention: HIDTA Financial Management Office
GSD/RDF (202) 395-6792
Anacostia Naval Annex
Bldg 410/Door 123
250 Murray Lane, SW
Washington, DC 20509

3. The recipient gives the awarding agency or the Government Accountability Office, through any authorized representative, access to and the right to examine all paper or electronic records related to the grant.

B. Special Conditions HIDTA Grants

The following special conditions are incorporated into each award document.

1. This grant is awarded for the initiative(s) named above. Variation from the description of activities approved by ONDCP and/or from the budget attached to this letter must comply with reprogramming requirements as set forth in ONDCP's HIDTA Program Policy and Budget Guidance.
2. This award is subject to the requirements in ONDCP'S "HIDTA Program Policy and Budget Guidance" and the "ONDCP Financial and Administrative Guide"

3. No HIDTA funds shall be used to supplant state or local funds that would otherwise be made available for the same purposes.
4. The requirements of 28 CFR Part 23, which pertains to information collection and management of criminal intelligence systems, shall apply to any such systems supported by this award.
5. Special accounting and control procedures must govern the use and handling of HIDTA Program funds for confidential expenditures; i.e. the purchase of information, evidence, and services for undercover operations. Those procedures are described in the HIDTA Program Policy and Budget Guidance.
6. The grant recipient agrees to account for and use program income in accordance with the "Common Rule" and the HIDTA Program Policy and Budget Guidance. Asset forfeiture proceeds generated by the HIDTA-funded initiatives shall not be considered as program income earned by HIDTA grantees.
7. Property acquired with these HIDTA grant funds is to be used for activities of the Midwest HIDTA. If your agency acquires property with these funds and then ceases to participate in the HIDTA, the Contractor must make this equipment available to the HIDTA's Executive Board for use by other HIDTA participants.

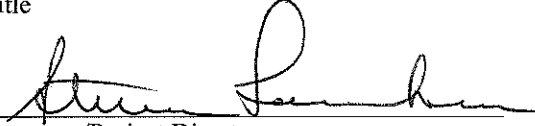
C. Payment Basis

1. A request for reimbursement shall be made by using the Nebraska State Patrol Cash Report/Cash Request form NSP161 on a monthly basis. Copies of invoices, payroll registers, and canceled checks must accompany the payment confirmation number to provide documentation for the reimbursement request.
2. Payments will be made by check or via Electronic Fund Transfer to the award recipient's bank account. The bank must be FDIC insured.

RECIPIENT ACCEPTANCE OF SPECIAL CONDITIONS:

STEVEN LAUKEN
Typed Name

POLICE CHIEF
Title


Signature/Project Director

3/22/10
Date

Original to Patrol; Subgrantee keep copy for records.

CASH REPORT/CASH REQUEST

| | | | |
|--|--|---|----------------------------------|
| Nebraska State Patrol Midwest HIDTA Initiative | | Federal I. D. Number 47-6006205 | |
| 1. Contractor Name Grand Island Police Department Address 111 Public Safety Drive Grand Island, NE 68801 | | 2. Grant Name Tri City Drug Task Force | 3. Grant Number 10HD06 |
| 4. Request for Funds <div style="display: flex; justify-content: space-between;"> _____ Regular _____ Final </div> | | 5. Report of Expenditures <div style="display: flex; justify-content: space-between;"> _____ Regular _____ Final </div> | |
| 6. Report/Request Number | | 7. This report covers: <div style="display: flex; justify-content: space-between;"> _____ _____ </div> <div style="display: flex; justify-content: space-between;"> Month, Year Month Year </div> | |

8. Expenditures and unpaid obligations by budget category (include cents).

| Budget Category | Approved Budget | Prior Expenditures | Period Expenditures | To-Date Expenditures |
|---|-----------------|--------------------|---------------------|----------------------|
| Travel – Administrative | \$4,020 | | | |
| Facilities – Utilities | \$12,000 | | | |
| Facilities – Support | \$4,800 | | | |
| Supplies – Office | \$2,600 | | | |
| Services – Vehicle Lease – passenger | \$5,700 | | | |
| Services – Communications – mobile phone & pagers | \$900 | | | |
| Services – Service Contracts | \$2,800 | | | |
| Other – PE/PI | \$20,872 | | | |
| | | | | |
| | | | | |
| Total | \$53,692 | | | |

| 9. Cash Status | Federal Funds | Matching Funds | Total |
|--|---------------|----------------|-------|
| A. Total Funds Budgeted | | | |
| B. Total Federal Funds Received to Date | | | |
| C. Less Funds Expended | | | |
| D. Balance on Hand at End of Quarter (B-C) | | | |

| 10. Cash Request | For Month Of | Federal Funds Requested | Justify Extraordinary Request |
|------------------|--------------|-------------------------|-------------------------------|
| | | | |
| | | | |

11. Project Income

| | |
|---------------------------------------|---|
| A. Project Income This Period: | B. Project Income Balance To-Date: |
|---------------------------------------|---|

Certification: I certify that this information is taken from the Book of Accounts and that such costs are valid and consistent with the terms of the grant.

| | | |
|------------------|-------------------------------|-------------|
| Signature | Typed Name & Title | Date |
|------------------|-------------------------------|-------------|

RESOLUTION 2010-96

WHEREAS, the Tri City Drug Task Force is a valuable asset in drug enforcement in the City of Grand Island, and

WHEREAS, the Grand Island Police Department has received HIDTA grant funding to support the Tri City Drug Task Force for several years, and

WHEREAS, the Grand Island Police Department has been awarded grant funding of \$53,692 for the 2010/2011 operational year.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the Mayor be, and hereby is, authorized and directed to execute the contract for HIDTA grant funding to be used to support the Tri City Drug Task Force with the Nebraska State Patrol for the 2010/2011 year.

Adopted by the City Council of the City of Grand Island, Nebraska, April 13, 2010

Margaret Hornady, Mayor

Attest:

RaNae Edwards, City Clerk



City of Grand Island

Tuesday, April 13, 2010

Council Session

Item G5

**#2010-97 - Approving E-Payment Services and Payment Card
Industry Data Security Standards**

Staff Contact: Mary

Council Agenda Memo

From: Mary Lou Brown, Finance Director

Meeting: April 13, 2010

Subject: PCI DSS Compliance and Electronic Payment Option

Item #s: G-5

Presenter(s): Mary Lou Brown, Finance Director

Background

The Finance Department has two goals that it will accomplish through the implementation of the proposed recommendation at the end of this Memo. These two goals are as follows:

- Become “Payment Card Industry Data Security Standards” (PCI DSS) compliant; and
- Implement an electronic payment option for utility bills and other types of payment due to City departments.

All credit card associations (Visa/MasterCard are the two accepted by the City) now require businesses accepting credit card payments to become PCI DSS compliant. The City of Grand Island currently does not meet the credit card data security standards. The PCI DSS is a set of comprehensive requirements for enhancing payment account data security and was developed by a group of organizations in the payment card industry. The PCI DSS is a multifaceted security standard that includes requirements for security management, policies, procedures, network architecture, software design and other critical protective measures. This comprehensive standard is intended to help organizations proactively protect customer account data.

The City needs to offer an internet based payment option to our utility customers. More and more people are using the internet to make their payments.

Discussion

PCI DSS Compliant

The City of Grand Island is required to become PCI DSS compliant on or before June 1, 2010 or will be assessed a monthly fine. There are two ways in which compliance can be accomplished - 1) implement credit card security protection of customer credit card numbers housed on the City of Grand Island’s computer servers; or 2) contract with a vendor who would house customers’ credit card information on their own computer servers and thus assume the responsibility for being PCI DSS compliant. The Finance Department has researched both of these options.

Electronic Payment Options

Two state contracts exist with vendors who can implement an electronic payment option for the City. One of these contracts is with US Bank and the second is with First National Bank of Omaha. These vendors would provide for the acceptance of credit/debit cards and electronic checks over the internet.

The fee structure for the electronic payment service can be structured in one of three ways: 100% of the cost is absorbed by the City; 100% of the cost is absorbed by the customer; or cost sharing by both the City and the customer. The costs that have been calculated on the attached sheets are based on January 2010 volumes; there is variability in the monthly amounts although January is indicative of the monthly costs that would be incurred.

One of the options available is to share the costs between the City and the customer. Our scenario assumes that the customer pays a fee of \$2.00 if they want to make a one time credit card payment. This fee is then kept by the City to partially offset the costs incurred. It is common for organizations to pass some or all of the costs associated with credit card processing on to its customers. It is our thought that the \$2.00 fee is reasonable and it only applies to the one time payments. A customer can sign up for recurring credit card payment and incur no fee.

The attached documents summarize the options that have been researched and identify the associated costs. As we researched the two goals independently, it became clear that the implementation of both the PCI DSS compliance and the electronic payment options could be accomplished at the same time and potentially with the same providers. The following is a discussion of the alternatives.

US Bank State Contract 27775 04

The US Bank contract facilitates the accomplishment of both goals. The Bank has the ability to house customers' credit card information on their servers and also can implement an electronic payment option for the City. On the US Bank attachment, the costs for each of the set-up options have been detailed. The recommended option which assumes that both the City and the customer absorb costs includes a one time set-up fee of \$4,500.00 and monthly fees of \$620.15. It is the recommended option due to its ability to meet both goals and it is the lowest cost alternative. Contacts at the State of Nebraska and the City of Kearney have spoken positively regarding their use of US Bank services.

First National Bank of Omaha State Contract 35459 04

The First National Bank of Omaha contract also facilitates the accomplishment of both goals. The costs for this contract are solely transaction fees; these fees are approximately \$600 higher than under the US Bank contract. There is no one time set up fee; however, it only takes about eight months before the higher fees more than offset the one time set up fee under the US Bank contract.

Update credit card security on the City's servers

We have researched this option and estimate the associated cost of working with a third party to update credit card security at approximately \$35,000. This work would be completed on our AS400 machine which is the utility billing computer. Our near term strategy is to move off this machine and implement a billing software package; making the changes on the current system

would be a temporary fix as the changes would need to be made again with the new billing software. Also, this alternative does not facilitate the implementation of electronic payments.

Remain non-compliant with PCI DSS

It is possible to not implement any changes to our servers or move to a vendor who would be PCI DSS compliant. First National Bank of Omaha, our current credit card processor, has indicated that this is an option; the fee that would be levied against the City is \$500 per month. The \$500 per month is the amount First National Bank of Omaha is charging for them to be at risk to provide credit card services to the City when we do not have the required level of security on customer credit card information. Although this is the cheapest alternative today, an additional monthly amount of approximately \$120 with US Bank, the City becomes PCI DSS compliant and can offer an electronic payment option without any future risks or costs associated when a breach of security with credit card information does occurs.

Remove the option of paying by credit card

Prior to June 1, 2010, the City would need to notify its customers that credit card payments were no longer an accepted payment option. The 1,573 customers who paid via credit card in the month of January 2010 and all of the walk-in customers who pay their utility bill as well as other city services would need to begin paying via another accepted method.

Alternatives

Alternatives to be addressed by the Council include the following:

1. Accept the recommended option of becoming PCI DSS compliant through US Bank and implement an electronic payment option in which the customer pays a \$2.00 fee to make a one-time on-line or call-in credit card payment.
2. Approve a different option.

Recommendation

City Administration recommends that the Council approve the agreement with US Bank for PCI DSS compliance services and the implementation of an electronic payment option. Administration further recommends that the costs associated with the electronic option be shared between the City and the customer and that a \$2.00 fee to make a one-time on-line or call in credit card payment be instituted.

Sample Motion

Move to approve the US Bank agreement for PCI DSS compliance services and the implementation of an electronic payment option. In addition, a \$2.00 credit card fee to customers who make one-time on-line or call in credit card payments will be instituted.

**City of Grand Island
Option Summary**

**On-Line Utility
Payments**

**Visa/Master Card
Fees**

**PCI DSS
Compliance**

Total

Recommended Option

US Bank Recommended Option

| | | | | | | | |
|-----------------|----------|--|----------|----------|--|--|----------|
| One Time Set-Up | 4,500.00 | | | | | | 4,500.00 |
| Monthly Costs | 620.15 | | 6,018.00 | Included | | | 6,638.15 |

Alternative Option

FNB of Omaha

| | | | | | | | |
|-------------|----------|--|----------|----------|--|--|----------|
| Monthly fee | 1,200.10 | | 6,018.00 | Included | | | 7,218.10 |
|-------------|----------|--|----------|----------|--|--|----------|

Alternative Option

Update security on the City's
servers - no electronic payment
option

| | | | | | | | |
|-----------------|--------------|--|----------|--|-----------|--|-----------|
| One Time Set-Up | Not Included | | | | 35,000.00 | | 35,000.00 |
| Monthly Costs | | | 6,018.00 | | | | 6,018.00 |

Alternative Option

| | | | | | | | |
|---|--|--|----------|--|--------|--|----------|
| Pay montly fee for not being PCI DSS compliant | | | 6,018.00 | | 500.00 | | 6,518.00 |
|---|--|--|----------|--|--------|--|----------|

Alternative Option

| | | | | | | | |
|--|--|--|--|--|--|--|---------------|
| No longer accept credit card payments | | | | | | | No hard costs |
|--|--|--|--|--|--|--|---------------|

| | | | | |
|--|---|--|---|--------------------------------------|
| <input checked="" type="checkbox"/> New Location | <input type="checkbox"/> Additional Location | Existing MID: n/a | Chain #: n/a | Location 1 of 1 |
| New Merchant Application – Government / Institutional | | | | |
| Merchant Information | DBA Name: City of Grand Island | | DBA Phone #: (308)385-5444 | Ext. 164 / 168 |
| | Contact Name: Pat Kaup / Jaye Monter | | DBA Fax #: (308)385-5565 | |
| | DBA Address 1 (no PO Box): 100 E. 1st St. | | Customer Service Phone #: (308)385-5480 | |
| | DBA Address 2: | | Email Address: jmonter@grand-island.com / pkaup@grand-island.com | |
| | City: Grand Island | State: NE | Zip Code: 68801 | Year Established: n/a - gov't |
| | Previous Processor: n/a | | | |
| Corporate Information | Legal/Corporate Name: City of Grand Island | | Legal/Corporate Phone #: | Ext. |
| | Legal/Corporate Contact Name: Attn: Finance Dept. | | Legal/Corporate Fax #: | |
| | Legal/Corporate Address: P.O. Box 1968 | | | |
| | City: Grand Island | State: NE | Zip Code: 68802 | |
| Contact Information (Authorized Rep) | <input type="checkbox"/> Officer <input type="checkbox"/> Manager <input checked="" type="checkbox"/> Authorized Representative <input type="checkbox"/> Other Title Senior Accountant | | | |
| | First Name: Jaye | | MI: | |
| | Last Name: Monter | | | |
| | Contact Address: (same as 'Merchant Information' above) | | Contact Phone #: | |
| | City: | State: | Zip Code: | Email Address: |
| Other Merchant Information | Average Sale Amount: \$ 240 | | Description of product or services offered: city payments | |
| | Total Monthly Visa/MC/DISC Sales: \$ 90,000 (do not set up caps on the MID; this is a government client so per UW, caps / processing limits should not be imposed) | | MCC: 9399 | |
| | Card Present (swiped) 0 % | For Card Present Transactions, when does the customer receive the product or service? <input checked="" type="checkbox"/> Same Day <input type="checkbox"/> If not same day, _____ # of Days (include shipping time frame) For Card Not Present Transactions, when does the customer receive the product or service? <input checked="" type="checkbox"/> Same Day <input type="checkbox"/> If not same day, _____ # of Days (include shipping time frame) For Internet Transactions, list the product web site: <u>www.grand-island.com</u> | | |
| | Card Present (not swiped) 0 % | | | |
| | Mail Order 0 % | | | |
| | Telephone Order 0 % | | | |
| | Internet 100 % | | | |
| Total 100% | | | | |
| Do you operate seasonally: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, please check months closed: <input type="checkbox"/> January <input type="checkbox"/> February <input type="checkbox"/> March <input type="checkbox"/> April <input type="checkbox"/> May <input type="checkbox"/> June <input type="checkbox"/> July <input type="checkbox"/> August <input type="checkbox"/> September <input type="checkbox"/> October <input type="checkbox"/> November <input type="checkbox"/> December | | | | |
| Bank Account | (Checking Accounts only) | | | |
| | Deposit Bank Name: US Bank | ABA/Routing #: 104000029 | DDA Account #: 105700513697 | |
| | Billing Bank Name (if different): | ABA/Routing #: | DDA Account #: | |

| | | | | | | | | |
|------------------------|---|--|--|--|-------------------------|--|--|--|
| Card Acceptance | Please check each card you wish to accept. <i>Note: acceptance of card types not selected will result in discount downgrades.</i> | | | | Pricing Category | <input type="checkbox"/> Retail <input type="checkbox"/> Lodging <input type="checkbox"/> Pay at Pump <input type="checkbox"/> Restaurant <input type="checkbox"/> Supermarket <input checked="" type="checkbox"/> MO/TO / Internet <input type="checkbox"/> ARU | | |
| | <input type="checkbox"/> All Visa/MasterCard/Discover Cards (JCB, DI, CUP) <input checked="" type="checkbox"/> Visa Credit <input checked="" type="checkbox"/> Visa Debit <input checked="" type="checkbox"/> MasterCard Credit <input checked="" type="checkbox"/> MasterCard Debit <input type="checkbox"/> Discover (JCB, DI, CUP) | | | | | | | |

| | | | | | | | |
|--|--|---|---|--|-------------|--|--|
| Pricing Information | <input type="checkbox"/> TIERED Rate Per Item | | Per Authorization Per Item | | Fees | One Time Fee Type | |
| | Qualified _____ % \$ _____ | | Visa \$0 | | | Application Fee \$25 | |
| | Mid-Qual _____ % \$ _____ | | MasterCard \$0 | | | Installation/Training \$0 | |
| | Non-Qual _____ % \$ _____ | | Discover \$0 | | | Wireless Set-Up Fee \$0 | |
| | Opt. <input type="checkbox"/> Debit <input type="checkbox"/> Supermarket <input type="checkbox"/> Quick Pay/Small Tkt _____ % \$ _____ | | WEX \$ | | | Rush Shipment \$0 | |
| | Opt. Rewards Tier _____ % \$ _____ | | Other: \$ | | | Other: \$ | |
| | Opt. Commercial Card Tier _____ % \$ _____ | | Other: \$ | | | Monthly Fee Type | |
| | <input type="checkbox"/> INT Differential Plus | | PIN Debit Authorizations: | | | Statement Fee \$2 | |
| | VISA - Qual _____ % \$ _____ | | <input type="checkbox"/> INT PLUS/ASSOC \$ | | | Minimum Discount \$0 | |
| | MasterCard - Qual _____ % \$ _____ | | (Monetary = IC PLUS) | | | Other: \$0 | |
| Discover - Qual _____ % \$ _____ | | Voice Authorizations: | | Other: \$ | | | |
| Non-Qual _____ % \$ _____ | | ARU \$0.75 | | Per Occurrence Fee Type | | | |
| <input checked="" type="checkbox"/> INT PLUS <u>0.20</u> % <u>\$0.10</u> | | Operator Assisted \$0.75 | | Chargeback Fee \$5 | | | |
| Pricing Program (Required for IDP): | | AVS \$0.75 | | Return Item (NSF) Fee \$0 | | | |
| Above Rates are for all Card Acceptance types selected. | | Bank Referral \$0.75 | | Other: annual PCI fee \$175 | | | |
| Other: \$ | | | | | | | |

| | | | | | | | |
|---|---------------------------------------|--|----------------|----------------------------|------------------------------|--------------------------|--------------|
| Point of Sale (Equipment or Software) | VAR Service Provider (Hosted): | | | Gateway (optional): | | Aggregator: | |
| | VAR Vendor (Distributed): | | | VAR Product: | | VAR Version: | |
| | Purchase | | | | | Software/Wireless | |
| | Qty | POS Description | Item Code | Price per Unit | | Mon. Fee per Unit | Per Auth Fee |
| | | n/a - client will be using the US Bank E-Payment solution for web payments | | \$n/a | | \$ | \$ |
| | | | | \$ | | \$ | \$ |
| | | | | \$ | | \$ | \$ |
| | | | | \$ | | \$ | \$ |
| | Merchant Owns | | | | | Software/Wireless | |
| | Qty | POS Description | Item Code | Reprogram Fee per Unit | Pin Pad Encryption | Mon. Fee per Unit | Per Auth Fee |
| | | | \$ | <input type="checkbox"/> | \$ | \$ | |
| | | | \$ | <input type="checkbox"/> | \$ | \$ | |
| | | | \$ | <input type="checkbox"/> | \$ | \$ | |
| Special Programs | | | | | | | |
| Qty | POS Description | Item Code | Price per Unit | | Equipment Back from Merchant | | |
| | | | \$ | Used | | | |
| All applicable state and local taxes will be applied. | | | | | | | |

| | | | | | | | |
|---|--|---|---|-----------------------------|--|------------------------------------|-------------|
| Other Card Types Existing | SE # | | Auth Fee | Other Card Types New | American Express: | | |
| | Amex | _____ (10 digits) | \$ | | <input type="checkbox"/> ESA | <input type="checkbox"/> One Point | CAP # _____ |
| | EBT | _____ (5 digits) | \$ | | Monthly Volume: \$ _____ | | |
| | Other: _____ | _____ | \$ | | <input type="checkbox"/> Amex Rate | _____ % | \$ _____ |
| | Other: _____ | _____ | \$ | | CNP Downgrade _____ % \$ _____ | | |
| | Other: _____ | _____ | \$ | | <input type="checkbox"/> Flat Fee Option (ESA only): \$ 7.95 | | |
| \$ _____ | | | | | | | |
| Debit <input type="checkbox"/> Debit – Includes INLK (Interlink), MSTO (Maestro), ACCL (Accell), AFFN, ALAS (Alaska), CU24, ITS (Shazam), NETS, NYCE, PULSE and STAR | | | | | | | |
| DCC | | <input type="checkbox"/> DCC Rebate _____ % Set Up Fee \$ _____ | | | Money Manager | | |
| | | | | | <input type="checkbox"/> Money Manager Vendor: _____ <input type="checkbox"/> Working Capital Vendor: _____ | | |
| Report Tools | <input type="checkbox"/> MCP # Users _____ Monthly Fee \$ _____ | | Set Up Type (check one) <input type="checkbox"/> MID <input type="checkbox"/> CHN <input type="checkbox"/> ENT Set Up Fee \$ _____ | | | | |
| | <input type="checkbox"/> ACS Remote ID _____ Set Up Fee \$ _____ | | Monthly Fee \$ _____ | | | | |
| | <input type="checkbox"/> OCM # Users _____ Set Up Fee \$ _____ | | Monthly Fee \$ _____ | | | | |
| ECS Product Selection and Pricing | Processing Options: <input type="checkbox"/> POP (POS Image) <input type="checkbox"/> ARC (POS Image) <input type="checkbox"/> BOC (<input type="checkbox"/> POS Image or <input type="checkbox"/> Cash Office Image) | | | | | | |
| | 1. ANNUAL check volume: \$ _____ | | 2. Average check amount: \$ _____ | | 3. Maximum check amount: \$ _____ | | |
| | ECS Monthly Minimum: \$ _____ | | Additional Service Options | | | | |
| | <input type="checkbox"/> Conversion with Guarantee Guarantee Rate: _____ % Per Transaction: \$ _____ | | | | | | |
| | <input type="checkbox"/> Conversion with Verification <input type="checkbox"/> Collections Per Transaction: \$ _____ Per Return Transaction: \$ _____ | | | | | | |
| <input type="checkbox"/> Conversion Only <input type="checkbox"/> Collections Per Transaction: \$ _____ Per Return Transaction: \$ _____ | | | | | | | |
| EGC Cards | Card Style | Card Quantity | Price | EGC Pricing | | | |
| | <input type="checkbox"/> Basic _____ \$ _____ <input type="checkbox"/> Standard _____ \$ _____ <input type="checkbox"/> Custom _____ \$ _____ | | | | | | |
| Max Card Value \$ _____ (Default \$500) | | | <input type="checkbox"/> Monthly Pricing: \$ _____ per month (Includes _____ transactions per location annually. Additional transaction billed \$0.29 per transaction) OR <input type="checkbox"/> Transaction Pricing: \$ _____ per transaction and \$ _____ per month. | | | | |
| EGC Kits | <input type="checkbox"/> Plexi Stand (Kit #1) \$ _____ X _____ <input type="checkbox"/> Posters (2) Buttons (10) (Kit #2) \$ _____ X _____ <input type="checkbox"/> Card Badges (25) (Kit #3) \$ _____ X _____ | | EGC Service Fees | | | | |
| | <input type="checkbox"/> Card Carriers (enter total cards) # _____ of Style _____ \$ _____ X _____ # _____ of Style _____ \$ _____ X _____ # _____ of Style _____ \$ _____ X _____ (Multiples of 100 only) | | | | | | |
| EGC Carriers | | | <input type="checkbox"/> Service Fees (Cardholder charged on unused balances) - Custom Cards are required - Service Fee per Transaction \$ _____ - Apply same to all states? <input type="checkbox"/> Y <input type="checkbox"/> N (if no, complete for each state) Fee Amount: \$ _____ Applied: <input type="checkbox"/> Monthly <input type="checkbox"/> Quarterly <input type="checkbox"/> Annually Beginning: _____ Months After: <input type="checkbox"/> Activation <input type="checkbox"/> Last Transaction Date Lock Balances After: _____ Months of non-use (default 72 months) | | | | |
| | | | | | | | |
| EGC Options | <input type="checkbox"/> Monthly Online Admin - # _____ Users \$ _____ <input type="checkbox"/> Graphic Design Service \$ _____ <input type="checkbox"/> Custom Card Upgrade \$ _____ <input type="checkbox"/> Misc Fee - _____ \$ _____ <input type="checkbox"/> Misc Fee - _____ \$ _____ | | EGC Network | | VAR | | |
| | | | <input type="checkbox"/> Elavon (Direct) <input type="checkbox"/> Givex (Indirect) | | | | |
| VAR Manufacturer: _____ VAR Software: _____ Version: _____ | | | | | | | |
| EGC Standard Card Order Details | Card Style: _____ | | | | | | |
| | Text Color: _____ | | | | | | |
| | Justification: <input type="checkbox"/> Left <input type="checkbox"/> Center <input type="checkbox"/> Right <input type="checkbox"/> As submitted | | | | | | |
| | Imprint: <input type="checkbox"/> Logo (To avoid delay, please submit artwork to: EGCArtwork@Elavon.com) | | | | | | |
| | OR | | | | | | |
| | <input type="checkbox"/> Text (Imprinting details MUST be entered below) | | | | | | |
| | ♦Font (select ONE): <input type="checkbox"/> Arial <input type="checkbox"/> Book Script <input type="checkbox"/> Times New Roman | | | | | | |
| | ♦Text Case (select ONE): <input type="checkbox"/> Title Case <input type="checkbox"/> UPPER CASE <input type="checkbox"/> lower case <input type="checkbox"/> As submitted | | | | | | |
| | | | | | | | |
| | | | | | | | |

Merchant Application – Government / Institutional

| | | | | |
|----------------------------|---|------------------|--|--------------------------------|
| Substitute Form W-9 | Org Type: <input checked="" type="checkbox"/> Government <input type="checkbox"/> Non-Profit Charitable or Social (include documents that support Tax Exempt Status) <input type="checkbox"/> Other | | | |
| | Business Name (as shown on your income tax return): City of Grand Island | | | |
| | Address: 100 E. 1st St. | | TIN (Employer Identification #): 47-6006205 | |
| | City: Grand Island | State: NE | Zip Code: 68801 | or TIN (Social Security #): |

| | | | | |
|--|---|----------------------------------|---------------------------------|---------------------------------------|
| Merchant Representations and Certifications | <p>Merchant Representations and Certifications. By signing below, the applicant merchant ("Merchant or you") and its representative(s) represent and warrant to Elavon, Inc. ("Elavon"), with offices at 7300 Chapman Highway, Knoxville, TN 37920, and U. S. Bank National Association ("Member"), with offices at U. S. Bancorp Center, 800 Nicollet, Minneapolis, MN 55402, (collectively, "we" or "us") that (i) all information provided in this merchant application ("Merchant Application") is true and complete and properly reflects the business and financial condition of Merchant; and (ii) the persons signing this Merchant Application are duly authorized to bind Merchant to all provisions of this Merchant Application and the Agreement. The signature by an authorized representative of Merchant on the Merchant Application, or the transmission of a Transaction Receipt or other evidence of a Transaction to us, shall be the Merchant's acceptance of and agreement to the terms and conditions contained in the Agreement including, without limitation, this Merchant Application and the Terms of Service ("TOS").") incorporated herein by this reference and located at our website https://www.merchantconnect.com/CWRWeb/pdf/TOS_2009_ENG.pdf. If Merchant does not have access to view the TOS at our website please contact our customer service center. Notwithstanding any such non-receipt of the TOS. Merchant agrees to comply with the Agreement, and all applicable laws, rules, and regulations including the rules and regulations of the Payment Networks, and understands that failure to comply will result in termination of processing services. Capitalized terms shall, unless otherwise defined in this Merchant Application, have the same meaning ascribed to them in the TOS.</p> <p>Merchant must obtain an Authorization Code via electronic terminal or similar device before completing any transaction. Merchant understands that an AUTHORIZATION CODE IS NOT A GUARANTEE OF ACCEPTANCE OR PAYMENT OF A TRANSACTION. RECEIPT OF AN AUTHORIZATION CODE DOES NOT MEAN THAT MERCHANT WILL NOT RECEIVE A CHARGEBACK FOR THAT TRANSACTION.</p> <p>Merchant and its representative(s) authorize us prior to our acceptance of this Merchant Application and from time to time thereafter, to investigate the business history and background of Merchant and to obtain credit reports or other background investigation reports on Merchant that we consider necessary to review the acceptance and continuation of this Merchant Application. Merchant also authorizes any person or credit reporting agency to compile information to answer those credit inquiries and to furnish that information to us.</p> <p>IMPORTANT INFORMATION ABOUT PROCEDURES FOR OPENING A NEW ACCOUNT. To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify, and record information that identifies each person who opens an account. This means we will ask for certain information and identifying documents to allow us to identify you.</p> <p>Merchant further acknowledges and agrees that any information provided in connection with this Merchant Application and all other relevant information may be supplied by us to our affiliates. This Merchant Application may be signed in one or more counterparts, each of which shall constitute an original and all of which, taken together, shall constitute one and the same Merchant Application. Delivery of executed counterparts of this Merchant Application may be accomplished by a facsimile transmission, and a signed facsimile or copy of this Merchant Application shall constitute a signed original.</p> <p>All merchants must comply with the requirements of the Payment Card Industry Data Security Standards ("PCI DSS"). Elavon requires Level 4 merchants (determined based on transaction volume) to validate PCI DSS compliance on an annual basis, with initial validation to occur no later than ninety (90) days after account approval. Merchant will be charged either the Annual PCI Fee or the Annual Administration Fee described below.</p> <p>Annual PCI Fee of up to \$175, based on connectivity, number of merchant locations and then-current cost to Elavon of the services, will be charged to merchants that use the services of the qualified third party assessor with whom Elavon has partnered. Elavon will waive this fee in year one, charging the fee in subsequent years on or about the anniversary date of account approval. Annual Administration Fee of \$35 will be charged to merchants that use the services of another qualified assessor and attest to PCI DSS validation on the website designated by Elavon. Any merchant that has not validated PCI DSS compliance within ninety (90) days of account approval, or in subsequent years on or before the anniversary date of account approval, will be charged a monthly non-compliance fee of \$25 until Elavon is provided with validation of compliance. Merchant may be eligible for Data Breach Coverage following account approval and PCI DSS compliance validation. See the PCI Compliance Program Overview for coverage details and conditions.</p> <p><u>American Express Acceptance Agreement</u> By signing below, I represent that I have read and am authorized to sign and submit this application for the above entity which agrees to be bound by the American Express® Card Acceptance Agreement ("AXP Agreement"), and that all information provided herein is true, complete, and accurate. I authorize Elavon and American Express Travel Related Services Company, Inc. ("AXP") and AXP's agents and Affiliates, as defined in the AXP Agreement, to verify the information in this application and receive and exchange information about me personally, including by requesting reports from consumer reporting agencies, and disclosing such information to their agent, subcontractors, Affiliates and other parties for any purpose permitted by law. I authorize and direct Elavon, AXP, AXP agents and Affiliates to inform me directly, or through the entity above, of reports about me that they have requested from consumer reporting agencies. Such information will include the name and address of the agency furnishing the report. I also authorize AXP to use the reports from consumer reporting agencies for marketing and administrative purposes. I understand that upon AXP's approval of the application, the entity will be sent a copy of the AXP Agreement and materials welcoming it, either to AXP's program for Elavon to perform services for AXP or AXP's standard Card acceptance program which has different servicing terms (e.g. different speeds of pay). I understand that if the entity does not qualify for the Elavon servicing program, that the entity may be enrolled in American Express's standard Card acceptance program, and the entity may terminate the AXP Agreement. By accepting the American Express Card for the purchase of goods and/or services, or otherwise indicating its intention to be bound, the entity agrees to be bound by the AXP Agreement.</p> | | | |
| | Signature: X | | Printed Name: Pat Kaup | Title: Utility Service Manager |
| Signature: X | | Printed Name: Jaye Monter | Title: Senior Accountant | Date: |

| | | | | |
|---------------------|---|------------------------------------|------------------------|-------|
| Submitted By | To the best of my knowledge, I certify that the information provided in this Merchant Application was provided by the Merchant and is true, complete and accurate. I further certify that the signatures were provided by the Merchant's authorized representative. | | | |
| | Sales Rep Signature: X | Printed Name: Lynn Dederich | Rep ID #: 14731 | Date: |

| | | | | |
|----------------------------|---------------------------|--|--|-------|
| For Office Use Only | Accepted by Elavon, Inc.: | | | Date: |
| | Accepted by Member: | | | Date: |

What Happens Next?

Thank you for choosing us as your payment processor. We look forward to providing you with the best customer service in the industry.

Below are the steps that will be taken to get you up and running quickly.

1. **Application and Credit Underwriting**
Your application will be sent to our Operations center for processing. It will be checked for completeness and accuracy. Our credit underwriting specialists will review the information provided, perform the necessary analysis, and approve or decline the application. We will contact you within 24-72 hours if we need you to provide additional information.
2. **Deployment**
Once your application is approved and entered into our systems, our deployment team will prepare any equipment or software for shipment. You should receive your package within two-five days, depending on the method of shipping selected. Look inside the box for your Getting Started Kit — it contains a packing list, your Merchant Identification Number (MID), support materials, and information about training and service.
3. **Training**
Once you receive your package, please call the training number located in your Getting Started Kit to speak with one of our representatives. If we don't hear from you, we will contact you to schedule a session. The session will cover information about credit card processing, how to set up use your processing terminal or software solution, and where to find helpful information.
4. **PCI Compliance Validation Process**
Complete your Payment Card Industry Data Security Standard (PCI DSS) validation. Visit our PCI website, <http://pci.elavon.com>, for education and tips on protecting cardholder data. You can also connect with our Visa® and MasterCard® accredited Qualified Security Assessor (QSA) and Approved Scanning Vendor (ASV). You must provide a certificate of compliance validation within ninety days (90) of account approval to avoid a monthly non-compliance fee.
5. **Communications**
You will receive an email from Elavon that contains helpful information about processing with us, as well as a quick link to MerchantConnect, our free online support tool. You will also receive a survey that will ask you to score us on a number of factors. We value your feedback, and ask that you kindly take two minutes to rate the sales process, training process, and overall level of service. We will periodically send you information to keep you informed about things that impact your business.
6. **Service**
Help is always just a phone call away — we operate a 24/7 call center. For free online access to your account, go to www.merchantconnect.com. You can display recent deposits, view chargeback and retrieval requests, access customer support, and much more.

Thank you for your business. We look forward to providing you the very best in service.



U.S. Bank Treasury Management Service Agreement

This U.S. Bank Treasury Management Service Agreement will govern the treasury management services provided to the Account Holder(s) listed below (and in any addendum hereto) and any deposit accounts that have been, or will be, established with U.S. Bank by any Account Holder.

| Name of Account Holder(s) (individually & collectively, "the Customer") | Tax Identification Number |
|---|---------------------------|
| | |
| | |
| | |
| | |
| | |
| | |
| | |
| | |

The undersigned Contract Signers, being the owners, officers, partners, managers or otherwise duly authorized agents of the Customer hereby agree as follows:

U.S. Bank's Treasury Management services ("Services") are described in the U.S. Bank Treasury Management Services Terms and Conditions, the merchant processing Terms of Service, any Implementation Documents, user manuals, operating guides and other related documentation and disclosures provided by U.S. Bank, and any addendum to any of the foregoing (collectively the "Agreement"). The Contract Signers, acting on behalf of the Customer, has received and reviewed the Agreement and desires to use one or more of the Services by entering into this Agreement.

Authorized Signers

The Contract Signers certify and warrant that they have taken all action required by the organizational documents of the Customer to authorize the individuals signing below to act on behalf of the Customer (the "Authorized Signers") in all actions taken under the Agreement. The Authorized Signers are empowered in the name of and on behalf of the Customer to enter into all transactions contemplated in the Agreement including, but not limited to, selecting Services, appointing Agents to act on behalf of the Customer in the delivery of Services, signing additional documentation necessary to implement the Services and giving the Customer instructions with regard to any Service, including without limitation, merchant processing, wire transfers, ACH transfers, and any other electronic or paper transfers from or to any account the Customer may maintain with U.S. Bank. U.S. Bank may, at its discretion, require the Customer to execute additional documentation to implement or amend certain Services. In such cases, documentation necessary to implement or amend such Services shall be signed by at least one of the Authorized Signers. The Contract Signers further acknowledge and agree that U.S. Bank may implement or amend Services based on the verbal, written, facsimile, voice mail, email or other electronically communicated instructions that it believes in good faith to have been received from an Authorized Signer. U.S. Bank is entitled to act in reliance upon the authorizations in this Agreement until it receives written notice of their revocation and has a reasonable opportunity to act thereon.

| | |
|-----------------------------------|--------|
| Authorized Signer (please print): | Title: |
| Signature: | Date: |
| Authorized Signer (please print): | Title: |
| Signature: | Date: |



U.S. Bank Treasury Management Service Agreement

| | |
|-----------------------------------|--------|
| Authorized Signer (please print): | Title: |
| Signature: | Date: |
| Authorized Signer (please print): | Title: |
| Signature: | Date: |

Customer acknowledges that it has received a copy of the Agreement which governs treasury management services, plus all disclosures of fees and service charges and other disclosures required by law and agrees that all treasury management services will be governed by the Agreement.

In compliance with Internal Revenue Service ("IRS") Regulations, the Contract Signers on behalf of the Customer hereby certify, under penalty of perjury, that the Taxpayer Identification Number(s) provided in this Agreement are correct, and that the Customer is not subject to backup withholding because: (a) it is exempt from backup withholding, or (b) if not exempt, it has not been notified by the IRS that it is subject to backup withholding as a result of a failure to report all interest and dividends, or (c) the IRS has notified the Customer that it is no longer subject to backup withholding.

The Contract Signers hereby certify that: (i) the signatures appearing above are the true and authentic signatures of the Authorized Signers; (ii) the assumed business name(s) of the Customer, if any, are duly registered with the appropriate state agency, and if not, U.S. Bank shall be promptly notified when registered; (iii) the Contract Signers are duly authorized agents of the Customer and that they are signing on behalf of the Customer in their authorized capacity; and (iv) the Contract Signers have full authority to execute this Agreement.

| | |
|---------------------------------|----------------------------|
| Contract Signer (please print): | Title and Name of Company: |
| Signature: | Date: |
| Contract Signer (please print): | Title and Name of Company: |
| Signature: | Date: |

APPROVAL BY U.S. BANK NATIONAL ASSOCIATION

Signature: _____
Printed Name: _____
Officer Number: _____
Telephone Number: _____
Title: _____
Date: _____



Treasury Management Services

Terms and Conditions

Thank you for choosing U.S. Bank Treasury Management Services. This document provides product information, disclosures and descriptions of the Treasury Management Services ("Services") available at U.S. Bank. Other documents may become part of our Agreement depending on the Services you select. Please read all documents carefully; they will govern the Services provided to you.

U.S. Bank National Association
Member FDIC

CONTENTS

| | Page |
|--|------|
| I. Introduction | 1 |
| II. Terms Applicable to All Treasury Management Services | 2 |
| III. Terms Applicable to All Internet-Based Services | 6 |
| IV. Terms Applicable to Specific Treasury Management Services | |
| A. E-Payment Service | 7 |
| B. Bill Consolidator Payment Services | 8 |
| C. Information Reporting and Transaction Services | 9 |
| D. Electronic Deposit Services | 10 |
| E. ACH Services | 13 |
| F. Wire Transfer Services | 17 |
| G. Data Translation Services | 19 |
| H. Courier Services | 20 |
| I. Cash Vault Services | 21 |
| J. U.S. Bank EasyTax SM Services | 22 |
| K. Paper-Based Disbursement Services | 23 |
| Controlled Disbursement | 23 |
| Drafts/Warrants | 23 |
| L. Positive Pay Services | 24 |
| M. Lockbox Services | 26 |
| N. Retail Lockbox Check Conversion Services | 27 |
| O. Returned Check Management | 29 |
| P. Commercial Sweep Accounts – Loan Option | 30 |
| Q. Commercial Sweep Accounts – Investment Option | 31 |
| R. Master Repurchase Agreement (MRA) | 32 |

I. INTRODUCTION**1. Definitions**

- a. "Agent" means any director, officer, employee, representative, affiliate, third-party vendor or any other person acting on behalf of the Customer with the actual, implied or apparent authority of Customer. Bank may rely on any grant of authority until it receives written notice of its revocation and is given a reasonable amount of time to act upon such notice.
- b. "Bank" means U.S. Bank National Association and each subsidiary or affiliate of U.S. Bank that provides Services to Customer.
- c. "Business Day" means any day on which a majority of Bank's offices are open to the public for substantially all banking functions. Saturdays, Sundays, federal or state holidays or any day recognized by a Federal Reserve Bank as a holiday shall not be considered a Business Day, even if Bank's offices are in fact open.
- d. "Customer" means the business entity and any parent company, subsidiary or affiliate for whom Bank provides a Service.
- e. "NOVA" means NOVA Information Systems, Inc. and any subsidiary or affiliate of NOVA that provides merchant processing services to Customer.

2. Other Agreements, Laws and Regulations

In addition to these terms and conditions (collectively referred to herein as the "Agreement"), the Services are provided to the Customer subject to the following other agreements, laws and regulations, which are hereby incorporated into and made part of this Agreement:

- a. the U.S. Bank Treasury Management Service Agreement;
- b. the NOVA Terms of Service and Merchant Operating Guide;
- c. the set-up materials, user guides, and any supplement thereto required by Bank to implement a specific Service (referred to in the Agreement as the "Implementation Documents");
- d. the most current Treasury Management Services fee and availability schedule and other fee disclosures provided to Customer, including account statements;
- e. the provisions of the then current deposit account agreement and accompanying disclosures and fee schedules, which govern standard deposit accounts and other depository services;
- f. the Uniform Commercial Code, as enacted in the State of Minnesota;
- g. any applicable automated clearinghouse operating rules, including, without limitation, the National Automated Clearing House Association Operating Rules and Guidelines (the "NACHA Rules"), the National Checking Clearinghouse Association Rules (the "NCHA Rules"), and the rules promulgated by the Electronic Check Clearing House Organization (the "ECCHO Rules"); and
- h. federal, state and local laws and regulations applicable to Bank or Customer, including, without limitation, Regulation CC promulgated by the Board of Governors of the Federal Reserve System, 12 CFR Section 229.1, et seq. ("Regulation CC"), all Operating Circulars promulgated by the Board of Governors of the Federal Reserve System, and the regulations promulgated by the Office of Foreign Assets Control ("OFAC").

3. Change of Terms/Amendments to Agreement

Bank may change the terms of this Agreement at any time upon reasonable written or electronic notice to Customer or by any other method permitted by law. Any and all amendments to this Agreement must be in writing and executed by Bank.

4. No Third Party Beneficiaries/Third Party Claims

Services provided by Bank are for the sole and exclusive benefit of Customer, and no other persons or organizations shall have any of the rights and remedies arising under this Agreement. Customer agrees to indemnify, defend and hold Bank harmless from and against any and all claims, demands, expenses, losses, liabilities and damages of third parties of any nature whatsoever, including, without limitation, reasonable attorney fees and court costs at trial or appeal arising directly or indirectly from any Service delivered to Customer pursuant to this Agreement.

5. Disclaimer of Warranties

NOTICE: BANK MAKES NO WARRANTIES, EXPRESS OR IMPLIED, IN LAW OR IN FACT, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE AND OF MERCHANTABILITY, EITHER TO CUSTOMER OR TO ANY OTHER PARTY, WITH RESPECT TO THE SERVICES PROVIDED BY BANK OR ITS AGENTS OR WITH RESPECT TO SOFTWARE PRODUCTS PROVIDED OR MADE AVAILABLE TO THE CUSTOMER FOR ITS USE BY BANK IN CONNECTION WITH THIS AGREEMENT AND ANY SERVICE.

II. TERMS APPLICABLE TO ALL TREASURY MANAGEMENT SERVICES**1. Services**

Bank may provide Services that are not specifically included in the Services section of this Agreement. By accepting and using any Service, Customer agrees that the Service will be governed by this Agreement and any other conditions communicated to Customer by Bank. Certain Services included in this Agreement may not be available or may not be provided in certain market areas.

2. Proprietary Information

Customer acknowledges that this Agreement, all related documentation and computer programs and systems used in providing Services, and all information related thereto constitute proprietary property of Bank that is of great commercial value. Customer agrees that it shall not acquire any proprietary interest or rights therein as a result of its use of the Services and shall keep all such proprietary information strictly confidential.

3. Representations and Warranties

Customer and Bank each represent and warrant to the other, as of the date this Agreement is entered into and at the time any Service is used or performed, that: (a) it is validly existing and in good standing under the laws of the jurisdiction of its organization; (b) it has all requisite power and authority to execute and deliver, and to perform its obligations under, this Agreement and each Service used or performed by it; (c) this Agreement has been duly authorized and executed by it and constitutes its legal, valid and binding obligation; and (d) any consent or authorization of any governmental authority or third party required to be obtained by it in connection with this Agreement or any Service used or performed by it has been obtained.

4. Financial Review

Bank's willingness to provide Services to Customer is dependent on the Customer's financial condition. Customer's financial condition is subject to review by Bank from time to time, and such reviews must be satisfactory to Bank in its sole discretion and opinion. Customer shall, upon request, provide to Bank any such information as Bank may require to perform any such review. Customer's failure to meet such standards or provide such information or assistance when requested shall constitute a breach of this Agreement and shall permit Bank to cease providing Services upon written notice to Customer.

5. Fees

Unless otherwise agreed by Bank in writing, Customer shall pay Bank the fees, charges and assessments set forth for the Services provided in the most current Treasury Management fee schedules and other fee disclosures provided to Customer (including account statements), plus additional fees and expenses for extraordinary Services. The price schedule for each service shall be deemed accepted by Customer upon provision of the service to Customer. In addition, Customer shall pay bank in the amount of any taxes levied or leased on fees charged pursuant to this Agreement, including, without limitation, federal, state, or local privilege excise or sales taxes based on gross revenue, any taxes or amount in lieu thereof paid or payable by Bank, excluding Bank's income taxes and any assessments charged to Bank directly as a result of providing the Services. Bank may change the amount or type of service charges from time to time. Fees for services used by Customer may be charged in full to Customer's account(s) or may be offset through account analysis by applying earnings credit to Customer's service charges to determine a single monthly net service charge. The applicable earnings credit rate is established by the Bank and will change from time to time without advance notice to Customer. Customer's net service charge could be zero if such earnings credit exceeds total charges in a given month. Federal law prohibits Bank from paying excess earnings credit to Customer. If Customer's earnings credit is insufficient to offset the amount due hereunder, Customer agrees to pay such amount to Bank upon demand. Customer authorizes Bank to debit Customer's account(s) with Bank for any and all fees, expenses or other charges owed by Customer to Bank under this Agreement.

6. Deposit Accounts

Most treasury management services require that Customer maintain one or more deposit accounts with Bank. All checks, wire transfers, ACH payments and other items deposited into such accounts are provisionally credited and taken subject to later verification by Bank and Bank's receipt of final settlement. Deposited items that are deposited and later returned unpaid will be charged against the account without prior notice. Customer agrees to pay Bank for any overdraft or overpayment in any of Customer's accounts. Bank will first attempt to recover such amounts from the account associated with the debt. If the available balance of such account is insufficient to compensate Bank, Customer authorizes Bank to charge any account Customer maintains with Bank for any amount remaining due under this section.

7. Security Interest

Customer grants to Bank a consensual possessory security interest in Customer's deposit accounts maintained with Bank and the funds held therein to secure payment of all of Customer's obligations under this Agreement.

8. Information Sharing

Customer agrees that Bank may share information: (a) with Bank's affiliates (i.e. entities related to Bank by common control or ownership) that offer financial products and other services, including those identified in this Agreement and with our administrative or service units that perform these functions; (b) with non-affiliated entities that provide support services to Bank or that assist Bank in providing financial products and services to Customer; and (c) to credit rating agencies or other entities as permitted by law.

9. Authorized Signers and Users

Customer shall appoint certain Authorized Signer(s) in the U.S. Bank Treasury Management Service Agreement or in such other format as may be agreed by Bank. Customer agrees that Authorized Signers shall be authorized to act on behalf of Customer in all actions taken under this Agreement and may enter into all transactions contemplated in this Agreement, including, without limitation, selecting Services for the benefit of Customer, appointing Agents to act on behalf of Customer in the delivery of Services, signing additional documentation that may be necessary to implement Services and giving Customer's instructions with regard to any Service, including, without limitation, wire transfers, ACH transfers and other electronic or paper transfers from or to any account Customer maintains with Bank. The Authorized Signer(s) designated in the U.S. Bank Treasury Management Service Agreement shall appoint Agents to use the Services provided for the benefit of Customer ("Authorized Users"). Authorized Users may act on behalf of Customer for a particular Service in accordance with the relevant Implementation Documents or other document(s) establishing the Authorized Users' responsibilities. Customer may revoke the authority of or change the Authorized Signers or Authorized Users at any time upon prior written notice and execution of additional documentation required by Bank. Such change or revocation shall not be binding upon Bank until it has received the required written notice and has had a reasonable opportunity to act thereon. In any event, Bank may act on instructions that it believes in good faith were provided by an Authorized Signer or Authorized User, or anyone purporting to be an Authorized Signer or Authorized User.

10. Check Samples, Forms Approval and Service Implementation

Bank reserves the right to approve the form of Customer's checks, drafts, deposit slips and similar documentation. Prior to initiating a new account or Service, or at any other necessary time, Customer agrees to provide all information and conduct any test that Bank may reasonably request, including, without limitation, Implementation Documents, signature cards, test tapes, transmissions, corporate resolutions and other documents. Bank may also request samples of Customer's checks, drafts, deposit slips and similar items to ensure, in Bank's sole discretion, whether such items meet Bank's quality control and processing standards.

In the event that Bank determines that any item or test does not meet its specifications, Bank will so advise Customer. Customer acknowledges that Services will not commence or continue until such time as an approved item or test is provided to Bank and determined by Bank to be satisfactory. Customer shall be responsible for initial product installation, whether or not Bank provides telephone or on-site installation support.

11. Security Procedures

a. Introduction. Bank and Customer shall agree to one or more security procedures that must be used by Bank and Customer in connection with certain Service(s). Customer agrees that such security procedures are commercially reasonable. Customer agrees to be bound by any payment order, transaction or service change order that is acted upon by Bank in accordance with such security procedure. Customer understands that the security procedures are not for the purpose of detecting errors in the transmission or content of information controlled by Customer. If Customer selects certain security procedures to use in connection with a Service and those security procedures provide less protection against unauthorized transactions or activity than other security procedures offered by Bank in connection with such Service, the security procedures selected by Customer shall be deemed commercially reasonable to the same extent as the security procedures offered by Bank that provide greater protection. Bank reserves the right to issue new security procedures and/or to cancel or change any security procedures from time to time.

b. Access. Customer shall be solely responsible for designating individuals authorized to access Services. Access to Services will be controlled through the use of Customer IDs, user IDs, passwords, private keys or other security devices. Customer is solely responsible for maintaining its own internal security and agrees to use the utmost care in selecting any company or individual given access to use one or more of the Services. Customer shall not disclose any information regarding the Services that an unauthorized user would find helpful to obtain access to all or part of any Service.

c. Confidentiality. Customer and Bank represent, warrant and mutually agree that all confidential information concerning the other party or parties that comes into its possession in connection with any of the Services, including, without limitation, security procedures or any security codes, keys, personal identification numbers, digital certificates/signatures or template numbers ("Codes"), will be maintained in strictest confidence and shall not be used or divulged to any other party except as may be necessary or advisable for the due performance of any of the Services or as required by applicable law. Bank shall maintain physical, electronic, and procedural safeguards to keep Customer's confidential information secure. Customer is solely responsible for the procedures to assure the internal confidentiality of its own security procedures, security devices and codes and assumes all risk of accidental disclosure or inadvertent use of any security device by any party whatsoever, whether such disclosure or use is on account of Customer's negligent or deliberate acts or otherwise. If Customer or its Agents have reason to believe that any security procedures or Codes have or may become known by unauthorized persons (whether or not employed by Customer), Customer shall immediately notify Bank by telephone and confirm such verbal notification in writing to Bank within 24 hours. Bank will replace the security procedures and Codes in accordance with Bank's security procedures. Customer shall be solely responsible for funds transfer instructions and other communications initiated before Bank received Customer's notice and had a reasonable time to act on such notice. Bank reserves the right to change any or all of the security procedures or codes by giving verbal or written notice to the Customer. Customer's obligation to maintain the confidentiality of all security procedures shall survive the termination of any Service or this Agreement.

d. Verbal and/or Written Instructions. For some Services, Bank may choose to honor Customer's request to give Bank verbal or written instructions regarding the Services. Customer agrees that Bank may in good faith rely on such verbal or written instructions that purport to come from an authorized Agent of the Customer without independent verification by Bank.

12. Unsecured Electronic Transmissions and Instructions

Bank shall transmit to Customer information related to Services via secure electronic transmissions. If Customer elects to send or receive instructions or reports from Bank via unsecured electronic means, including, without limitation, facsimile transmission, voice mail, unsecured e-mail, pager or other unsecured electronic or telephonic methods ("Electronic Transmission"), Customer acknowledges that such Electronic Transmissions are an inherently insecure communication method due to the possibility of error, delay and observation or receipt by unauthorized personnel. Bank may rely in good faith on Customer's instructions regarding how and to what number or e-mail address Electronic Transmissions should be sent and may rely on any Electronic Transmission that it reasonably believes to have been initiated by the Customer. Should Customer elect to send or receive unsecured Electronic Transmissions to or from Bank, Customer assumes all risks, and Bank shall not be liable for any loss, that results from the nonreceipt, disclosure, alteration or unauthorized access of any such unsecured Electronic Transmission.

13. Telephone Recording

Customer acknowledges, agrees and consents on behalf of itself, and its Agents, that Bank may monitor and record telephone conversations at any time without further notice to the parties to such conversations. The decision to record any conversation shall be solely in Bank's discretion, and Bank shall have no liability for failing to do so.

14. Computer Equipment and Software

Many Services require the use of computer hardware and software or other equipment. Customer is solely responsible for maintaining its computer and equipment in good working order, with the necessary compatibility and format to interface with Bank's systems, including, without limitation, the ability to support the Bank's security procedures. Customer agrees to install upgrades and other system enhancements within a reasonable time of being requested to do so by Bank. License Agreements for necessary software shall either be embedded in the software or separately documented. Customer agrees to comply with all applicable software license agreements, whether or not such agreements have been executed by Customer. Customer has no rights or ownership in any software provided by or through Bank and shall not transfer, copy, alter, modify, reverse engineer, reproduce, or convey in any manner, in whole or in part, any such software. Customer shall return all software and user manuals associated with any software upon request. Bank makes no representations or warranties with respect to any equipment or software provided by Bank.

15. Transactions on Non-Business Days/Cutoff Times

Transactions, deposits, payment orders, entries or other requests by Customer received by Bank on a non-Business Day or after established cutoff deadlines may be treated by Bank as received on the next business day. Bank may change any cutoff time or other deadline at any time. Bank will make a reasonable effort to notify Customer of any changes in advance.

16. Customer-initiated Transactions and Instructions

Bank will honor Customer's transactions and instructions (including adjustments, amendments and cancellations) only when Customer has complied with this Agreement and related policies and procedures. Bank will be under no obligation to honor, either in whole or in part, any transaction or instruction that:

- a. exceeds Customer's collected or available funds on deposit with Bank;
- b. Bank has reason to believe may not be authorized by Customer;
- c. involves funds subject to a hold, dispute or legal process preventing their withdrawal;
- d. violates any provision of any applicable regulation of the Federal Reserve Bank or any other federal, state or local regulatory authority; or
- e. Bank has reasonable cause not to honor, for the protection of either Bank or Customer.

17. Inconsistent Name and Account Number

If Customer or third party acting at the Customer's instruction initiates a fund transfer instruction or payment order ("Payment Order") to Bank that describes the person to receive the proceeds of such Payment Order (the "Beneficiary"), the Beneficiary's bank, or an intermediary bank by name and an account or other identifying number, Bank and subsequent parties to the Payment Order may rely on and act solely on the basis of such number, even though the name and number do not agree and even though Bank and subsequent parties know or have reason to know of the inconsistency. Customer's obligation to pay the amount of the Payment Order to Bank is not excused in such circumstances.

18. Intercompany Services/Authority to Transfer or Commingle Funds

In the event that Customer requests the Bank to provide Services to a parent company, subsidiary, affiliate, or other commonly owned Company, Customer agrees that it shall be jointly and severally liable for such Company's obligations under this Agreement. Customer hereby represents and warrants to Bank that any and all transfers and commingling of funds required or permitted by any Service or requested by the Customer, and all other aspects of the performance hereby by Bank and Customer, have been duly authorized by all necessary parties, including, without limitation, the account holder of each account, and that Customer has obtained and shall maintain in its regular business records and make available to Bank upon reasonable demand, for a period of seven (7) years after termination of the Service, adequate documentary evidence of such authorization from the account holder of each account, executed by the duly authorized officer(s) of each such account holder in accordance with that account holder's bylaws and/or board resolutions. Customer further represents and warrants that each transfer or commingling of funds authorized hereunder is not in violation of any agreement, bylaw or board resolution of Customer or any of its affiliates or subsidiaries, nor is it in violation of any applicable federal, state, local law, regulation, of any decree, judgment, order of any judicial or administrative authority. Each representation and warranty contained herein shall be continuing and shall be deemed to be repeated upon Bank's effecting each transfer and commingling of funds authorized hereunder.

19. Customer Records

This Agreement and the performance of Services by Bank shall not relieve Customer of any obligation imposed by law, clearinghouse rules (including the NACHA Rules, NCHA Rules, and ECCHO Rules), or by contract regarding the maintenance of records or from employing adequate audit, accounting and review practices as are customarily followed by similar businesses. Customer shall retain and provide to Bank, upon request, all information necessary to remake or reconstruct any deposit, transmission, file or entry for thirty (30) days following receipt by Bank of the deposit, file, entry, transmission or other order affecting an account.

20. Account Communications and Review Period

Customer agrees to regularly and promptly review and verify all statements, reports, check payment records, wire transfer instructions, confirmations, adjustments, charges, and other transactions ("Account Communications"). Customer may elect to receive Account Communications electronically, including without limitation, delivery by posting to a password protected website. Customer acknowledges that Account Communications provided by Bank through electronic delivery is deemed to constitute good and effective delivery when posted by Bank, regardless of whether Customer actually or timely receives or accesses the Account Information. Unless a different review period is specified elsewhere in this Agreement, Customer shall, within a reasonable time, which in no event shall be greater than thirty (30) calendar days following the day Bank first mails, electronically transmits or otherwise makes data available to Customer ("Review Period"), notify Bank of any error or discrepancy between Customer's records and any Bank notice or statement, or any transaction or transfer Customer believes was not authorized. If Customer fails to notify Bank of such unauthorized transaction within the Review Period, Customer agrees that the failure to report any such errors or unauthorized transactions shall relieve Bank of any liability for the unreported erroneous or unauthorized transaction.

In accordance with NACHA rules, Customer must report an unauthorized ACH debit entry to the Customer's account by the established deadline on the business day following the settlement date of the unauthorized entry. Otherwise, Customer's sole recourse is to the originator of the transaction.

21. Limitation of Bank's Liability for Services

Customer acknowledges that Bank's fees for Services are very small in relation to the amounts of transfers initiated through these Services and consequently Bank's willingness to provide such Services is based on the liability limitations contained in this Agreement. In addition to greater limitations on Bank's liability that may be provided elsewhere in this Agreement, Bank's liability related to any Service shall be limited exclusively to actual proven damages arising directly from its own gross negligence or willful misconduct. Bank will not, under any circumstances, be liable for any special, incidental, indirect, consequential, punitive or similar losses or damages, whether or not the likelihood of such losses or damages was known by either party at the time Customer first obtains Services from Bank or at the time any instruction or order is given to a Bank pursuant to any Service, and whether such losses or damages arise from tort, contract or otherwise. Bank's maximum liability for any loss of interest shall be calculated using a rate equal to the average Federal Funds rate at the Federal Reserve Bank of New York for the period involved. Notwithstanding the foregoing, Bank shall not be liable for any losses or damages caused, in whole or in part, by the action or inaction of Customer, or any Agent or employee of Customer, whether or not such action or inaction constitutes negligence or a breach of this Agreement. Bank shall not be liable for any damage, cost, loss, liability or delay caused by accident, strike, fire, flood, war, riot, terrorist act, equipment breakdown, electrical or mechanical failure, acts of nature, any cause which is attributable to a third party, or any other cause or event that was beyond Bank's reasonable control. Customer agrees that the fees charged for the performance of the Services shall be deemed to have been established in contemplation of these liability limitations.

22. Dispute Resolution

a. Governing Law. Except as otherwise provided herein, this Agreement shall be governed by the laws of the State of Minnesota, without regard to conflicts of law principles.

b. Jury Trial Waiver. To the fullest extent permitted by law, Bank and Customer hereby agree to waive trial by jury in any judicial proceeding involving, directly or indirectly, any matter (whether in tort, contract or otherwise) in any way arising out of, related to or connected with these Services or this Agreement. Bank and Customer represent and warrant to each other that this jury trial waiver is knowingly, willingly and voluntarily given.

c. Jurisdiction and Venue. Customer consents to the jurisdiction of the courts of the State of Minnesota, waives any argument that such venue is inconvenient and agrees to bring litigation commenced in connection with this Agreement in either the District Court of Hennepin County or the United States District Court, District of Minnesota, Fourth Division.

d. Collection Costs. Should Bank have to undertake any action to recover any amount due under this Agreement for the Services, including, without limitation, fees, overdrafts or overpayment, Customer will be liable to Bank for the cost of such effort, plus reasonable attorney fees in any court action or appeal therefrom.

e. Adverse Claims. If Bank receives an adverse claim against any account, and Bank reasonably believes that it will not be protected if the claim is ignored, Customer agrees that Bank may place a hold on the affected account. Any such hold will remain in place only so long as reasonably necessary to resolve the claim or employ legal remedies to allow a court to decide such claim. Assuming compliance with this section, Bank shall have no liability for dishonored transactions due to the hold, and Customer agrees to reimburse Bank all costs, including attorney fees, incurred due to such adverse claim.

23. Necessary Third Party Service Providers

a. Third Party Networks. Some Services are provided by Bank through access to a third party network. Such Services are dependent upon the availability of the third party network on conditions acceptable to Bank. Bank reserves the right to discontinue the Service or provide the Service through an alternative third party network and shall have no liability should such network become unavailable. Bank does not warrant and shall not be responsible for Services received by Customer from any third party network.

b. Third Party Vendors. Some Services and/or computer equipment and software are provided to Customer by a third party vendor selected by Customer who is unaffiliated with Bank. In those cases, the third party vendor is acting as Customer's Agent rather than an agent of Bank, and Customer agrees to be bound with such third party's acts and omissions. Bank does not warrant and shall not be responsible for Services provided by unaffiliated third party vendors. Customer authorizes Bank to disclose to any third party vendor information concerning Customer to the extent required to deliver the requested Service.

24. Notices

All written notices to Bank shall be delivered or mailed to the address designated by Bank. Notices sent to Customer shall be delivered or mailed to Customer's current lead account address or other known address if deemed more appropriate by Bank under the circumstances. Notices may be delivered to some Customers in electronic format, including posting to Bank's website, if requested or appropriate.

25. Severability

To the extent possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision shall be held to be invalid, illegal or unenforceable, such provision shall be ineffective only to the extent of such invalidity, illegality or unenforceability, without rendering invalid, illegal or unenforceable the remainder of any such provision or the remaining provisions of this Agreement.

26. Waiver

A waiver by Bank or Customer of any term or provision shall not be construed as a waiver of such term or provision at any other time, or of any other term or provision.

27. Assignment

In addition to section 23 above, Bank may at any time assign or delegate its rights and duties under this Agreement. Customer may not assign or transfer its rights or obligations hereunder to any other person or entity without Bank's written consent, whose consent shall not be unreasonably withheld.

28. Termination

Any Services may be terminated by either party upon 30 days' prior written notice to the other. Bank may also terminate or suspend any Services without notice to Customer if any of the following occurs:

(a) Customer becomes insolvent or files, or has filed against it, any bankruptcy or other insolvency, reorganization, liquidation or dissolution proceeding of any kind; (b) a material adverse change occurs in Customer's business or financial condition; (c) Bank has reason to believe that Customer has engaged in fraudulent or illegal activity; (d) Customer fails to maintain balances in accounts sufficient to cover overdrafts; (e) Customer violates the terms of this Agreement, any Service Terms and Conditions or any financing arrangement with Bank; (f) Customer fails to provide financial information reasonably requested by Bank; (g) Bank determines it is impractical or illegal to provide any Services because of changes in laws, regulations or rules; or (h) Bank, in good faith, is unable to satisfy itself that any Services have been properly authorized by Customer. Notwithstanding any termination, the terms of this Agreement and the Service Terms and Conditions shall apply to all transactions which have been initiated prior to termination.

III. TERMS APPLICABLE TO ALL INTERNET-BASED SERVICES**1. Introduction**

Bank offers a number of Treasury Management Services over the Internet. If requested by Customer and agreed to by Bank, Bank will grant Customer access to one or more of Bank's Internet Services in the manner established by Bank. Customer agrees that its use of Treasury Management Services from time to time offered by Bank via the Internet (collectively, the "Internet Services") shall be governed by:

- (i) this Section and all other relevant sections of this Agreement, including, without limitation, sections governing the specific Treasury Management Services that are offered online;
- (ii) the other agreements, laws and regulations described in section I.2. of this Agreement; and
- (iii) the applicable Terms of Use, as defined in section III.2. below.

2. Terms of Use

Bank may post terms or rules of Use ("Terms of Use") governing Customer's use of the Internet Services on Bank's website(s) for accessing such Services. Such Terms of Use shall supplement and amend the terms set forth in this section. In the event of a conflict between the Terms of Use and the rules set forth in this Agreement, the Terms of Use shall govern. Customer's initial use of an Internet Service shall constitute an acceptance of the Terms of Use posted on the website. Bank may change the Terms of Use for any Internet Service at any time by posting notice of such change via an alert or message on a broadcast or message page of the website ("Broadcast Message"). All changes shall have an effective date. Customer's use of the Internet Service after the effective date of any such change shall constitute an acceptance of the revised Terms of Use by Customer. Customer is responsible for establishing an internal procedure for reviewing the Broadcast Message page on a regular basis to obtain timely notice of changes to the Terms of Use. In the event that a specific Internet Service does not have Broadcast Message capability, Customer will be notified of any changes in accordance with section II.24. hereof. Neither Bank nor Customer will contest the validity, enforceability, or admissibility of hard copy printouts of the Terms of Use for any website or notices of changes to such Terms of Use provided in accordance with this section. Copies of such Terms of Use or notices, if introduced as evidence in tangible form in any judicial or administrative proceeding, will be admissible to the same extent and under the same conditions as other business records originated and maintained in documentary form.

3. Security

Customer agrees to use the Internet Services in accordance with the security procedures established by Bank. Without limiting the foregoing, Customer shall at all times use a web browser that supports the level of encryption used by Bank as part of its security procedures. Due to emerging technologies and ensuing changes in security practices, Bank reserves the right to supplement or change its security procedures from time to time upon reasonable notice to Customer. Customer acknowledges and agrees that, notwithstanding anything to the contrary set forth in the Agreement, in matters of security, reasonable notice may be less than a day's notice or even, in some cases, notice after the fact. Bank reserves the right to reject any transaction or service request that is not made in accordance with its security procedures. Customer shall designate one or more System Administrator(s). The System Administrator shall be responsible for setting up Internet Services and for establishing internal security procedures related to such Internet Services, including, without limitation, accepting delivery of software, system-wide configuration of Bank accounts, establishing authority levels, establishing authorization requirements, and distributing and re-setting IDs, passwords and other internal security devices related to the Internet Services. Customer's designation of the System Administrator may be amended or revoked from time to time upon notice to Bank. Bank shall have a reasonable time to act on any such notice.

Customer is responsible for maintaining the security and confidentiality of all IDs, passwords and other security devices issued to or by Customer (collectively, "Customer's Internal Security Devices"). Customer shall not permit unauthorized individuals to use Customer's Internal Security Devices to access any website. Customer is responsible for the actions of any individuals using Customer's Internal Security Devices to access any website. Customer shall promptly notify Bank if Customer has actual knowledge that the security of any website has been compromised. Customer agrees to defend and indemnify Bank against any claims, losses, damages, costs, expenses, fines and other liabilities arising out of Customer's failure to maintain the security and confidentiality of Customer's Internal Security Devices or arising out of the unlawful use of any website by Customer or any person who obtains access to the website using Customer's Internal Security Devices.

4. Other Customer Responsibilities

a. Equipment and Software. Customer is responsible for obtaining (from Bank, in some instances), installing and maintaining the computer and communications equipment (including, without limitation, personal computers and modems), software, web browsers, Internet access and communications services necessary to access and use the Internet Services in accordance with this Agreement.

b. Use of Internet Services. Customer shall use its access to Internet Services and websites operated by or on behalf of Bank only to conduct its business or through with Bank and agrees to limit access to those Agents who require access to Internet Services.

c. Antivirus Protection. Customer agrees to run antivirus software before transmitting data to or through any website. Customer may use any commercially available, industry recognized antivirus software of the type that detects and disinfects viruses automatically, without the need for the Customer to execute virus scanning for each file manually. Customer shall update its antivirus software on a regular basis and in no event less often than once every month.

5. Disclaimer of Warranties

NOTICE: BANK PROVIDES ALL INTERNET SERVICES ON AN "AS IS," "AS AVAILABLE" BASIS AND MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND WITH RESPECT TO THE INTERNET SERVICES OR THE CONTENT OR SECURITY OF ANY WEBSITE. BANK DISCLAIMS ALL SUCH REPRESENTATIONS AND WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING, WITHOUT LIMITATION, ALL WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. WITHOUT LIMITING THE FOREGOING, BANK DOES NOT WARRANT THAT THE OPERATION OF ANY WEBSITE WILL BE UNINTERRUPTED OR ERROR-FREE. CUSTOMER IS RESPONSIBLE FOR TAKING APPROPRIATE PRECAUTIONS AGAINST DAMAGE TO ITS OPERATIONS WHICH COULD BE CAUSED BY INTERRUPTIONS OR MALFUNCTIONS OF ANY WEBSITE AND ASSUMES THE RISK OF SUCH OCCURRENCES.

IV. TERMS APPLICABLE TO SPECIFIC TREASURY MANAGEMENT SERVICES

The following are additional terms and conditions applicable to specific Treasury Management Services offered by Bank. Bank may change the number or type of Services offered at any time.

A. E-PAYMENT SERVICE

Customer may select the E-Payment Service that would allow its customers ("Payers") to make convenient payments to Customer through the Internet, an Integrated Voice Response (IVR) system, or a 'live' call center. Customer agrees that this Service shall be governed by this Section and all other relevant sections of this Agreement.

1. Internet

a. Customer Payment Site. "Customer Payment Site" means the interactive Internet payment site hosted by Bank where Payers may make payments to Customer over the Internet. Bank will configure, implement, host and support the Customer Payment Site.

b. Customer License. Bank shall have the right and license to use Customer's name, trademarks, service marks, copyrights and logos and other textual information in connection with the Customer Payment Site solely for the purposes contemplated herein.

c. Administrative Terminal. "Administrative Terminal" means the interactive Internet site hosted by Bank where Customer may access reports, initiate payments on behalf of Payers, or initiate refunds. Bank will configure, implement, host and support the Administrative Terminal. Customer shall be solely responsible for setting up Authorized Users, access entitlements and internal controls within the Administrative Terminal.

d. Links. Customer shall provide and maintain a secure link on its website to the Customer Payment Site. Customer shall be responsible for ensuring that the link to the Customer Payment Site takes Payer to the appropriate area within the Customer Payment Site. Customer shall be responsible for providing the agreed-upon data concerning Payer in a manner that meets Bank's encryption or security methods during the exchange. Customer and Bank agree to use industry-standard security procedures and technology to ensure the security of the Customer's website and the Customer Payment Site and to prevent data theft or unauthorized access.

e. Payer Authentication. Depending on the applicable payment processing channel, Customer shall be responsible for verifying the identity of each Payer prior to the time Payer is linked to the Customer Payment Site. Customer agrees that Payers shall not be granted access to the Customer Payment Site link until Customer has verified the identity of each Payer using a commercially reasonable fraud detection system. For every Payer that accesses the Customer Payment System, Bank may rely on Customer to have completed such verification.

2. Compliance with laws and regulations

Customer agrees to comply with all applicable laws, rules and regulations, including without limitation, those issued by: (i) the National Automated Clearing House Association; (ii) any governmental entity, including (without limitation) the requirements contained in the Electronic Fund Transfer Act, Regulation E, and the Electronic Signatures in Global and National Commerce Act; and (iii) any other entity or association that issues or sponsors a payment device, including (without limitation) the requirements of the Payment Card Industry (PCI) Data Security Standard and any credit card association, including Visa and MasterCard. Customer further agrees to comply with all payment network regulations for ATM debit networks.

3. Integrated Voice Response (IVR)

To make an automated payment via a touch-tone phone, Payers may access the IVR system by calling a toll-free number provided by Bank or Customer. Customer shall have previously forwarded a one-time file of existing Payers ("pre-registration file") to Bank. In order to make a payment via the IVR system, Payers are required to input information that matches their user information in the pre-registration file.

4. Call Center

If this option is selected by Customer, Payers may make a payment by phone by calling a 24-hour call center and speaking to 'live' Bank personnel. Bank shall authenticate a Payer's identity in the manner specified by Customer, and agreed to by Bank, in the Implementation Documents. Customer acknowledges and agrees that the authentication of the Payer's identity in such manner shall constitute a commercially reasonable fraud detection system and Bank shall have no liability for all payments so authenticated.

5. Payer Authorization

If payment is made via the Internet, Payer will be prompted to authorize the payment and print a confirmation once Payer has reviewed the payment data and input the information necessary to complete the payment. If payment is made via the IVR or call center, the confirmation number will be read to Payer. Bank is not responsible for the detection of errors made by Payer or Customer and may rely on the information submitted or communicated by Payer or Customer.

6. Payment Processing

Payments shall be processed in the manner mutually agreed to between Bank and Customer, which may include ACH debit entries, debit cards, credit cards or other payment processing methods. Customer shall at all times be considered the originator of Payer's payment. Depending on the applicable payment processing channel, payment processing may also be subject to the terms of any other agreement between Bank and Customer and between Customer and the payment transaction processor supported by Bank. Payments may be initiated through the Customer Payment Site, IVR system or Administrative Terminal. Bank will notify Customer of the payments that were initiated through the Administrative Terminal or by delivering a file as set forth in the Implementation Documents. Customer acknowledges and agrees that all payments are subject to adjustment, return, reversal and/or chargeback in accordance with the rules governing the applicable payment processing channel.

7. Recurring Payments

The E-Payment Service provides Customer with the ability to offer Payers the option of making fixed or variable recurring payments. If permitted by applicable regulations, Payers have the ability to initiate a payment that recurs semi-weekly, weekly, semi-monthly, monthly or quarterly. Payers must be pre-registered in order to initiate variable recurring payments.

8. Fees

In addition to Bank's standard fees, Customer agrees to pay additional fees and expenses for implementation of the E-Payment Service or other additional services, if any, as may from time to time be disclosed to Customer by Bank. Customer also agrees to pay the applicable fees and expenses charged by the payment transaction processor supported by Bank, as set forth in Customer's agreement with such processor.

9. Convenience Fee

a. If permitted by applicable regulations, the E-Payment Service offers a flexible convenience fee option that allows Customer or Bank to define and collect a convenience fee to be charged to Payers in connection with the payment transaction. Payers are provided with the opportunity to stop the payment process if they do not wish to pay the convenience fee.

b. If Customer desires to collect the convenience fee, Customer shall be responsible for ensuring that convenience fee assessments comply with the relevant laws, rules and regulations.

c. If agreed to by Bank and Customer, Bank may collect and retain the convenience fee. Customer agrees that Bank may, in its sole discretion, set, adjust, manage and collect the convenience fee as a means to wholly or partially offset Bank fees that may otherwise have been incurred by Customer. Bank's willingness to collect the convenience fee shall be based on Customer's projected payment volume, average ticket, type of transactions, or other considerations such as changes to interchange fees and assessments.

If the actual payment volume, average ticket or other considerations fail to meet Customer's stated projections or do not completely offset Bank fees, Customer agrees that Bank may, in its sole discretion, require Customer to wholly or partially reimburse Bank for any resulting shortfall in Bank fees.

10. Transaction Controls

Customer agrees to notify Bank of any material change or anticipated material change in daily dollar activity or type of transaction processing, and obtain Bank's consent to such change. Bank may, in its sole discretion, immediately upon written notice to Customer, place a maximum dollar limit on the E-Payment transactions or require Customer to provide reasonable security for Bank's continued handling of such transactions.

B. BILL CONSOLIDATOR PAYMENT SERVICES

Bill Consolidator Payment Services provides Customer with the ability to receive consumer payments electronically from its consumer customers that are initiated via the consumers' personal computer home banking application or other Internet bill payment providers, including consumer credit counseling agencies. Customer agrees that this Service shall be governed by this Section and all other relevant sections of this Agreement.

1. Network

"Network" means the MasterCard Remote Payment and Presentment Service ("RPPS"), a division of MasterCard International, Inc. and/or Visa ePay, a division of Visa International ("ePay"). Bank receives payments and remittance data via the Network. Bank will credit payments to Customer's account and electronically transmit the remittance data to Customer in Bank's standard or other mutually acceptable format for loading to Customer's accounts receivable system.

2. Customer's Responsibilities

Customer shall provide Bank with all data and specifications necessary for the Network to process payments and for Bank to transmit the remittance data to Customer. Customer agrees to conduct tests that Bank may deem necessary to ensure Customer and Bank are able to process the remittance data. The purchase, installation, testing and maintenance of any and all equipment used to receive and process information from Bank is the responsibility of Customer. As soon as possible, and in any event, no later than 48 hours after Bank transmits the remittance data to Customer, Customer agrees to process all such data and inform Bank of any incorrect, unidentifiable or unprocessable information (collectively, "Returns").

3. Bank's Responsibilities

Bank shall develop a program to process and transmit remittance data received from the Network in Customer's preferred file format. Bank shall transmit Returns to the Network when Customer provides Bank with the Return information. Bank will credit Customer's account in an amount equal to the payments received and debit Customer's account in an amount equal to any Returns and, if applicable, any Reversals (defined below).

4. Reliance on Network

Customer acknowledges that Bank's ability to process payments and remittances are dependent upon the continued use and support of the Network and third party computers housing the Network and its associated communications network. In the event that access to the Network or its computer communications system is terminated or suspended for any reason, Bank shall not be liable to Customer for any disruptions or failure to provide any part of this Service. Bank assumes no responsibility for the accuracy, timeliness or the completeness of data delivered from the Network to Bank.

5. Optional Reversal Transactions

Reversals are Network-initiated debit messages from payment originators informing of the cancellation of previous transactions. Customer may set debit caps on Reversals to limit the daily debit amount a payment originator may send through the Network. If Customer instructs Bank to accept Reversals, Customer hereby authorizes Bank to debit Customer's account for the amount of the Reversals.

6. Optional Biller Stop Payment

Biller Stop Payment allows Customer to provide Bank with instructions regarding payments that Customer does not want posted to its account. If Customer instructs Bank to stop a payment from posting to its account, Customer hereby authorizes Bank to return the payment through the Network. Payments that are stopped will not be included in Customer's settlement transaction or the remittance data provided to Customer.

C. INFORMATION REPORTING AND TRANSACTION SERVICES

Information reporting and transaction services may be provided by Bank to Customer through SinglePoint® or other applications or systems as may be introduced by Bank ("System(s)"). The System may also be used by Customer to automate many of the Services offered by Bank and also may provide access to other Bank systems that initiate transactions. Customer agrees that such use of the System shall be governed by this Section and all other relevant sections of this Agreement.

1. Introduction

If requested by Customer and agreed to by Bank, Bank will grant access to Bank's System(s) in the manner agreed to by Bank. Customer agrees to be bound by any terms of use and license agreements associated with these Systems.

2. Information Reporting

Bank is authorized to store, process, transmit and make available through Bank's agencies and Systems and through third party data processing providers ("Providers") information regarding accounts designated by Customer. Bank or Providers will transmit to Customer information regarding its account(s) and/or other financial data through the System on a periodic basis. Customer may elect to receive data through one or more delivery mechanisms, including, without limitation, the Internet, computer dial-up, telephonic delivery, facsimile, CD-Rom or unsecured e-mail. Section II.12. shall apply in the event Customer elects to receive unsecured reports via an Electronic Transmission. Balance and related information for Customer's account(s) held at other financial institutions may be made available by these financial institutions or Providers that input information into Bank's System. Bank will use reasonable care in submitting data into the System, but assumes no responsibility for the accuracy or timeliness of the account information and other financial data supplied by other financial institutions or Providers. Bank will make every reasonable effort to deliver information by the mutually agreed upon time, but does not guarantee a specific delivery time. Accordingly, Bank's responsibility to Customer with respect to the delivery of information shall be to deliver such work as close to the agreed time as may be reasonably practicable.

3. Transaction Services

Customer may use SinglePoint® or other similar System to access treasury management transaction services offered by Bank for which Customer has enrolled. Depending on the type of product offered by Bank, access to the transaction services may include, but are not limited to, ACH, ACH positive pay, wire transfer payments, book transfers, stop payments, positive pay, reverse positive pay, image access and system administration. Customer agrees that use of the System for transaction services shall be governed by this Section C and all other sections of this Agreement that are applicable to the product or service being accessed.

4. Security Procedures/System Administrator

Customer agrees to operate the System in accordance with the procedures established by Bank. Bank reserves the right to reject any transaction or service request that is not made in accordance with these procedures. Customer agrees to designate one or more System Administrator(s). The System Administrator is responsible for setting up Services available through the System and for establishing internal security procedures related to such Services, including, without limitation, system-wide configuration of Bank accounts, assigning users, establishing authority levels, establishing authorization requirements, distributing and re-setting passwords and other internal security devices related to the Services. Designation of the System Administrator may be amended or revoked from time to time upon notice to Bank. Bank shall have a reasonable time to act on any such notice. Customer is solely responsible for maintaining a secure work environment to ensure against use of the System by unauthorized individuals. Security procedures to be followed by Customer include, without limitation, informing Agents that any passwords should not be shared with anyone and to secure physical access to the terminals used for services when an Agent has logged on to the system or otherwise.

5. Manuals

Bank will provide Customer with a manual(s) in paper or electronic format that will set forth the applicable System's policies and procedures with which Customer agrees to comply. Bank may, without prior notification, make amendments to any manual. Bank owns or has obtained all proprietary rights to the manuals and Customer agrees not to duplicate, distribute or otherwise copy Bank's manuals without Bank's prior written consent. Any manual will at all times remain the property of Bank and Bank reserves the right to request Customer to return all printed copies of such manual within thirty (30) days of termination of this Service.

6. Customer Responsibilities

Customer will purchase (from Bank, in some cases) and provide all equipment and software necessary to use the applicable System in accordance with this Agreement. Bank shall have no responsibility and makes no warranties for such equipment or software. Customer agrees to use the System solely to conduct its business with Bank and agrees to limit access to those Agents who require access to the System. Customer agrees that in addition to other limitations to Bank's liability elsewhere in this Agreement, Bank shall not be liable for any loss or damage arising directly or indirectly from the following:

- a. any inaccuracy or incompleteness in the input of an order or instruction from the Customer;
- b. any failure by Customer to obtain a confirmation of an order or instruction; or
- c. any cancellation or attempted cancellation by Customer of an order or instruction.

7. Accuracy and Timeliness of Information

Bank will use reasonable efforts to provide the information requested through the Services in a prompt fashion, but shall not be liable for temporary failure to provide timely information. In such event, Customer shall be responsible for carrying out banking business through alternative delivery channels. Bank shall not be liable for any inaccurate or incomplete information with respect to transactions which have not been completely processed or posted to Bank's system prior to being made available pursuant to the Services. Information with respect to all transactions is provided solely for Customer's convenience, and Customer shall have no recourse to Bank as to use of such information.

8. International Information Reporting

If requested by Customer and agreed to by Bank, Bank may provide incoming international information reporting through Providers or via SWIFT, which shall be governed by the terms of this Section C, other applicable sections of this Agreement, and other applicable agreements or law. Bank shall receive the international information reporting data through Providers or via SWIFT from Customer's account-servicing Bank ("Servicing Bank") and shall display such data to Customer using SinglePoint® or other similar System. If Customer makes a request to Bank for an off-schedule international information report from the Servicing Bank, Customer agrees that Bank shall have no liability if the Servicing Bank does not support the off-schedule request or does not respond to the request in a timely manner.

D. ELECTRONIC DEPOSIT SERVICES

Electronic Deposit Services provide Customer with the option of making electronic deposits using the ECLD services or the OED services, or other similar products or systems as may be introduced by Bank. Customer agrees that the Electronic Deposit Services shall be governed by this Section and other relevant sections of this Agreement.

1. Processing Options

Customer shall at all times maintain an account with Bank and may select one of the following processing options as part of the Electronic Deposit Services:

a. **Check Image/MICR Data/Substitute Check Collection:** Customer captures checks or check information received from its Payor Customers into Check Images and/or MICR Data, and transmits the same to Bank for processing and collection. Bank will seek to collect such Check Images and/or MICR Data through the check collection system by presenting or exchanging Check Images and/or MICR Data, or using Check Images and/or MICR Data to create a Substitute Check, a Demand Draft or a Photo-In-Lieu ("PIL") for collection.

b. **ACH Processing and Check Image/MICR Data/Substitute Check Collection:** Customer captures checks or check information received from its Payor Customers into Check Images and/or MICR Data, and transmits the same to Bank for processing and collection. Checks that are eligible to be used as source documents to originate ARC Entries, POP Entries, or BOC Entries are processed through the ACH system. The remaining checks are sent for collection as described above in the Check Image/MICR Data/Substitute Check Collection processing option.

2. Definitions

a. **"ACH Entry"** means an ARC, POP or BOC debit entry originated to debit funds from a Payor Customer's account at a financial institution in accordance with the Operating Rules of the National Automated Clearing House Association ("NACHA").

b. **"Check Image"** means an electronic image of an original paper check or an electronic image of a Substitute Check that is created by Customer, Bank or another bank or depository institution in the check collection system.

c. **"Check Image Metadata"** means information about the Check Image, as well as pointers to the actual image data (also known as image tags).

d. **"Customer System"** means the computer hardware, software and web-based applications located at Customer's site that is used by Customer to prepare Electronic Deposits and to access the OED services or ECLD services. For OED services, the Customer System shall comprise of a scanner and other hardware, software and web-based applications, all of which may be supplied by Bank.

e. **"ECLD system"** means Bank's Electronic Cash Letter Deposit computer systems and databases that Customer may access in order to obtain the ECLD services.

f. **"ECLD services"** means the Electronic Cash Letter Deposit services that allow organizations that receive check remittance payments by mail or dropbox to deposit all payments electronically at Bank, as further described in the User Manual.

g. **"Electronic Deposit"** means electronic information (including Check Images, Check Image Metadata, MICR Data, dollar amount or ACH Entry information), obtained from capturing information from an original paper check and related remittance documentation, that is transmitted to Bank for deposit, processing and collection.

h. **"Electronic Deposit Services"** means the ECLD services or OED services or other similar products or systems offered by Bank and selected by Customer.

i. **"MICR Data"** means information from the Magnetic Ink Character Recognition stylized printing on the bottom of checks comprising of routing, transit, account and check serial numbers.

j. **"OED system"** means Bank's On-Site Electronic Deposit Service computer systems and databases that Customer may access in order to obtain the OED services.

k. **"OED services"** means the On-Site Electronic Deposit Services that allows organizations that receive check remittance payments by mail or in a walk-up or dropbox environment to deposit all payments electronically at Bank, as further described in the User Manual.

l. **"Payor Customers"** means clients and/or customers of Customer that submit original paper checks or check information to Customer for payment obligations owed to Customer.

m. **"Photo-In-Lieu" or "PIL"** means a photocopy of an original paper check, other than a Substitute Check, created from a Check Image.

n. **"Remotely-Created Demand Draft" or "Demand Draft"** means a paper item, other than a Substitute Check or PIL, that (i) is drawn on a Payor Customer account, (ii) does not bear the signature of the Payor Customer, and (iii) is authorized by the Payor Customer to be issued in the amount for which the item is drawn.

o. **"Substitute Check"** means a paper check document that meets the definition of a "substitute check" in the Check Collection for the 21st Century Act as implemented by Regulation CC of the Federal Reserve Board.

p. **"Transaction Data"** means any information obtained from Payor Customer's checks, Check Images, remittance slips or information entered by Customer into the Customer System, including without limitation MICR Data, check amount, Payor Customer address or check number.

3. Customer Authorizations and Notifications

Customer shall adhere to any and all applicable clearinghouse, local, state, or federal laws, rules or regulations, including but not limited to, obtaining all necessary consents and authorizations from, and/or providing all necessary disclosures and notifications to, its Payor Customers concerning the creation and use of the Payor Customers' checks or any other use of Transaction Data by Customer or Bank, and the conversion of Payor Customers' checks or check information to ACH Entries and/or Check Images (including subsequent Substitute Checks, Demand Drafts or PILs created from such Check Images). Customer is solely responsible for ascertaining the content, method, and frequency of any required authorizations and notifications.

4. Determination of Items Eligible for Electronic Deposit

a. Only original paper checks that qualify as a source document may be converted to an ARC Entry, POP Entry or BOC Entry under NACHA Rules. Customer is responsible for maintaining current information in the OED system or ECLD system on those Payor Customers that have opted-out of ARC Entry conversion. If Customer has selected a processing option that uses ACH Entries to collect payments from Payor Customers, Bank will apply certain automated internal edits and screens to the MICR Data and/or Check Images submitted by Customer to determine whether the original paper check is a source document that qualifies for conversion to an ACH Entry. Customer acknowledges and agrees that Customer is the Originator of such ACH Entries under NACHA Rules regardless of whether Customer or Bank initiates the ACH Entry into the payment system. Bank shall have no liability to Customer or any other person in the event that a Payor Customer's check or check information is processed or converted by Bank to an ACH Entry, Check Image, Substitute Check, Demand Draft or PIL, and such check or check information was not eligible for any reason for processing as, or conversion to, such an item.

b. Only a draft, payable on demand, and drawn on or payable through or at an office of a bank, is eligible for deposit as a Check Image. Without limiting the generality of the preceding sentence, the following items are not eligible for deposit as Check Images under the Electronic Deposit Services, and Customer must deposit these original paper checks with Bank for collection: (i) checks, including travelers checks, that are drawn on banks located outside of the United States, (ii) checks payable in a medium other than U.S. dollars, (iii) non-cash items (as defined

under Section 229.2(u) of Federal Reserve's Regulation CC), (iv) promissory notes and similar obligations, such as savings bonds, and (v) any other class of checks or drafts as identified by Bank to Customer from time to time.

5. Capture of Checks and Check Information

a. Depending on the processing options selected by Customer, Customer shall be responsible for accurately capturing an image of each paper check, the MICR Data and the correct dollar amount of the check into the Customer System. In the event the condition of a paper check precludes a complete automated read, Customer shall be responsible for visually inspecting the check and repairing the MICR Data, if necessary. Customer shall be responsible for the inspection of all Check Images to ensure the legibility of the Check Image (including without limitation the dollar amount and signature of the drawer), for the repair of any MICR Data, and for ensuring that any and all information on a paper check is accurately captured and legible in the resulting Check Image and/or MICR Data and otherwise complies with any Check Image or MICR Data quality standards and guidelines that may be established by ANSI, ECCHO Rules, the Federal Reserve, other applicable regulatory agency or clearinghouse or that Bank may provide to Customer from time to time. Customer acknowledges that current image technology may not capture all security features (e.g. watermarks) contained in the original paper checks, and agrees to assume any and all losses resulting from claims based on security features that do not survive the image process.

b. Customer further acknowledges that Bank does not verify the accuracy, legibility or quality of the Check Image or MICR Data prior to processing an Electronic Deposit. Bank may, in its sole discretion, reject, repair, alter, amend, re-format or convert the Check Image Metadata or MICR Data submitted in an Electronic Deposit in accordance with general check collection practices and industry presentment standards, but Bank shall have no obligation to reject, repair, alter, amend, re-format or convert the Check Image Metadata or MICR Data. If Bank requires that Customer comply with certain formatting standards or other guidelines when submitting Electronic Deposits and Customer declines to implement, or comply with, such standards or guidelines, Customer acknowledges that Bank shall not be liable for any error or loss that results from Bank processing such Electronic Deposit or from Bank's re-formatting or conversion of the Electronic Deposit prior to processing.

c. Bank shall not be liable to Customer for failure to process an Electronic Deposit, or any error that results in processing or collecting an Electronic Deposit: (i) for which Customer has not provided Bank with full and correct MICR Data and dollar amount from the original paper check; (ii) for which Customer has not provided an accurate and legible image of the original paper check, (iii) for which Customer has failed to comply with formatting standards or other guidelines required by Bank; or (iv) which would violate this Agreement, the User Manual or any other agreement between Customer and Bank.

6. Upload of Electronic Deposit to Bank

a. Customer shall upload the Electronic Deposit transmission (containing one or more Electronic Deposits) to Bank prior to the daily cut-off time established by Bank from time to time for the receipt of Electronic Deposits. Any Electronic Deposit transmission received by Bank after its daily cut-off time shall be deemed to have been received by Bank at the opening of its next banking day. Performance of the Electronic Deposit Services may be affected by external factors such as communication networks latency. Customer is responsible for the transmission of the Electronic Deposit until the OED system or the ECLD system reports a successful acknowledgement of receipt of the transmission.

b. An Electronic Deposit is received when the entire Electronic Deposit transmission in which that Electronic Deposit is contained is received by Bank in accordance with section 6.a. above. If only a portion of that Electronic Deposit transmission is received by Bank for any reason, including without limitation a failure during the transmission to Bank, the Electronic Deposit transmission is deemed to have been not received by Bank with respect to any Electronic Deposit contained in that Electronic

Deposit transmission (including any Check Image contained in the portion of that Electronic Deposit transmission that was received).

c. Bank will process Electronic Deposit transmission received from Customer either via ACH Processing, or via Check Image/Substitute Check Collection, according to the processing options selected by Customer.

7. Collection of Check Images and MICR Data

Notwithstanding anything to the contrary in this Agreement, Bank may in its sole discretion determine the manner in which Bank will seek to collect a Check Image and/or MICR Data deposited by Customer. Without limiting the generality of the preceding sentence, Bank may, at its option: (i) present or transfer the Check Image or MICR Data to the paying bank, a Federal Reserve Bank, image share/exchange network, or other collecting bank; (ii) create a Substitute Check, a Demand Draft or a PIL from the Check Image and/or MICR Data and collect such item, or (iii) request that Customer provide to Bank the original paper check from which the Check Image and/or MICR Data was created and then collect the original paper check.

8. Returns

a. Customer agrees that Bank may charge the account of Customer for any and all returned items and ACH Entries, including a returned Check Image, a returned Substitute Check or a returned Demand Draft or PIL that relates to the original paper check.

b. Bank will provide Customer with a report of Check Images, paper items (which may include Substitute Checks, Demand Drafts or PILs) and ACH Entries that are returned. If Bank receives a Check Image as a return, Bank may provide Customer with: (i) a report of returned Check Images, (ii) a fax notification of returned Check Images, or (iii) Substitute Checks or other copies created from the returned Check Images. Bank is not obligated to produce a Substitute Check from a returned Check Image.

c. If Customer elects to have its returned paper items directed to another financial institution or entity apart from Bank, Bank shall not be liable for any late returned items. Customer shall indemnify and hold Bank harmless from and against, any liability, loss or damage (including attorneys' fees and other costs incurred in connection therewith) relating to or arising out of any late returned item, including those claimed or incurred under Regulation CC of the Board of Governors of the Federal Reserve System ("Regulation CC") or for any breach of warranty claim.

9. Representation of Returns

a. If Customer identifies to Bank a returned ACH Entry as being returned because the original paper check was ineligible as a source document for the ACH Entry, Bank shall use reasonable efforts to collect the check related to the ACH Entry by creating, in Bank's sole discretion, a Substitute Check, a Demand Draft or a PIL from the image of the original paper check. Customer represents and warrants to Bank that Customer has obtained all necessary and appropriate authorizations from its Payor Customers for Bank to create, and present for payment to Payor Customer's financial institution, any such Substitute Check, Demand Draft or PIL.

b. In the event Bank, in its sole discretion, determines that it requires the original paper check for representation in order to collect a returned Check Image, ACH Entry, Substitute Check, Demand Draft or PIL, Customer shall be responsible for providing to Bank the original paper check, or if the original paper check has been destroyed, for obtaining a replacement check from the Payor Customer.

c. If Customer elects to use Bank's ACH Return Exception process, a process by which Customer may review, repair and resubmit select ACH returns, Customer shall be solely responsible for transactions that are reinitiated based on this process and shall comply with all applicable laws, rules and regulations governing such transactions, including but not limited to the NACHA Rules and Regulation E.

10. Storage of Check Images

Bank shall store Check Images, MICR Data and ACH Entry information on the OED system or ECLD system, and shall make Check Images, MICR Data or ACH Entry information available to Customer according to the User Manuals and fee schedule. If the Electronic Deposit Services are terminated, Customer may obtain an FTP transmission or any other available format of Check Images, MICR Data or ACH Entry information processed using the Electronic Deposit Services, at the price outlined in the fee schedule.

11. Items or Images Received for Deposit

Bank reserves the right to reject any deposit (as an Electronic Deposit or otherwise) for any reason, including but not limited to, rejection of a Substitute Check that was created by another financial institution, Customer, Payor Customers or any other person.

12. No Authorization to Create Substitute Checks

Customer agrees that Customer and any of its agents may not use the Check Images created by, or stored in, the OED system or ECLD system, or otherwise transmitted to Customer, to print a Substitute Check for any reason.

13. Retention and Destruction of Original Paper Checks

Customer shall destroy the original paper check as soon as is reasonable and shall comply with all requirements under the NACHA rules for BOC and ARC Entries to employ commercially reasonable methods to securely store the source document until destruction. At Bank's request, Customer shall provide the original paper check to Bank if the original paper check has not been destroyed by Customer and Bank needs the original paper check to process a payment or resolve a dispute arising from an Electronic Deposit.

14. Remittance Documentation

For OED services, Customer may use the Customer System to scan and read remittance documents associated with check payment. Bank disclaims any and all responsibility and/or liability associated with this use of the Customer System.

15. Representations and Warranties

With respect to each Check Image or Electronic Deposit that Customer transmits to Bank, Customer is deemed to make any representation or warranty that would have applied had Customer deposited the original paper check. In addition Customer is deemed to make to Bank any representation or warranty that Bank makes, under applicable law, clearinghouse rule, Federal Reserve Operating Circular, bi-lateral agreement or otherwise, to any person (including without limitation a collecting bank, a Federal Reserve Bank, a Receiving Depository Financial Institution, a paying bank, a returning bank, the drawee, the drawer, any endorser, or any other transferee) when Bank transfers, presents or originates the Electronic Deposit or Check Image, or a Substitute Check, Demand Draft, PIL, or ACH Entry created from that Check Image or MICR Data.

16. Customer Responsibility

With respect to each Check Image or Electronic Deposit that Customer transmits to Bank, Customer shall indemnify and hold Bank harmless from and against any and all claims, demands, damages, losses, liabilities, penalties and expenses (including, without limitation, reasonable attorney fees and court costs at trial or on appeal) arising directly or indirectly: (a) from Customer's breach of a representation or warranty as set forth in section 15 above, (b) as a result of any act or omission of Customer in the capturing, creation or transmission of the Check Image or Electronic Deposit, including without limitation the encoding of the MICR Data from the original paper check; (c) from any duplicate, fraudulent or unauthorized check, Check Image, MICR Data, Substitute Check, Demand Draft, PIL or ACH Entry; or (d) for any loss caused by Bank's acceptance or creation of a Check Image, MICR Data, Substitute Check, Demand Draft, PIL or ACH Entry instead of presentment of the original paper check; or (e) from any other act or omission arising out of Bank's action or inaction taken pursuant to any request by Customer or pursuant to this Agreement. This section 16 shall survive termination of the Agreement.

17. Limited Use

Customer may use the Electronic Deposit Services, the User Manual, and the OED system or ECLD system for business use for as long as Bank in its sole discretion provides the Electronic Deposit Services to Customer. Customer shall return to Bank any Customer System software upon termination of the OED services.

18. Rules Applicable to Collection of Checks

Customer acknowledges and agrees that a Check Image, MICR Data, Substitute Check, Demand Draft or PIL may, in the sole discretion of Bank, be collected through one or more check clearinghouses, one or more Federal Reserve Banks, or an agreement with another financial institution or image share/exchange network. In such cases, the Check Image, MICR Data, Substitute Check, Demand Draft or PIL is subject to the rules of that clearinghouse, Federal Reserve Bank, or image share/exchange network or financial institution agreement.

19. Accuracy and Timeliness of Electronic Deposit Services

Bank will use reasonable efforts to provide the Electronic Deposit Services in a prompt fashion, but shall not be liable for temporary failure to provide the Electronic Deposit Services in a timely manner. In such event, Customer shall be responsible for carrying out banking business through alternative channels. Bank shall not be liable for any inaccurate or incomplete information with respect to transactions which have not been completely processed or posted to Bank's deposit or payments system prior to being made available pursuant to the Electronic Deposit Services. Information with respect to all transactions is provided solely for Customer's convenience, and Customer shall have no recourse to Bank as to use of such information.

20. User Manual

Bank will provide Customer with one or more user manuals ("User Manual") in paper or electronic format that will set forth the OED services' or ECLD services' policies and procedures with which Customer agrees to comply. Bank may, without prior notification, make amendments to any User Manual. Bank owns or has obtained all proprietary rights to the User Manual and Customer agrees not to duplicate, distribute or otherwise copy the User Manual without Bank's prior written consent. The User Manual will at all times remain the property of Bank, and Bank reserves the right to request Customer to return all printed copies of the User Manual within thirty (30) days of termination of the Electronic Deposit Services.

21. Security Procedures

Customer shall comply with all security procedures for the Electronic Deposit Services that are established by Bank or set forth in the User Manual. Customer is solely responsible for (i) maintaining its own internal security procedures, (ii) safeguarding the security and confidentiality of Transaction Data, Check Images and other information that is either printed from, stored on, or downloaded to, the Customer System, OED system, ECLD system, or Customer's other computer/data systems or portable media; and (iii) preventing errors or unauthorized access to the Customer System, the OED system or ECLD system.

E. ACH SERVICES**1. Introduction**

If requested by Customer and agreed to by Bank, Customer (or its Agent or third party vendor) may initiate credit or debit Automated Clearing House (ACH) transactions ("Entries") for payments ("Credit Entries") and/or collections ("Debit Entries") on ACH Business Days to its accounts or the accounts of others ("Receivers") in accordance with Bank's security procedures and this Agreement. Bank will act as an Originating Depository Financial Institution with respect to such entries. Bank may process Entries directly, through one or more clearinghouses, or through the mechanism selected by Bank. Customer's rights and obligations with respect to such Entries are governed by applicable law and the rules of the National Automated Clearing House Association ("NACHA"), as amended from time to time. Customer acknowledges that it shall be bound by NACHA Rules and agrees not to initiate any Entry in violation of the NACHA rules or applicable federal, state or international law, regulation or clearinghouse rules, including, without limitation, Regulation E of the Board of Governors of the Federal Reserve System, regulations promulgated by the Office of Foreign Assets Control, rules of the Canadian Payments Association and the Mexican Interbanking Electronic Payment System (SPEI), and Operating Circular 4 of the Federal Reserve Bank (collectively referred to herein as the "Rules"). Customer acknowledges that a copy of the NACHA Rules is available through NACHA at current NACHA prices.

2. Entry Origination/Processing Dates/Deadlines

Customer may initiate Entries in the manner and format agreed to by Bank. ACH files transmitted to Bank shall be in an unbalanced file format. Customer agrees that all ACH Entries (regardless of SEC Code) that involve the exchange or transmission of banking information via unsecured electronic networks shall be encrypted or transmitted via a secure session, using a commercially reasonable security technology that, at a minimum, is equivalent to 128-bit RC4 encryption technology. Bank will establish a deadline for the receipt of Entries from Customer ("Deadline"). Bank may establish different Deadlines for Entries depending on the method of delivery employed by Customer and all such Deadlines are subject to change. Bank must receive Customer's Entries at or prior to the Deadline for the Entries to be processed on the ACH Business Day of receipt. Entries received after the Deadline will be processed on the next ACH Business Day. Entries with settlement dates of more than thirty (30) calendar days from receipt will not be processed unless prior arrangements have been made.

3. Content

In submitting any Entry, Customer shall be responsible for providing all information required by Bank. Customer bears sole and exclusive responsibility to verify that the information set forth in Entries submitted to Bank is authentic, accurate and conforms to the Rules. The Services hereunder are only designed to respond to information provided by Customer. Accordingly, any inaccuracy in any information provided by Customer may result in unintended processing by Bank. Bank bears no responsibility for detecting or reporting any error in data supplied by Customer and shall not be liable to Customer for any information provided by Customer with respect to an Entry which is inaccurate, incomplete or otherwise incorrect.

4. Prenotification

To the extent required by NACHA Rules, Customer shall send a prenotification that it intends to initiate an Entry to a particular account in accordance with the procedures set forth in the Rules or by Bank. The prenotification can be returned or result in a Notification of Change ("NOC"). If the prenotification is returned, Customer shall research the problem and make any necessary corrections before transmitting another Entry. If the prenotification results in a NOC, Customer shall make the required change prior to initiating another Entry, or issue a Refused NOC. NOC Manager is an optional service that allows Bank to track Customer's NOC on Customer's behalf. If Customer selects this option, Bank shall only manage the changes to the routing, transit and account numbers.

5. Entry Limits and Payment

Customer shall at all times maintain a settlement account with Bank for the purpose of funding Customer's Entries ("Account").

The total dollar amount of Entries initiated by Customer through Bank under all ACH Services and pending on a given day shall not exceed the lesser of collected or available balances in the Account or an exposure limit should one be established by Bank ("Exposure Limit"). Establishment of an Exposure Limit should not be interpreted or construed by Customer as a commitment or agreement to provide any credit or loans to a Customer and is subject to modification or termination at any time by Bank. Customer agrees that it will not initiate Entries in excess of its Exposure Limit without the written consent of Bank. Customer shall pay Bank for all Entries and authorizes Bank to charge its Account or any other account with Bank in the amount of such Entries. Bank shall have the right to reject Entries initiated by Customer without notice if Bank has reason to believe that there will be insufficient available funds on the relevant settlement date. Customer will receive funds for any Debit Entry on the ACH settlement date. Bank shall credit the Account in any amount payable to the Customer, subject to Bank's right to make adjustments in accordance with this Agreement. Bank may establish, monitor and periodically review Customer's Exposure Limit and Customer's compliance thereof, and may, in Bank's sole discretion, cease processing Entries based on such review.

6. Data Breach Notification

Customer may have gathered personal or financial information of its customers for the purpose of initiating ACH transactions. Such information may include, without limitation, the customer's bank account number together with the bank routing number, or the customer's name together with the customer's social security number or tax identification number. Customer agrees to immediately report to Bank any loss, theft or unauthorized access of such information ("data breach") by or from Customer, its Agent, or third party service provider, if circumstances indicate that the misuse of such information has occurred or is reasonably possible. Customer acknowledges that Bank may have an obligation to report any data breaches to NACHA and other affected parties, and agrees to establish appropriate procedures to prevent, detect, investigate and report data breaches.

7. ACH Secured Funds Entries

Bank may require Customer to prefund all Credit Entries that Customer desires to initiate. Customer acknowledges and agrees that such funds are held solely for the benefit of Bank and that Customer will not be entitled to earn any interest thereon. Upon initiation of such Credit Entries, Bank is authorized to immediately charge the Account (in the total amount of such Entries). If ACH Secured Funds is used to initiate Debit Entries, funds will be credited to the Account on the settlement date of the transaction. However, such funds shall not be available for withdrawal from the Account for two business days after the settlement date.

8. File Confirmation System

Customer shall at all times comply with applicable file confirmation procedures established by Bank and any security procedures established by Bank or Customer. Such procedures are solely for the purpose of verifying the origination of Entries by Customer or Bank's receipt of the ACH file and/or batch (but not for errors in transmission or content).

a. Control Totals. If Customer elects to provide Bank with the total dollar value of ACH Entries and any other necessary information ("Control Totals"), Customer must telephone Bank's Interactive Voice Response Unit ("IVR") each time it originates ACH Entries. After Bank receives Customer's ACH file, Bank will compare the information in the file to the Control Totals. If the information matches the Control Totals, Bank will process the ACH file. Bank will not process a file if it does not receive conforming Control Totals on or before the established file delivery deadline on the Business Day it receives the file. Bank will notify Customer if the Control Totals do not match the information in the file, or if Bank receives a file without receiving Control Totals or vice versa.

b. Confirmation of Receipt. If Customer elects not to provide Bank with Control Totals but elects to receive a confirmation, Bank shall provide Customer with a confirmation that Bank received Customer's ACH file and/or batch. After Customer receives the confirmation, Customer will compare the confirmation information to Customer's ACH transmission

information. If the information does not match, Customer shall notify Bank before Bank's established deadline, failing which, Bank shall process Customer's ACH file and/or batch. Customer acknowledges that the confirmation is for the sole purpose of verifying Bank's receipt of the file and does not signify any validation of data. Customer bears sole responsibility for any inaccurate or incomplete information provided to Bank if Customer fails to notify Bank prior to Bank's processing of Customer's file.

9. Rejected and Returned Entries, Unauthorized Entries

Bank may reject any Entry that is not initiated in accordance with this Agreement. In the event that an Entry is rejected, or returned by an ACH processor, for any reason whatsoever, it shall be Customer's responsibility to reinitiate the Entry. Bank will give Customer or its designated Agent notice of any rejected or returned Entry in the manner agreed to by the parties. Bank is authorized to debit/credit the Account for Entries that are returned to Bank. Unless the return is caused by Bank's failure to properly execute an Entry, Bank has no obligation to pay Customer interest on the amount of any returned Entry debited from the Account. A Receiver may, in some cases, have the right to have an unauthorized or erroneous Debit Entry credited to its account. Customer agrees that Bank may deduct the amount owing to the Receiver from Customer's Account upon Bank's receipt of proper notice from the Receiver's bank. Bank may charge back against Customer any Debit Entry that is returned or reversed by the Receiving Depository Financial Institution.

10. ACH Redeposit Service

If requested by Customer and agreed to by Bank, Bank will reinitiate (maximum of two times) each Debit Entry returned for insufficient or uncollected funds.

11. Amendment of Entries

Customer does not have the right to delete or amend any Entry after it has been received by Bank unless Customer has requested, and Bank has agreed to provide ACH Adjustment Services. If such services are provided, Customer may initiate an amendment to ACH Entries after receipt by Bank. Customer may initiate such amendments via internet or fax in accordance with the terms of this Agreement and all communications must be received by Bank prior to the established deadlines in order to be effective.

a. Internet Option. If Customer has selected the Internet Option, Customer may use the Internet to transmit information to Bank for the purpose of amending ACH files. Customer agrees to comply with any applicable software agreement, user guide and any established security procedures.

b. Fax Option. If Customer has selected the Fax Option, Customer may amend ACH files in accordance with this Agreement by sending instructions to Bank to delete Entries via facsimile. Bank will notify the Customer of the telephone numbers for facsimile and verbal instructions. Bank may from time to time change such telephone numbers or the form of instructions upon notification to the Customer. Customer acknowledges that the Internet Option may be substantially more secure than the Fax Option. Customer agrees to be bound by any instructions, whether or not authorized, issued in its name and accepted by Bank in accordance with the agreed procedures.

12. Customer Representations/Indemnity

Customer represents and warrants to Bank that each Entry complies with the terms of this Agreement and NACHA Rules, does not breach any warranty of Customer or Bank contained in this Agreement and NACHA Rules, complies with applicable state and federal laws, including, without limitation, the Electronic Funds Transfer Act, Regulation E and regulations promulgated by the Office of Foreign Assets Control, is accurate, timely, and authorized and that any Debit Entry is for a sum that on its settlement date is due and owing from the Receiver to Customer or is a correction of a previously transmitted erroneous Credit Entry. With respect to each ACH Entry (regardless of SEC Code), Customer is deemed to make to Bank any representation or warranty that Bank makes, under applicable law and NACHA Rules to any person, Receiving Depository Financial Institution, or any other transferee.

Receiver authorizations shall expressly authorize Bank to transmit corrective entries to Receiver's accounts to correct a prior Entry and shall authorize Customer to release to Bank all information concerning its Receivers that is required by Bank to recover such Entries. Customer shall immediately cease initiating Entries upon receiving actual or constructive notice of the termination or revocation of the Receiver's authorization. Customer will retain each authorization received by Customer for such period of time as may be required by the Rules or applicable law and shall provide Bank with copies of such authorizations upon request. Customer will indemnify, defend and hold Bank harmless from and against any and all claims, demands, expenses, losses, liabilities, and damages, including reasonable attorney fees and court costs at trial or on appeal that arise directly or indirectly out of any Entry initiated by Customer in violation of this Agreement.

13. Re-presented Check Entries

NACHA Rules allow Customer to initiate an ACH Entry to collect certain checks that have been returned unpaid for insufficient or uncollected funds ("RCK Entry"). In the event that Customer initiates an RCK Entry to Bank for check collection purposes, Customer agrees that such RCK Entry will comply with all provisions of this Agreement and applicable Rules and makes the following additional representations and warranties regardless of which entity initiates the RCK Entry on its behalf.

a. Each check is eligible under NACHA Rules to be collected via an RCK Entry.

b. Customer has no knowledge of any insolvency and it has good legal title to the returned item.

c. All signatures on the returned item are authentic and authorized, and the returned item is without alteration, not subject to claims or defenses, and will not be presented to the paying bank.

d. The RCK Entry accurately reflects the item and any information encoded after issue in magnetic ink is correct. (RCK Entries cannot be used for collection fees.)

e. Any restrictive endorsement placed on the item is void or ineffective.

f. Customer has provided clear and conspicuous notice of its electronic check representation policy in advance of receiving the item to which the RCK Entry relates.

g. The Customer will provide to Bank immediately upon request a copy of the front and back of the returned item, provided that the request is made within seven (7) years of the settlement date of the RCK Entry.

14. Internet-Initiated Entries

NACHA Rules allow Customer to initiate a Debit Entry to a consumer Receiver's account pursuant to an authorization obtained from the Receiver via the Internet ("WEB Entry"). In the event that Customer initiates a WEB Entry to Bank, Customer agrees that such WEB Entry will comply with all provisions of this Agreement and applicable Rules and makes the following additional representations and warranties regardless of which entity initiates the WEB Entry on its behalf.

a. Customer has employed a commercially reasonable fraudulent transaction detection system to screen each WEB Entry.

b. Customer has employed commercially reasonable methods of authentication to verify the identity of the Receiver.

c. Customer has taken commercially reasonable steps to verify that routing numbers are valid.

d. Customer has established a secure Internet session prior to the key entry by the Receiver of any banking information and through the transmission of the data to Customer. Currently, 128-bit RC4 encryption technology is the standard for financial transactions and is considered commercially reasonable. If technological advancements drive the commercially reasonable standard to change, Customer agrees to comply with the new standard.

e. Customer has and will conduct an annual audit to ensure that the financial information that Customer obtains from Receivers is protected by security practices that include adequate levels of: (1) physical security to protect against theft, tampering, or damage; (2) personnel and access controls to protect against unauthorized access and use; and (3) network security to ensure secure capture, storage and distribution of financial information. Customer will provide proof of Customer's security audits to Bank upon request. Any such information provided to Bank shall be kept confidential. Bank may cease processing Entries for Customer if Bank in its sole discretion determines that Customer's security procedures are inadequate.

15. Telephone-Initiated Entries

NACHA Rules allow Customer to initiate a Debit Entry to a consumer Receiver's account pursuant to the Receiver's oral authorization and banking information obtained via the telephone ("TEL Entry"). In the event that Customer initiates a TEL Entry to Bank, Customer agrees that such TEL Entry will comply with all provisions of this Agreement and applicable Rules, and makes the following additional representations and warranties regardless of which entity initiates the TEL Entry on its behalf:

a. **Receiver Authorization.** Customer shall obtain the Receiver's explicit authorization prior to initiating a Debit Entry to the Receiver's account. In the event that Customer obtains the Receiver's authorization verbally, Customer will either tape record the Receiver's oral authorization or provide, in advance of the settlement date of the Entry, written notice to the Receiver that confirms the oral authorization. Customer agrees that, at a minimum, the following specific information is disclosed to, and acknowledged by, the Receiver during the telephone call:

- (i) the date on or after which the Receiver's account will be debited.
- (ii) the amount of the Debit Entry to the Receiver's account;
- (iii) the Receiver's name;
- (iv) a telephone number that is available to the Receiver and answered during normal business hours for customer inquiries;
- (v) the date of the Receiver's oral authorization; and
- (vi) a statement that the authorization obtained from the Receiver will be used to originate an ACH debit to the Receiver's account.

Customer shall retain either the original or a duplicate tape recording of the Receiver's oral authorization or a copy of the written notice confirming the Receiver's oral authorization for two years from the date of the authorization, and shall immediately provide same to Bank upon request.

If Customer chooses to provide the Receiver with written notice confirming the Receiver's oral authorization, Customer will disclose to the Receiver during the telephone call the method by which such notice will be provided.

b. **Security Procedures.** In addition to all other representations and warranties contained herein, Customer also represents and warrants the following each time it delivers a TEL Entry to the Bank that it has (a) utilized a commercially reasonable security procedure to verify the identity of the Receiver, including name, address and telephone number; and (b) further that Customer has established commercially reasonable procedures to verify the accuracy of the Receiving Depository Financial Institution's ABA routing and transit number.

16. Accounts Receivable and Back Office Conversion Entries

NACHA Rules allow Customer to utilize ACH to collect consumer check payments received via U.S. mail or at a dropbox location (ARC Entry). NACHA Rules also enable Customer to convert during back office processing checks presented either at the point of purchase or a manned bill payment location ("BOC Entry"). In the event that Customer initiates an ARC or BOC Entry to Bank, Customer agrees that such ARC or BOC Entry will comply with all provisions of this Agreement and applicable Rules and makes the following additional representations and warranties regardless of which entity initiates the ARC or BOC Entry on its behalf:

a. Prior to the receipt of each check, Customer has provided clear and conspicuous notice to the Receiver: (i) that receipt of the check is authorization for a payment as a check transaction or for a one-time ACH debit to the Receiver's account; (ii) that funds may be withdrawn from the Receiver's account the same day payment is made; (iii) that the Receiver will not receive the check back from the Receiver's financial institution; and (iv) of Customer's phone number for inquiries regarding BOC Entries.

b. Customer has established reasonable policies and practices for enabling a Receiver to opt-out of check conversion for a specific checking account.

c. Each check is eligible as a source document under NACHA Rules to be collected via an ARC or BOC Entry.

d. The amount of the entry, the routing number, the account number, and the check serial number are in accordance with the source document.

e. The source document to which the ARC or BOC Entry relates will not be presented for payment.

f. Customer has established policies and procedures to destroy the source document as soon as is reasonable and shall use commercially reasonable methods to securely store the source document until such destruction.

g. Customer shall use commercially reasonable methods to securely store the banking information relating to the ARC or BOC Entry.

h. Customer shall retain a reproducible and legible image, microfilm or copy of the front of the Receiver's source document for two years from the settlement date of each ARC or BOC Entry, and shall immediately provide same to Bank upon request.

i. For BOC Entries, Customer has employed commercially reasonable procedures to verify the identity of each Receiver of BOC Entries.

j. For BOC Entries, Customer maintains a working telephone number that is answered during Customer's normal business hours for Receiver inquiries regarding BOC transactions.

17. Point of Purchase (POP) Entries

NACHA Rules allow Customer to initiate a Debit Entry to a Receiver's account for in-person purchases made by check at the point-of-purchase ("POP Entry"). In the event that Customer initiates a POP Entry to Bank, Customer agrees that such POP Entry will comply with all provisions of this Agreement and applicable Rules and makes the following additional representations and warranties regardless of which entity initiates the POP Entry on its behalf:

a. Customer has posted a notice in a prominent and conspicuous location at the point-of-purchase and provided Receiver with a written notice of same: (i) that when a check is provided as payment, it is authorization for payment as a check transaction or for a one-time ACH debit to the Receiver's account; and (ii) that funds may be withdrawn from the Receiver's account the same day payment is made.

b. Each check is eligible under NACHA Rules to be collected via a POP Entry and the Receiver has not opted out of check conversion.

c. Customer has returned the voided source document to the Receiver after capturing the necessary check information and the source document was not previously negotiated, voided, or provided by the Receiver for use in any prior POP Entry.

d. Customer has obtained the Receiver's authorization and provided a copy of same to Receiver, which: (i) is in writing and signed or similarly authenticated by the Receiver; (ii) is readily identifiable as an ACH debit authorization; (iii) clearly and conspicuously states its terms; and (iv) states that the check will not be processed.

18. Third Party Vendors

If Customer initiates Entries through a third party vendor or processor ("Vendor"), Vendor is the agent of Customer and not of Bank. If Customer uses a Vendor, Customer shall be deemed to have authorized Bank to follow the instructions of such Vendor to the same extent and under the same conditions as would apply if the instructions came direct from Customer and Customer shall be responsible for insuring that such Vendor fully complies with the Rules and this Agreement. Bank is not responsible for the acts or omissions of Vendor and Customer agrees to be liable for and hold Bank harmless from, any losses caused by the acts or omissions of the Customer's Vendor.

19. Third Party Sender

If Customer is transmitting Entries as a third party vendor or processor on behalf of originators ("Third Party Sender"), Customer agrees to be bound by the applicable terms provided in this Section E and NACHA Rules. Customer warrants to Bank that the originator has agreed to assume the responsibilities of an Originator under NACHA Rules and that ACH Entries shall not be initiated in violation of laws of the United States. Customer represents that it has executed an ACH agreement with each Originator and that the agreement binds the Originator to the NACHA Rules. Customer shall provide Bank with the list of Originators, copies of the agreements, and other information deemed reasonably necessary to identify the Originators within two (2) banking days of Bank's request. Bank reserves the right to review the list of Originators for which Customer is transmitting the Entries and to reject any in Bank's sole discretion. As Third Party Sender, Customer agrees to indemnify, defend and hold Bank harmless from and against any and all claims, demands, expenses, losses, liabilities, and damages, including reasonable attorney fees and court costs at trial or on appeal that arise directly or indirectly from the failure of the Originator to perform its obligations as an Originator under NACHA Rules. Customer further agrees to assume all applicable responsibilities, warranties and liabilities of the ODFI, as specified in the NACHA Rules. Customer shall cooperate fully and respond within five (5) banking days to any inquiry from Bank relating to potential NACHA Rule inquiries or violations.

20. PC ACH-Direct

a. Services and Software. If requested by Customer and agreed to by Bank, Bank will grant Customer a non-exclusive, revocable and non-assignable license to use the PC ACH program for the purpose of initiating ACH Entries in accordance with this Agreement. Customer will, at its own expense, obtain, install and at all times maintain in good working order all equipment necessary for this service. Bank may furnish to Customer updates to the PC ACH program. Customer agrees to install such upgrades as necessary to maintain the Service.

b. License. Customer acknowledges that the PC ACH program is an original, confidential, valuable and proprietary product that has been licensed to Bank with the right to be sub-licensed to Customer. Customer's use of the program shall be consistent with the terms of this Agreement. Customer has no rights of ownership to the PC ACH program and may not transfer, copy, alter, modify, reverse engineer, reproduce, or convey in any manner, in whole or in part, the program. Customer agrees to confine knowledge and access to the program only to its designated employee users who require such knowledge and access in the ordinary course and scope of their employment with Customer. Upon request, Customer shall return all software and user manuals associated with this Service promptly upon termination.

c. Encryption. By default, Bank sets up Customer with encryption technology to ensure the security of data retrieved from, and sent to, Bank. If Customer elects to disable encryption, Customer assumes all risks associated with the transmission of unencrypted data to and from Bank.

21. Cash Concentration/Deposit Reporting Services

Customer may request Bank to provide deposit reporting services based on information provided by the Customer or its designated Agent. Information will be delivered to Bank at the time and location established by Bank. Bank has no responsibility for the accuracy of any information provided by Customer. Customer may authorize Bank to initiate Credit or Debit Entries to accounts designated by Customer at other financial institutions. Bank will initiate such Entries in accordance with agreed

procedures. Customer agrees to authorize Receiving Depository Financial Institutions to honor such transactions.

22. ACH Positive Pay Service

ACH Positive Pay Service assists Customer in detecting fraud by electronically matching incoming ACH transactions to authorizations that Customer can create and manage online. If ACH Positive Pay Service is selected by Customer, Customer shall designate the account(s) maintained at Bank that are to be used with the ACH Positive Pay Service ("Account"). Customer shall create authorizations for incoming ACH Credit and/or Debit Entries that it desires to post to the Account. Customer shall be responsible for the accuracy and completeness of all information provided to Bank. Bank will allow incoming ACH Entries that match Customer's authorizations to post to Customer's Account. Incoming ACH transactions that do not match Customer's authorizations will be treated as exception items, and Customer agrees to monitor, review and make payment decisions on the exception items prior to Bank's established deadline. If Customer's requested default setup is for Bank to pay all exception items, then such exception items shall post to Customer's Account unless Customer has instructed Bank to return one or more exception items prior to the established deadline. If Customer's requested default setup is for Bank to return all exception items, then Bank is authorized to return all exception items unless Customer instructs bank to pay one or more exception items prior to the established deadline. Bank shall have no responsibility for any liability, loss or damage resulting from: (i) payment in accordance with this section of any exception item that is unauthorized; (ii) the return of any exception item to the Originator in accordance with this section; or (iii) Customer's failure to meet Bank's established deadlines. Bank's failure to report a discrepancy will not discharge Customer's obligation with regard to any item, and shall not obligate Bank to return any item if it is otherwise authorized.

F. WIRE TRANSFER SERVICES**1. Introduction**

a. Governing Law. Bank sends outgoing and receives incoming wire transfers through Fedwire (the funds transfer system owned and operated by the Federal Reserve Banks or other provider in accordance with section II.23.A.). All funds transfers are governed by this Agreement, Subpart B of Regulation J of the Federal Reserve Board, OFAC regulations, and all other applicable federal, state and local laws and regulations. Customer agrees not to initiate or receive a wire transfer payment order in violation of applicable federal, state or local law.

b. Authorized Users. Customer will designate to Bank in the form required by Bank those individuals authorized to instruct Bank regarding wire transfer services including without limitation, individuals authorized to initiate payment orders and select advice methods, confirmation methods, and any or all authorizations and instructions that may be requested by Bank. Bank may rely on any such authorization until it has been revoked in writing by Customer. Bank shall have a reasonable time to process any revocation received pursuant to this section.

2. Security Procedures

Customer and Bank shall agree to use security procedures as established by Bank. Customer acknowledges and agrees that it has been informed of and understands Bank's security procedures. Customer agrees that any agreed security procedures shall be deemed commercially reasonable. Customer understands that the security procedures are not for the purpose of detecting errors in the transmission or content of a payment order controlled by Customer. Customer agrees to be bound by any payment order sent in the name of Customer that is processed by Bank in compliance with the agreed security procedures whether or not authorized. If Bank in good faith believes that changes in security procedures are immediately necessary to reduce the risk of an unauthorized funds transfer, Bank may initiate such changes immediately and give notice to Customer as soon as practicable. Customer and its Authorized Users and other Agents shall maintain the highest possible level of confidentiality with regard to security codes, test code procedures, other security devices and other aspects of these procedures and will take all steps necessary to prevent access to them by unauthorized persons.

3. Inconsistent Names and Account Numbers

Bank and any other party executing or receiving a payment order, including the beneficiary's bank, may rely on the number in the payment order that identifies the beneficiary and on any numbers that identify the beneficiary's bank and any intermediate financial institutions identified in the payment order, even if such numbers do not correspond to the name of the beneficiary or the financial institution. Bank and any other receiving financial institution have no obligation to determine whether a name and number identify the same person or institution. Customer acknowledges that payment of a payment order initiated by Customer might be made by the beneficiary's bank on the basis of an identifying or bank account number even if it identifies a person different from the named beneficiary. With respect to incoming wire transfers that do not include an account number recognizable to Bank, Bank may return the wire transfer to the sending financial institution without incurring any liability to Customer.

4. Routing/Time Deadlines

Bank may use means and routes that Bank thinks in its own discretion are suitable for each outgoing wire transfer. Bank will establish from time to time a specific time of day after which Bank will not accept an incoming payment order to be processed on the day of receipt. Payment orders received after Bank's established deadline or on any non-Business Day, including any Saturday, Sunday, holiday or any day that Bank's wire department is not open will be considered received on the next Business Day.

5. Recordation

Customer authorizes Bank in its discretion to record electronically or otherwise any telephone instructions and other conversations originated by Customer to Bank and by Bank to Customer.

6. Payment Orders

a. Communication. Customer may communicate a payment order to Bank by the means and manner agreed to between the parties.

b. Content of Payment Orders. Customer will supply to Bank any information Bank may reasonably request regarding any payment order initiated by Customer, including, without limitation, money amounts, affected accounts, dates of transfer, the beneficiary's name and account number, the routing number or BIC of the beneficiary's financial institution, such additional information as Bank may reasonably request and, if necessary, further evidence of any Agent's authority to transfer funds or to do any other act contemplated by this Service.

c. Execution of Payment Orders. Customer authorizes Bank to execute and charge Customer's account(s) with Bank for payment orders delivered to Bank in accordance with this Agreement. Bank has no obligation to execute a payment order if Customer's account to be charged has insufficient collected and available funds to cover the order.

d. Processing Payment Orders. The order in which Bank processes wire transfer payment orders is determined solely by Bank. Customer does not have the right to reverse, adjust or revoke any payment order after it has been received by Bank, provided, however, that Bank will make a reasonable effort to act on such a request by Customer. With respect to a payment order already transmitted to the beneficiary's financial institution, Bank shall, at Customer's request, request the financial institution to return funds previously transferred. Customer understands that the receiving institution is under no legal obligation to comply with this request.

e. Rejection of Payment Orders. Bank may reject a payment order from Customer if such payment order is not initiated in accordance with the applicable security procedure, if there is any inconsistency between a payment order and information previously supplied to Bank, if Bank is unable to obtain confirmation of such payment order satisfactory to Bank, if there are insufficient collected funds in Customer's specified account to fund the payment order, or if Bank has other reasonable grounds not to honor the payment order. Bank will notify Customer by first class mail that it has rejected a payment order. Bank may also reject an incoming payment order if it has reasonable grounds to do so.

f. Standing Payment Orders. If requested by Customer and agreed to by Bank, Customer may initiate a standing payment order, which is one where the Customer pre-programs the beneficiary, the beneficiary's financial institution, and the accounts to be debited and credited and such information remains constant for subsequent payment orders. Customer shall provide Bank with the necessary information to execute the standing payment order, including, without limitation, the dollar amount to be transferred or the desired peg balance, the frequency of the order and the day of week or month when the payment order is to be executed. Customer may terminate a standing payment order at any time upon receipt by Bank of a written notice. Bank shall have a reasonable time to act on such notice.

g. Mainframe Batch Wire Transfers

(i) Service Specifications. If requested by Customer and agreed to by Bank, Customer may initiate payment orders from its mainframe computer to Bank's mainframe computer, subject to the provisions of this Agreement. Customer will comply with interface specifications established by Bank, including, without limitation, file formats and means of data transmission (the "Specifications"). Bank may furnish Customer with modifications to the Specifications and Customer shall implement such modifications as soon as reasonably practicable.

(ii) Wire Transfer Software, Confidentiality. Customer shall be solely responsible for creating the computer programs to implement the Specifications ("Wire Transfer Software"). Customer shall maintain the confidentiality of the Specifications and the Wire Transfer Software and permit access solely to those responsible for supporting the Wire Transfer Software or authorized to initiate Payment Orders.

Customer shall implement passwords and other security devices commensurate with the highest level of security afforded by Customer to other computer programs and confidential information of Customer.

7. Confirmation of Outgoing Wire Transfers

a. Confirmation Method. Customer and Bank shall agree to the method of confirming payment orders received from Customer. Customer shall designate Authorized Users to confirm payment orders. Bank recommends a minimum of three potential Authorized Users to confirm payment orders and that Authorized Users serve as an initiator or a confirmer, but not both. Notwithstanding Bank's recommendation, if Customer permits an Authorized User to act as both initiator and confirmer, Customer hereby authorizes Bank to process a wire initiated and confirmed by such Authorized User. Customer may add, change or delete the Authorized Users in accordance with section 11.9. of this Agreement. In the event the designated Authorized Users with authority to confirm are not available to confirm a payment order, Customer agrees that Bank may, at its discretion, elect to process the payment order initiated by an Authorized User. Customer agrees to be bound by any such payment order processed by Bank.

b. Waiver of Confirmation. Bank advises Customer not to waive confirmation. If Customer, however, chooses to waive confirmation, Customer agrees to be liable for all outgoing payment orders, except those payment orders where (1) Customer is able to conclusively prove that the unauthorized transfer could not have been prevented by the use of confirmation procedures; (2) Bank is unable to produce any evidence that the unauthorized transfer could have been prevented by the use of confirmation procedures; and (3) Customer is not otherwise liable for the transfer under this Agreement, or applicable law. Customer acknowledges that not using confirmation procedures substantially increases the Customer's risk of liability for an unauthorized wire transfer.

c. Confirmation of Wire Transfers Initiated through electronic Bank applications. The confirmation of payment orders initiated by Customer through electronic Bank applications shall be verified and approved by Customer prior to their transmission to Bank. All payment orders shall be initiated and confirmed in accordance with the security procedures established for the relevant application.

8. Advices

a. Advice Method. Customer will select the type of advice it wishes to receive after Bank sends an outgoing wire transfer or receives an incoming wire transfer. If Customer selects telephonic advices, Customer will designate person(s) to be contacted and telephone numbers to be used for advice purposes. Bank shall not be required to make more than one attempt to reach Customer's designated location by telephone. If Bank is able to reach the Customer's designated location, but not Customer's designated Agent, Bank may leave a message containing the information to be conveyed.

b. Advices by Facsimile. If Customer selects advices by facsimile ("fax"), Customer shall exercise extreme care in maintaining its own security in the receipt of fax advices. Customer acknowledges that the information to be received by fax may include confidential information, including, without limitation, names, amounts, phone numbers, originating account information, and the text of incoming wires. Customer further acknowledges that it alone assumes full responsibility for maintenance of its internal security procedures to keep such information confidential. Customer agrees to indemnify, defend and hold Bank harmless against any and all claims, demands, expenses, liabilities and damages, including attorney fees at trial and on any appeal or petition for review, incurred by Bank arising directly or indirectly from the transmission by fax of an incoming wire transfer advice.

c. Waiver of Advice. Customer may waive its right under the Uniform Commercial Code to receive advices by so indicating on the applicable Implementation Documents.

9. International Wire Transfers

Wire Transfers across country borders are customarily done by Bank through a correspondent. Any fee, commission or charges assessed by the correspondent shall be passed on to the Customer or deducted from the wire transfer amount by the correspondent. Payment to a foreign country is subject to the laws of the foreign country involved. Bank assumes no liability for delays, non-delivery or other events resulting from causes beyond Bank's control. In refunding unexecuted payment orders, Bank shall be liable to Customer only to the extent it receives payment from the correspondent financial institution processing the transfer. Cancellation of a transfer involving other than domestic currency is subject to any rate exchange loss as determined by Bank. Customer agrees to sell any canceled payment order to Bank at the then current applicable foreign currency buy rate.

10. Reverse Wire Transfers

a. Authorized Debits. If requested by Customer and agreed to by Bank, Customer authorizes Bank to debit Customer's account(s) with Bank upon receipt of a Fedwire drawdown request, and to send funds to the Requesting Bank. Each transfer will be done on the Business Day Bank receives the incoming request from the Requesting Bank if the request is received within a reasonable time to determine whether Customer's Account has sufficient available funds and to obtain access to the Federal Reserve network prior to the close of business.

b. Reverse Wire Funding. Customer agrees not to transmit any reverse wire request in excess of available collected balances on deposit in the designated account(s). Bank may reject any reverse wire request in excess of the collected and available balance. Requesting Bank will be notified if the request is rejected by Bank.

c. Wire Transfer Numbers. Customer's obligation to pay Bank the amount of the funds transfer in the event that the Fedwire message does not identify the same account or financial institution is not excused in such circumstances. When names and numbers are inconsistent, the numbers shall control. With respect to incoming wire transfers that do not indicate an account number recognizable to Bank, Bank may return the wire transfer to the sending financial institution without incurring any liability. Customer does not have the right to reverse, adjust, or revoke any Fedwire message after it is received by Bank; however, Bank will use reasonable efforts to act on such a request by Customer to reverse, adjust or revoke such message before Bank has sent the outgoing wire transfer. With respect to an outgoing wire transfer already transmitted by Bank, Bank shall, at Customer's request, request the receiving financial institution to return funds previously transferred. Customer understands and agrees that the receiving financial institution may or may not comply with any such request.

d. Authorizations. Customer's authorization for reverse wire requests shall remain in effect until Customer gives written notice to Bank. Bank will have a reasonable time to act on any written notice received from Customer.

e. Limitation on Bank's Liability. In consideration of Bank's compliance with this authorization, Customer agrees that Bank's treatment of any charge, and Bank's rights with respect to it, shall be the same as if the entry were initiated personally by Customer. Bank shall have no liability if any charge is dishonored.

11. Additional Limits on Bank's Liability

Bank is responsible only for performing the Services described in this Section. Bank shall not be responsible for the acts or omission of Customer, any Federal Reserve Bank or other financial institution, any transmission or communication, or any other person and no such person shall be deemed to be Bank's Agent under this Agreement.

G. DATA TRANSLATION SERVICES**1. Introduction**

Bank may provide electronic data integration, custom formatting, or data translation ("Data Translation Services") to electronically streamline the exchange of payments, remittance and other information between Customer and Bank and between Customer and its trading partners. If requested by Customer and agreed to by Bank, Bank will provide Data Translation Services in accordance with this Agreement and other procedures provided to the Customer. Customer agrees that Data Translation Services shall be governed by this Section and all other relevant sections of this Agreement.

2. Scope of Services

Data Translation Services may be used by Customer to initiate and receive payments sent through payment systems such as wire transfers, ACH and checks and to provide and receive business communications such as remittance reporting, invoices, confirmations, orders, or other information in Customer's preferred format. At all times during the maintenance of Data Translation Services, Customer will maintain an analyzed demand deposit account with Bank.

3. Accuracy and Timeliness of Information

Bank will use reasonable efforts to provide Data Translation Services in a prompt fashion, but shall not be liable for temporary failure to provide timely information. Bank assumes no responsibility for any delays, or for inaccurate or incomplete information with respect to transactions which have not been completely processed or posted to Bank's systems prior to being made available pursuant to Data Translation Services or with respect to payments and related information sent by Customer's trading partners or other financial institutions that are made available through Data Translation Services.

4. Entry Origination/Processing Dates/Deadlines

Customer may from time to time deliver to Bank requests to format information for payments and/or other data translation via the agreed upon means (collectively, "Data Translation Request(s)"). All Data Translation Requests shall conform to the content, format, deadlines and other specifications that may be established by Bank in this Agreement and related documentation, or communicated to Customer. Bank may establish different deadlines for Data Translation Requests depending on the method of delivery employed by Customer and all such deadlines are subject to change. Bank must receive Customer's Data Translation Requests at or prior to the deadline established for processing on the business day of receipt. Data Translation Requests received after the deadline will be processed on the next business day. Customer will be notified if a Data Translation Request is rejected in accordance with procedures established by Bank. Customer represents and warrants that all information in each Data Translation Request delivered to Bank by Customer shall be accurate, timely, authorized and will otherwise comply with all applicable laws, rules and regulations.

5. Content

Data Translation Requests are only designed to respond to information provided by Customer. Accordingly, any inaccuracy in any information provided by Customer may result in unintended processing by Bank. Bank bears no responsibility for detecting or reporting any error in data supplied by Customer and shall not be liable to Customer for any information provided by Customer with respect to a Data Translation Request which is inaccurate, incomplete or otherwise incorrect. Customer shall retain data on file adequate to permit Customer to remake each request for at least ten (10) business days following the date a file is sent to Bank, and shall provide such data to Bank on request. Customer acknowledges that Bank has no obligation to maintain back-up copies of requests or other information delivered by Customer to Bank.

6. Payment Order Requests

Customer agrees that its requests to initiate payment orders utilizing Data Translation Services ("Payment Order Requests") shall be governed by this Section, the sections of this Agreement governing the applicable payment mechanism, and all other applicable laws, rules and regulations governing the relevant payment mechanism. Except as may be provided elsewhere in this Section or Agreement, Customer may not amend or revoke Payment Order Requests after they have been

received by Bank. Customer acknowledges that the rules of NACHA and other electronic funds transfer systems as well as paper check processing systems may make any credit provisional until the financial institution crediting the account of the beneficiary specified in a Payment Order Request receives final settlement and that if the financial institution does not receive final settlement, it is entitled to a refund and Customer shall be deemed not to have paid the beneficiary. Payment Order Requests with settlement dates of more than thirty (30) calendar days from receipt will not be processed unless prior arrangements have been made. Customer is solely responsible for initiating Payment Order Requests sufficiently in advance to meet Customer's contractual obligations to its vendors and/or customers. Bank shall not be responsible for any late payment or finance charges that may result from Customer's failure to allow sufficient lead-time to make a Payment Order Request. Customer authorizes Bank to execute all Payment Order Requests, and settle to the Customer's account all Payment Order Requests, delivered to Bank in compliance with the terms of this Agreement, including the security procedures. Customer authorizes Bank to use whatever means Bank, in good faith, deems reasonable under the circumstances to execute each Payment Order Request, including selection of a funds transfer system, routing, and means of transmission. Customer also authorizes Bank, without prior notice or demand, to debit Customer's account for any other amount payable under this Agreement and to credit the account for any amount payable to Customer.

7. Check Payment Requests

Customer may from time to time request that Bank print checks and related remittance information ("Check Payment Request(s)") and distribute such checks and information. Customer shall designate the account(s) from which Bank is to make payment ("Payment Account") and shall maintain a sufficient balance in the Payment Account to fund its Check Payment Requests. To mitigate against fraud, Bank may require that Customer utilize positive pay services in conjunction with the Payment Account. Customer agrees that checks drawn in a manner consistent with a Check Payment Request shall be duly authorized to the same extent as a check drawn and signed by Customer and is properly payable by Bank. Customer authorizes Bank to deduct the Payment Account in the amount of the Check Payment Request. If there are insufficient funds in the Payment Account to make a Check Payment Request, Bank may in its sole discretion either refuse to make the payment or make it and overdraw the Payment Account. In either event, Customer shall incur fees as disclosed by Bank in the account agreement and related fee schedules and other disclosures. Customer has no right to reverse, adjust or revoke any Check Payment Request after it has been received by Bank. Bank will, however, make reasonable efforts to act on such a request by Customer.

8. Security Procedures

Customer shall comply with all security procedures, including any applicable file confirmation procedures, established by Bank for Data Translation Services. Customer agrees that all Data Translation Requests that involve the exchange or transmission of banking information shall only use secure transmission options supported by Bank. For some Services, such as ACH, Customer and Bank may establish alternative, comparable security procedures for accessing such Services when Data Translation Services are utilized. Customer is solely responsible for maintaining its own internal security procedures to prevent errors or unauthorized access to Customer's computer systems by unauthorized employees, vendors or customers. Bank has no responsibility for the security procedures employed by Customer's trading partners.

a. File Confirmation Procedures. File confirmation procedures utilizing Data Translation Services are solely for the purpose of verifying Bank's receipt of the Payment Order Requests but not for identifying errors in transmission or content. Where file confirmation procedures are required by Bank or selected by Customer, Customer shall provide Bank with the total items and dollar value of Payment Order Requests or any other necessary information ("Control Totals"). Customer may provide Bank with Control Totals by calling Bank's Interactive Voice Response ("IVR") or by sending a data file to Bank. After Bank receives Customer's Payment Order Requests, Bank will compare the Payment Order Requests to the Control Totals. If the Control Totals match the

Payment Order Requests, Bank will process the Payment Order Requests. Bank will not process Payment Order Requests if Bank does not receive conforming Control Totals on or before the established Payment Order Requests delivery deadline on the Business Day it receives the Payment Order Requests. Bank will notify Customer if the Control Totals do not match the Payment Order Requests, or if Bank receives Payment Order Requests without receiving Control Totals or vice versa.

H. COURIER SERVICES

1. Introduction

Courier Services are offered by Bank for Customers who require ground transportation for the pick-up, transportation and delivery of non-cash banking transactions to Bank locations other than a cash vault. Bank has selected a third party courier ("Courier") to provide the transportation services on Customer's behalf.

2. Deposit Contents

Customer acknowledges that the Courier Services is not an armored delivery service and agrees to tender check-only deposits to the Courier. Customer agrees that it shall not deposit any currency, securities, documents or other items which cannot be reconstructed or duplicated. Any deposits of cash using this service shall be at Customer's peril and Customer agrees to assume any and all risk of loss associated with tendering cash deposits.

3. Courier as Agent of Customer

Customer acknowledges and agrees that the Courier is the agent of Customer and not of Bank. Until Bank actually receives a delivery in accordance with section 7 below, Bank assumes no risk of loss or theft by third parties or employees of the Customer or the Courier. Bank makes no representation or warranty regarding, and assumes no responsibility with respect to, any services performed or promised by the Courier. The Courier maintains ultimate responsibility for scheduling, movement and routing.

4. Packaging

Customer agrees to tender deposits to the Courier using an undamaged and properly fastened bag. Customer shall prepare in duplicate, deposit tickets that list the deposit contents, the total dollar amount of the deposits, and the account or accounts of Customer at Bank to which the checks shall be deposited. Customer agrees to place the original deposit ticket in the bag, and to retain the duplicate ticket.

5. Reconstruction

Customer agrees to maintain a complete and accurate reconstructible deposit listing of each deposit given to the Courier. Customer agrees to reasonably and promptly cooperate with Bank and/or the Courier in the notification, identification and replacement of any damaged, lost or destroyed deposit items. Such cooperation shall include reasonable requests by Customer to the makers of the checks to issue duplicates for the damaged, lost or destroyed items. Customer shall notify Bank of any damaged, lost or destroyed items no later than sixty (60) days following the day the items were delivered to the Courier. Bank shall have no obligation to research any damaged, lost or destroyed items if Customer fails to notify Bank within the prescribed time.

6. Processing

Bank is authorized to open the bag and to process the contents in accordance with Bank's normal procedures and any applicable availability schedules. All deposits shall be subject to verification and adjustment by Bank. Bank's verification shall be deemed correct and binding upon Customer absent manifest error. If Bank discovers a discrepancy between the contents of the bag and the deposit ticket, Customer hereby authorizes Bank to process and deposit the contents, and to complete an adjustment ticket, which will be mailed or delivered to Customer.

7. Actual Receipt Required

Bank is not liable for any losses, damage or destruction of items that occur while in the custody of the Courier. Bank shall not be considered as an insurer of any deposits placed with the Courier until such time the deposits are received and acknowledged by Bank. Deposits delivered to the Courier are not considered received by Bank until they are actually delivered to Bank's processing center.

8. Delivery of Deposits

Deposits delivered by the Courier after Bank's deadline for the receipt of deposits, may, at Bank's discretion, be held and credited to the Customer's account the next business day. Courier service deliveries on Saturdays, Sundays and on days recognized as bank holidays (when available), shall be held and credited to the Customer's account the next business day.

I. CASH VAULT SERVICES**1. U.S. Currency**

The Terms "cash", "coin" and "currency" as used herein shall refer to coin and currency of the United States. Customer shall not deposit coin or currency of any other country.

2. Account

All deposits of currency, coin, checks and food coupons will be credited to, and all withdrawals of currency, coin and checks will be debited against, Customer's deposit account at Bank (the "Account") which Customer has designated as being covered by the Services described herein.

3. Deposits

a. Customer shall supply and maintain clear disposable plastic bags used for deposits. Plastic bags shall be sealed according to manufacturers' instructions. Customer will prepare deposits in good order as follows: (i) currency and food coupons will be batched separately with each accompanied by a deposit ticket fully completed by Customer; (ii) currency and food coupons will be banded with 100 notes of the same denomination whenever possible; (iii) food coupon deposits must include Agricultural Department Redemption Certificates; (iv) deposits will be delivered by Customer's certified armored carrier to the secured facility specified by Bank; and (v) to receive same date credit, deposits must be made prior to the daily cut-off time established by Bank from time to time, and any deposits received by Bank after its daily cut-off time may be considered to have been received on the next banking day.

b. Bank will process Customer's deposits as follows: (i) deposits will be receipted and conditional (subject to verification) credit assigned based on the amount identified on the deposit ticket; (ii) deposit tickets that are missing, blank or do not contain legible "declared balances are subject to delayed ledger credit of one banking day; and (iii) coins, currency and food coupons will be counted and Bank's count will be the valid and controlling count.

c. If there is a currency and coin variance of more than \$10.00 from the declared balance on Customer's deposit ticket, Bank shall adjust Customer's currency and coin deposits through a separate debit or credit to Customer's account. Any such adjustment shall not be reflected on Customer's deposit ticket. Deposit tickets containing a declared total that includes check deposits, may require a separate and additional adjustment for any variances to Customer's check deposits. If there is a currency and coin variance of \$10.00 or less from the declared balance on Customer's deposit ticket, Bank shall not make any adjustment to Customer's currency and coin deposits, and shall credit Customer's account based on Customer's declared balance. Bank will notify Customer promptly by telephone of any deposit for which Bank's count varies from Customer's count by \$100.00 or more. Upon request, Bank will provide Customer with any available information which may assist Customer in reconciliation of the difference.

d. Deposited items will be deemed received on the day of delivery if Bank receives the deposit prior to Bank's established deadlines. Deposits will be processed in accordance with normal Bank procedure and any applicable availability schedules. All deposits made by Customer shall be subject to verification and adjustment by Bank. Bank's verification shall be deemed correct and binding upon Customer for all purposes, absent manifest error.

e. If Customer chooses to pre-encode its checks or other items for deposit, Customer agrees to comply with the pre-encoded deposit procedures and specifications as may be established and revised by Bank. Customer shall be responsible for any of its encoding errors. Bank may treat certain deposits as unencoded deposits if there is an unacceptable rate of encoding errors.

4. Withdrawals

a. Bank may provide Customer with United States currency and coin in designated denominations from time to time as requested by Customer through the Bank's automated ordering system ("Cash Orders"). Customer must comply with all of Bank's policies and procedures

regarding the placement and delivery of Cash Orders, including, without limitation, the maintenance of a designated password. Customer shall be responsible for maintaining the confidentiality of Customer's password and restricting access to the system to authorized Agents. All Cash Orders will be charged to the account designated by Customer and must be picked up by Customer's Agent or sent by registered mail to a street address. Only armored couriers may pick up Cash Orders directly from a cash vault operated by Bank. Bank may release any Cash Order to any individual that Bank reasonably believes to be Customer's Agent. Customer shall be responsible for any Cash Order after receipt thereof by the Agent. Bank may specify a daily Cash Order limit and Customer agrees that it will not initiate a Cash Order in excess of the designated limit. In no event shall Customer initiate a Cash Order in excess of the immediately available funds in the designated account.

b. Customer may order currency and coin from Bank as follows:

- (i) The preferred order for currency is in standard full strap quantities only.
- (ii) Coin may be ordered in standard full box units (50 rolls), individual rolls or loose standard bags only.
- (iii) A charge for the face value of the monies ordered will be made to the Account on the day the order is processed by Bank.
- (iv) Orders for coin and currency may be placed no later than the cut-off time established by Bank from time to time for delivery on the next banking day. Depending on Customer's location, select cash vault sites may require a minimum two-day lead time for coin and currency orders.
- (v) Bank must be notified of any discrepancies pertaining to currency or coin orders within two banking days of receipt by Customer of such currency or coin. Customer must return documentation to back-up outages such as strap, coin, wrapper and/or box.

5. Processing Days

Bank will provide processing on all days Monday through Friday, except for holidays on which Bank is closed.

6. Carrier Service

Any carrier service utilized to deliver or secure coin, currency or other property to or from Bank will act as the agent of Customer and not of Bank. Customer and carrier shall agree upon the delivery days and times. Customer will bear the entire risk of loss of coins, currency or other property of Customer when in the custody or control of Customer's carrier service.

7. Representations

Customer represents and warrants to Bank that (a) all funds deposited with Bank will be the proceeds of, and all funds ordered and withdrawn from Bank will be intended for use in, Customer's lawful activities and (b) all of Customer's transactions hereunder will be conducted solely on Customer's behalf and not on behalf of any other person or entity.

8. Regulatory Compliance

Customer shall provide Bank immediately upon request with any information, and otherwise shall cooperate with Bank in every way necessary in order to enable Bank to fulfill its obligations with respect to the reporting of transactions in coin and currency or any other regulatory requirement.

9. Agents

Bank from time to time may use any third party or agent to receive Customer's deposits, to deliver Customer's coin and currency orders, or to perform any other services of Bank hereunder. Bank will provide Customer with all necessary instructions for contact with such third party or agent. Bank's use of such a third party or agent shall not relieve Bank of its obligations hereunder.

J. U.S. BANK EASYTAXSM**1. Authorization; Enrollment**

If the EasyTax Service is requested by Customer and agreed to by Bank, Bank will electronically enroll Customer in the Electronic Federal Tax Payment System (EFTPS) if Customer desires to make federal tax payments via EFTPS. Electronic enrollment will allow Bank to process Customer's tax payments in compliance with EFTPS through Bank's tax payment system only. If Customer chooses to pay federal taxes by any other means, payments may not be EFTPS compliant. Customer understands that Bank's EFTPS enrollment form 8655 does not replace the EFTPS form 9779, which is sent to mandated companies by the Internal Revenue Service. Customer may also make state tax payments using EasyTax. Customer agrees that the EasyTax Service shall be governed by this Section and all other relevant sections of this Agreement.

2. Submission of Information

Customer shall initiate an ACH Entry furnishing Bank with complete and accurate master file information which shall enable Bank to file tax deposits with the appropriate tax authorities in a timely manner. The Services provided by Bank hereunder shall be based solely upon the information furnished by Customer to Bank. Accordingly, any inaccuracy in any information provided by Customer may result in unintended processing by Bank. Customer bears sole and exclusive responsibility to verify that the information provided to Bank is complete and accurate. Bank bears no responsibility for detecting or reporting any error in data supplied by Customer and shall not be liable to Customer for any information provided by Customer with respect to information which is inaccurate, incomplete or otherwise incorrect. The Service provided hereunder does not relieve Customer of any duty imposed on Customer by law to maintain records or from verifying and, if necessary, immediately correcting in writing all data received from Bank relating to the Service. Customer does not have the right to delete or amend any ACH Entry after it has been received by Bank unless Customer has previously requested, and Bank has agreed to provide, ACH Adjustment Services. If ACH Adjustment Services are provided, subject to certain limitations, Customer may initiate an amendment to its ACH files after receipt by Bank. Such amendment may be initiated via fax and all faxed communications must be received by Bank prior to the established deadlines in order to be effective. Customer agrees to be bound by any instructions, whether or not authorized, issued in its name and accepted by Bank in accordance with the agreed procedures. Customer shall indemnify and hold Bank harmless from and against all liability, loss and damage (including attorneys' fees and other costs incurred in connection therewith) arising out of the use of information provided by Customer.

3. Requests for Payment

Requests for payment to tax authorities must be made in accordance with instructions which Bank shall provide Customer, which may be amended by Bank from time to time at its discretion, and will be considered complete only if actually received by Bank. All tax deposits must be initiated at least one business day before the due date, otherwise deposits may be subject to IRS or state penalties. Any request by Customer to make tax deposits hereunder shall be submitted to Bank prior to the daily cut-off time established by Bank from time to time. Any such request received by Bank after its daily cut-off time may be processed on the next banking day. In the event that an ACH Entry is rejected or returned by an ACH processor for any reason whatsoever, it shall be Customer's responsibility to reinitiate the Entry. Bank will give Customer notice of any rejected or returned ACH Entry in the usual manner agreed to by the parties. Bank shall have no liability for any delay caused by strikes, telephone failure, equipment or electrical failure, or any other condition beyond the reasonable control of Bank.

4. Receipt of Funds

Funds received by Bank from Customer shall be held as a deposit liability of Bank to Customer until such time as such funds are due and paid to the appropriate tax authorities. Customer is not entitled to interest on such funds and Bank may invest such funds solely for Bank's benefit.

5. Account

Customer shall maintain with Bank a commercial demand deposit account in which Customer shall maintain immediately available funds in an amount sufficient to cover all tax deposits and fees charged by Bank for the Service hereunder. Failure by Customer to maintain such funds shall relieve Bank from providing such Service, notwithstanding any request by Customer to provide the Service.

6. Liability

Bank shall not be liable for any penalties assessed by reason of failure of Customer to make any tax payments. Interruption of the Service or performance hereunder for any reason shall not relieve Customer of its obligation to make any required tax deposits, and Bank shall not incur any liability to Customer for failure by Customer to make any such deposit. If Customer elects to make a tax deposit by any means other than through Bank, Bank shall not be liable for any penalties or interest arising from any error in due date or other calculations for deposits made within the period in which such other deposit was made. Bank may choose to provide its EasyTax Service through a third-party vendor. Bank and its third party vendor's liability to Customer is limited to correcting any error made by the Bank or third-party vendor. The sole and exclusive remedy, at law or in equity, against Bank or third party vendor is limited to money damages in an amount not to exceed the total amount paid to Bank for EasyTax fees during the twelve (12) months preceding the event giving rise to the liability. Neither Bank nor third party vendor will be liable for special, incidental, or consequential damages. Customer acknowledges that the EasyTax Service would not be available or would be available at substantially increased rates without the liability and remedy limitations set forth in this agreement.

7. Codes

Customer shall keep confidential the Access and PIN codes issued to Customer in connection with the Service, and only Customer shall use such codes. If Customer suspects that any such codes have become known or otherwise accessed by unauthorized persons, Customer shall notify Bank immediately and follow up such notice with written confirmation. The occurrence of unauthorized access will not affect any deposits made in good faith by Bank before Bank has received such notification and had a reasonable time to act to prevent any unauthorized deposits.

K. PAPER-BASED DISBURSEMENT SERVICES**1. Controlled Disbursement**

a. Disbursement Account. If requested by Customer and agreed to by Bank, Customer will open and maintain a demand deposit account ("Disbursement Account") and a primary funding account ("Funding Account") at Bank. The disbursing bank may be a financial institution that is a subsidiary or affiliate of Bank or Bank itself. Bank reserves the right to require customer to use Bank's positive pay service in conjunction with the use of Disbursement Account(s). Customer hereby authorizes and directs Bank to act on its behalf and as its Agent, as Bank in its sole discretion deems necessary or advisable, in performing any of the Controlled Disbursement Services and related Services.

b. Funding Procedures. On each Business Day, Bank shall electronically provide Customer with a report of the total aggregate amount of all presented disbursement checks, and ACH transactions posted in the early morning ACH window, net of the prior day adjustment and other charges to the Disbursement Account (the "Total Clearings"). Customer agrees to maintain sufficient collected balances in the Funding Account by the established deadline to fund the Total Clearings. Bank is hereby authorized to debit the Funding Account in an amount equal to the actual or estimated Total Clearings and to transfer funds in said amount for credit to the Disbursement Account. Bank reserves the right to convert the Disbursement Account into a standard prepaid checking account at any time upon notice to Customer.

c. Adjustments. Bank will compare the report of electronic presentments to the checks presented against the Disbursement Account. If the total dollar amount of checks electronically reported is less than the total dollar amount of checks presented, Bank will credit the Disbursement Account for the difference. Bank will add this difference to Customer's Total Clearings the next Business Day.

d. Daily Dollar Limit. A daily dollar limit (the "Dollar Limit") may be established from time to time by Bank with respect to the Disbursement Account in Bank's sole discretion. Bank shall have no obligation to pay disbursement checks and ACH transactions (collectively, "Items") in excess of the Dollar Limit. Bank may, at any time, either verbally or in writing (but shall not be deemed obligated to) notify Customer of any change made by Bank in the Dollar Limit. Establishment of the Dollar Limit should not be interpreted or construed by Customer as any commitment or agreement by Bank to provide any credit or loans to Customer, nor as an agreement or commitment to debit the Funding Account when doing so would create a negative balance therein.

e. Special Circumstances. Customer acknowledges that Bank, under some circumstances beyond its control, may at times be unable to provide a report of the total amount of its Total Clearings early enough for Customer to make a complete and acceptable funding of the accounts. Customer nevertheless agrees to fund the Funding Account completely by using an estimate of the Total Clearings.

f. Action Affecting Accounts. Should Bank receive any process, summons, order, injunction, execution, levy, lien, garnishment, or adverse claim notice (either by a governmental authority or third party) (hereinafter referred to as "Process"), which Bank reasonably believes will adversely affect the Funding Account or the Disbursement Account, Bank may, at its option and without liability, refuse to honor orders to pay or withdraw sums from any Disbursement Account and may either hold the Funding Account balance herein until such Process is disposed of to the satisfaction of Bank or pay the balance over to the source of the Process in accordance with applicable law.

g. Return of Items Unpaid. Bank reserves the right, in Bank's sole discretion, to return unpaid any or all Items presented for payment against the Disbursement Account in the event that:

- (i) there are insufficient collected and available balances on deposit in the Funding Account by the established deadline to fund the Total Clearings;
- (ii) debits cannot be posted because the Disbursement Account or Funding Account is frozen, blocked, closed or because of any other condition; or

- (iii) any communications failure or other condition prevents Bank from monitoring Customer's Dollar Limit and/or the Items presented for payment.

h. Stop Payment Orders. Customer may issue stop payment orders on Items drawn on the Disbursement Account in accordance with Bank's procedures.

2. Drafts/Warrants

a. Draft/Warrant Account. If requested by Customer and agreed to by Bank, Customer shall open and maintain a demand deposit account upon which drafts or warrants shall be drawn and will be charged (the "Draft Account"). Customer shall maintain on deposit sufficient collected and available balances to cover items drawn on the Draft Account.

b. Draft/Warrant Format. All drafts/warrants shall contain on the face of the item the words "draft" or "warrant," and "payable through U.S. Bank." Customer will also encode all drafts/warrants in accordance with Bank specifications. Customer agrees to immediately make any changes to the format of the drafts/warrants or encoding when requested to do so by Bank and will be solely responsible for its failure or refusal to comply with Bank's specifications. Any draft/warrant drawn by Customer on the Draft Account shall be treated by Bank as a draft/warrant regardless of what appears on the face of the draft/warrant and Customer shall hold Bank harmless as a result of so handling any such item.

c. Presentment and Return. Bank shall make drafts/warrants presented to Bank available to Customer via electronic presentment. Bank shall notify Customer by electronic means of the account number, draft number and dollar amount of all presented drafts/warrants and provide Customer with a front and back image of each draft/warrant received by Bank. Bank's delivery of the images shall constitute an electronic presentment under the Uniform Commercial Code, Federal Regulation CC and other applicable laws. Draft/Warrant services are additionally subject to the Reverse Positive Pay terms contained elsewhere in this Agreement. Customer shall notify Bank of each draft/warrant that should be returned in the form agreed to by Bank and Customer. If Customer does not specifically decline payment of a draft/warrant by the deadline established by Bank, such draft/warrant will be finally paid by Bank. Customer acknowledges that drafts/warrants payable through Bank are considered to be drawn on Bank for purposes of the expeditious return and notice-of-nonpayment requirements of subpart C of Regulation CC of the Federal Reserve Board. If Bank agrees to return a draft/warrant following Bank's deadline, Customer agrees to be responsible for Bank's failure to return the draft/warrant in an expeditious manner as prescribed in Regulation CC. Bank shall be deemed to have made timely presentment to Customer with respect to any drafts/warrants that Bank receives at a time when it is prevented from making presentment to Customer as a result of any force majeure including, but not limited to, earthquake, flood, hurricane, tornado, volcanic eruption, severe weather event or other act of nature, war, riot, civil disturbance, strike, lockout, and disruption in telecommunications service.

d. Examination of Drafts/Warrants. Bank shall have no responsibility to examine drafts/warrants prior to presentment to Customer for its payment decision. Bank will take ordinary care to see that the amount of each draft/warrant as drawn is accurately posted to Customer's account. Bank will not make any attempt to verify signatures, endorsements or restrictive clauses on drafts/warrants. Bank will not examine the dates on which drafts/warrants have been drawn for undated, stale or post-dated items. Bank shall have no responsibility for any liability, loss or damage resulting from (i) a payment in accordance with this Section of any draft/warrant that is altered or unsigned or that bears the forged or unauthorized signature of Customer or (ii) return of any check to the depository bank in accordance with this Section.

e. Encashment of Drafts/Warrants. Unless otherwise instructed by Customer, Bank is authorized to pay its drafts or warrants issued by Customer that are presented for encashment by payees. Bank will not be liable for the encashment of any draft/warrant which contains, or is purported to contain, a forged signature of a maker or endorser, or any other unauthorized modification, as long as Bank exercises ordinary care in cashing the draft/warrant.

f. Controlled Funding

- (i) **Funding Account; Report of Incoming Debits.** If Customer has selected a Controlled Draft/Warrant Account, Customer agrees to open and maintain a primary funding account ("Funding Account"). All drafts/warrants drawn shall be provisionally charged to Customer's Controlled Draft/Warrant Account on the Business Day of receipt by Bank and such charges shall become final and irreversible, except as to drafts/warrants that are dishonored as provided herein. Bank shall on each Business Day make reasonable efforts to electronically provide Customer with a report of the total aggregate amount of all presented drafts/warrants ("Items"), net of the prior day adjustment, and other charges to the Controlled Draft/Warrant Account (the "Total Clearings"). If for any reason Bank is unable to provide Customer with the Total Clearings, the Total Clearings for such day shall be estimated by Customer. Any discrepancies shall be reconciled on the following Business Day.
- (ii) **Funding Procedures.** Customer shall maintain on deposit in the Funding Account sufficient collected and available funds to cover drafts/warrants charged to the Controlled Draft/Warrant Account. Bank is hereby authorized to debit the Funding Account in an amount equal to the actual or estimated clearings charged against the Controlled Draft/Warrant Account. If Bank and Customer agree to other methods of funding the drafts/warrants, Customer shall be responsible for compensating Bank for any uncollected funds which may occur and Bank may require suitable approval and the establishment of daily dollar limits.
- (iii) **Adjustments.** Bank will compare the report of electronic presentments to the drafts/warrants presented against the Controlled Draft/Warrant Account. If the total dollar amount of drafts/warrants electronically reported is less than the total dollar amount of drafts/warrants presented, Bank will credit the Controlled Draft/Warrant Account for the difference. Bank will add this difference to Customer's Total Clearings the next Business Day.
- (iv) **Return of Items Unpaid.** Bank reserves the right, in Bank's sole discretion, to return a draft/warrant unpaid in the event that: (a) there are insufficient available and collected funds in the Funding Account by the established deadline to fund the Total Clearings; or (b) debits or charges cannot be posted because the Controlled Draft/Warrant Account or Funding Account is frozen, blocked, closed or otherwise unavailable.
- (v) **Account Limitations.** Customer shall not initiate or authorize an ACH debit entry or other electronic debit or payment order from the Controlled Draft/Warrant Account.

L. POSITIVE PAY SERVICES**1. Introduction**

Positive Pay Services are offered by Bank as the most effective way to minimize loss from fraudulent check issuance or payment. If Positive Pay Services are requested by Customer and agreed to by Bank, Customer and Bank agree that in the event of an inconsistency between this Agreement and applicable law, the provisions of this Agreement shall prevail to the extent permitted. Nothing in this Agreement is intended to limit Bank's right to return an item unpaid if there are insufficient available funds in the designated account.

2. Format Specifications

Customer shall comply at all times with Bank's format and data transmission standards for the Positive Pay Service. Customer agrees to issue checks, drafts, warrants or other items (collectively, "Items") in accordance with Bank's specifications and will change the Item format when requested to do so by Bank. Bank shall not be responsible for correcting or resolving processing problems caused by substandard quality magnetic encoding. Customer shall supply Bank with sample Items for testing.

3. Positive Pay

a. Customer Responsibilities. Customer shall designate to Bank all account(s) that are to be used with the Positive Pay Service ("Account"). Customer will provide Bank with a file of all outstanding Items prior to activation of this Service. On each day that an Item is written against the Account, Customer shall supply Bank with all required Item issue information prior to the deadline established by Bank. Such information shall include, without limitation, the account number, the issue date, the Item number and the face amount. Customer shall be responsible for the accuracy and completeness of all information provided to Bank.

b. Bank's Responsibilities. In reliance on the information provided by Customer, Bank shall create a master issue file for each designated Account ("Issue File"). If ARP File Confirmation service is selected by Customer, Bank shall process the Issue File and provide a confirmation to Customer that the Issue File was received and processed. Excluding valid stop payment orders and issue records voided by Customer request, all Items, including those that have been electronically converted, that match by serial number and amount to Bank's Issue File will be deemed properly payable and Bank is authorized to pay all such Items.

c. Paid No Issues. Each business day, Bank shall make reasonable efforts to report to Customer any Item serial numbers that do not match the Issue File ("Paid No Issue") and, if requested and available, provide the front and back images of those Items for that day's presentment; provided, however, no images shall be provided in the case of electronically converted Items. Customer agrees to review and make payment decisions on the Paid No Issue Items prior to Bank's established deadline. If Customer's requested default setup is for Bank to pay all Paid No Issue Items, then Bank is authorized to finally pay any Paid No Issue Item unless Customer has instructed Bank to return the Paid No Issue Item prior to the established deadline. If Customer's requested default setup is for Bank to return all Paid No Issue Items, then Bank is authorized to return any Paid No Issue Item unless Customer instructs bank to pay a Paid No Issue Item prior to the established deadline. Bank may rely on any instructions received from Customer that Bank reasonably believes to be genuine. Bank shall have no responsibility for any liability, loss or damage resulting from: (i) payment in accordance with this section of any Paid No Issue Item that is altered or unsigned or which bears the forged or unauthorized signature of Customer; (ii) the return of any Paid No Issue Item to the depository bank in accordance with this section; or (iii) Customer's failure to meet Bank's established deadlines. Customer may be required to place a stop payment order on any returned Paid No Issue Item, which shall be subject to Bank's customary stop payment fee. Bank's failure to report a discrepancy will not discharge Customer's obligation with regard to any Item, and shall not obligate Bank to return any Item if it is otherwise properly payable.

d. Teller Positive Pay. All positive pay accounts will interface with the Bank's teller system unless otherwise agreed by Bank. Bank will compare Items presented for cash at a branch of the Bank with

Customer's Issue File. Customer agrees that Bank may refuse to cash any Paid No Issue Item and such refusal will not be deemed to be a wrongful dishonor. In the event of dishonor, Bank will refer the presenter to Customer. Customer acknowledges that under some circumstances issuance information submitted by Customer may not be reflected in Customer's Issue File until the opening of the following business day. Customer agrees to follow established procedures should it need to manually add an Item to the Issue File. Bank will make reasonable efforts to assist Customer, but Customer acknowledges that Bank may be unable to process such requests on a same day basis. In the event that Customer requests Bank not activate or temporarily deactivate teller positive pay, Customer agrees to assume all risk of loss for any Bank teller-cashed Item that would have been identified as a Paid No Issue Item prior to acceptance.

e. Payee Positive Pay. If Customer selects this option which is available only through SinglePoint®, Customer's Item stock shall first be tested to ensure it meets Bank's payee name readability rate. Customer shall designate to Bank all positive pay accounts that shall use Payee Positive Pay. In addition to the Item issue information provided by Customer for the positive pay service, Customer shall supply Bank with the payee name(s) for each Item issued by Customer. Customer shall be responsible for the accuracy and completeness of the payee information provided to Bank. In reliance on the payee information provided by Customer, Bank will compare the payee information on the Item with Customer's Issue File for Items presented in the back office and at the teller line. Customer acknowledges that Bank will not be able to validate payee information for electronically converted Items presented to Bank for payment. Bank may, in its sole discretion, impose variable parameters for which the payee information will not be reviewed for certain Items processed through the back office. If such parameters are imposed, Bank agrees to assume the risk of loss for an Item that would have been identified as a Paid No Issue solely on the basis of the payee information.

f. Teller Payee Positive Pay. If Customer selects this option, Customer shall designate to Bank all positive pay accounts that shall use Teller Payee Positive Pay. In addition to the Item issue information provided by Customer for the positive pay service, Customer shall supply Bank with the payee name(s) for each Item issued by Customer. Customer shall be responsible for the accuracy and completeness of the payee information provided to Bank. In reliance on the payee information provided by Customer, Bank will compare the payee information on the Item presented for cash at a branch of the Bank with Customer's Issue File. Customer agrees that Bank may refuse to cash any Item where the payee name is not an exact match and such refusal will not be deemed to be a wrongful dishonor. In the event of dishonor, Bank will refer the presenter to Customer. Customer acknowledges that under some circumstances issuance information submitted by Customer may not be reflected in Customer's Issue File until the opening of the following business day.

4. Reverse Positive Pay

a. The Paid File. Customer shall identify all accounts subject to Reverse Positive Pay ("Account"). When an Item is presented for payment against an identified Account, Bank shall notify Customer prior to the designated time, and in no case later than the business day following the day of presentment, of the Account number, Item number and amount of the presented Item (the "Paid File") and, if requested and available, shall provide Customer with the front and back images of the Items. By electing Reverse Positive Pay, Customer assumes all fraudulent and other risks associated with teller-cashed Items unless Customer provides standing instructions to Bank to disallow encashment at the teller line.

b. Payment Instructions. Customer shall compare the information provided by Bank with Customer's Item issuance records. Customer shall notify Bank prior to the deadline established by Bank of Customer's decision on any reported Items that should be dishonored. Bank may rely on any instructions received from Customer that it reasonably believes to be genuine. Bank is authorized to finally pay any Item listed on the Paid File unless the Customer instructs Bank to return the Item prior to the established deadline. Bank shall have no responsibility for any liability, loss or damage resulting from (i) a payment in accordance with this section of any Item that is altered or unsigned or which bears the forged or unauthorized signature of Customer or (ii) return of any Item to the

depository bank in accordance with this section. Bank reserves the right to require Customer to place a stop payment order on any Item to be returned. Any such orders will be subject to Bank's customary stop payment fee. Customer shall notify Bank by the designated deadline if the Paid File has not been received from Bank. Bank will make reasonable efforts to provide the Paid File to Customer and honor Customer's instructions. Bank's failure to provide a Paid File will not discharge Customer's obligation with regard to any Item that was otherwise properly payable at the time of presentment.

M. LOCKBOX SERVICES**1. Lockbox Service Requirements**

Bank provides retail and wholesale Lockbox Services to assist customers in expediting receipt of their remittances. Customer will have its customers forward their payments to the location designated by Bank ("Lockbox"). Prior to initiation of any Lockbox Service, Customer must maintain a demand deposit account with Bank.

2. Access to Mail

Customer authorizes Bank to pick up mail at the appropriate postal facility, to have custody of the keys or combinations and unrestricted and exclusive access to such box, and to collect the mail therein to be processed by Bank as agreed by the parties. Bank shall process remittances in accordance with its standard procedures or in accordance with prior instructions received from Customer and agreed to by Bank. Upon termination of Customer's Lockbox Service, mail received shall be forwarded for sixty (60) days following termination.

3. Proprietary Rights

Bank possesses all proprietary rights to written material, including, without limitation, all computer programs written for Bank's Lockbox processing system, portable media, listings, and other documentation originated and prepared by Bank. Customer shall not duplicate, sell, or use in any manner such programs or documentation without the prior written consent of Bank.

4. Collections/Availability

Unless otherwise agreed, while Customer receives Lockbox Services, all collected funds held in the account shall be deemed to be Customer's funds for all purposes, including adjustment, attachment, execution, garnishment and other forms of legal process. The crediting and collection of items will be handled under the same agreement as applied to other commercial deposits and shall be subject to Bank's then current funds availability schedule.

5. Transmission of Information

Bank shall transmit to Customer remittance information or other information received at the lockbox ("Lockbox Information") via secure electronic transmission. Customer acknowledges that the Lockbox Information may include consumer information that is confidential and may be subject to privacy laws and regulations, including unauthorized access or breach notification regulations. Customer further acknowledges that Bank has a duty to protect Lockbox Information and ensure that it is safely delivered to Customer and that Bank has deemed secure electronic transmissions to be the safest mechanism for delivery. If Customer elects to receive the Lockbox Information using other delivery means including paper reports, CDs, DVDs, or other portable electronic media, Customer acknowledges that such delivery means are outside the control of Bank and agrees to assume all risk, and hold Bank harmless from, any obligations, liability or losses that results from the nonreceipt, disclosure, dissemination, alteration or unauthorized access of the Lockbox Information.

6. Retail Lockbox Processing

Bank is authorized to open each envelope and remove the contents, disregarding all notations and other marks on the envelopes. Bank shall not examine checks or other items with respect to payee names, check dates and check signatures. Bank is not required to retain remittance envelopes or forward them to the Customer. Bank will disregard any restrictive notation on any check, including but not limited to "paid in full", whether preprinted or handwritten, and shall treat any such check as though such language did not appear thereon. Bank will process, endorse and deposit remittances in accordance with its standard procedures. If Bank is unable to determine the amount of a check, such check will be forwarded to Customer as non-processable. Bank will deliver miscellaneous enclosures, non-processable transactions and remittance data in accordance with the Implementation Documents. Payment coupons and envelopes submitted to Bank for processing must meet the specifications designated by Bank from time to time. All changes in coupon and return envelope design are subject to prior testing and approval by Bank. Bank may adjust the price for processing Customer's payments if changes are made to Customer's coupons and/or envelopes (including coupon scan line configuration) without such prior approval.

7. Wholesale Lockbox Processing

Bank is authorized to remove and examine the contents of each envelope in accordance with Bank's wholesale lockbox servicing guidelines and shall observe the following guidelines provided in this section. Bank shall capture, format and send remittance data to Customer via information reporting or data transmission in accordance with the Implementation Documents. Customer shall not use any form of prepaid business reply mail envelopes for its lockbox remittances and shall review any proposed envelope changes with Bank prior to use.

a. Check Date. Bank will not examine any checks or other items with respect to check dates.

b. Check Amount. If Bank is unable to determine the amount of a check, such check will be forwarded unprocessed to Customer as an exception.

c. Payee. Checks made payable to the acceptable payees listed in the Implementation Documents or any reasonable derivation thereof are acceptable for deposit. Checks made payable to others will be returned by Bank as exceptions.

d. Missing Signature. In the absence of a signature, Bank will process the check.

e. Exceptions. If a check is treated as an exception, it will be forwarded by Bank to Customer with the remittance data, and not deposited or otherwise reflected in the account of Customer.

f. Correspondence. Any correspondence, invoices and miscellaneous enclosures which are included with a payment, as well as any envelope that does not contain a check, will be returned to Customer.

g. Notation. Customer agrees that Bank shall disregard any notation on a check containing "paid in full" or other restrictive notation, whether preprinted or handwritten, and treat any such check as though such notation did not appear thereon.

N. RETAIL LOCKBOX CHECK CONVERSION SERVICES

U.S. Bank's Retail Lockbox Check Conversion ("RLCC") services provides Customer with the services necessary to convert eligible check payments received within U.S. Bank's retail lockbox into ACH Entries or other check collection mechanisms. Customer agrees that RLCC services shall be governed by this Section and other relevant sections of this Agreement.

1. Processing Options

Depending on current technological availability and the processing options selected by Customer, checks received from Payor Customers at Customer's designated U.S. Bank lockbox will be processed via ACH, original paper check presentment, or captured into Check Images and/or MICR Data. Bank may seek to collect such Check Images and/or MICR Data through the check collection system by presenting or exchanging Check Images and/or MICR Data, or using Check Images and/or MICR Data to create a Substitute Check, a Demand Draft or a Photo-In-Lieu ("PIL") for collection.

2. Definitions

a. "ACH Entry" means an ARC or other ACH check conversion debit entry originated to debit funds from a Payor Customer's account at a financial institution in accordance with the Operating Rules of the National Automated Clearing House Association ("NACHA").

b. "Check Image" means an electronic image of an original paper check or an electronic image of a Substitute Check that is created by Bank or another bank or depository institution in the check collection system.

c. "Electronic Deposit" means electronic information (including Check Images, MICR Data, dollar amount or ACH Entry information) obtained from capturing information from an original paper check and related remittance documentation.

d. "MICR Data" means information from the Magnetic Ink Character Recognition stylized printing on the bottom of checks comprising of routing, transit, account and check serial numbers.

e. "Payor Customers" means clients and/or customers of Customer that send checks to Customer's lockbox for payment of obligations owed to Customer.

f. "Photo-In-Lieu Instrument" or "PIL" means a copy of an original paper check, other than a Substitute Check, created from a Check Image.

g. "Remotely-Created Demand Draft" or "Demand Draft" means a paper item, other than a Substitute Check or PIL, that (i) is drawn on a Payor Customer account, (ii) does not bear the signature of the Payor Customer, and (iii) is authorized by the Payor Customer to be issued in the amount for which the item is drawn.

h. "RLCC services" means the Retail Lockbox Check Conversion services as described in this Agreement.

i. "RLCC system" means Bank's retail lockbox computer systems and databases.

j. "Substitute Check" means a paper check document that meets the definition of a "substitute check" in the Check Collection for the 21st Century Act as implemented by Regulation CC of the Federal Reserve Board.

k. "Transaction Data" means any information obtained from Payor Customer's checks, Check Images, remittance slips, including without limitation, MICR Data, check amount, Payor Customer address or check number.

3. Customer Authorizations and Notifications

Customer shall adhere to any and all applicable clearinghouse, local, state, or federal laws, rules or regulations, including but not limited to, obtaining all necessary consents and authorizations from, and/or providing all necessary disclosures and notifications to, its Payor Customers concerning the creation and use of the Payor Customers'

checks or any other use of Transaction Data by Customer or Bank, and the conversion of Payor Customers' checks or check information to ACH Entries and/or Check Images (including subsequent Substitute Checks, Demand Drafts or PILs created from such Images). Customer is solely responsible for ascertaining the content, method, and frequency of any required authorizations and notifications.

4. Determination of Items Eligible for ACH Processing

Only original paper checks that qualify as a source document may be converted to an ACH Entry under NACHA Rules. Customer or its agent is responsible for providing and updating Bank with current information on those Payor Customers that have opted-out of ACH check conversion. Customer or its agent shall provide this opt-out information to Bank in a timely manner and in the appropriate MICR Data format that includes correct MICR line spacing and other technical details per Bank's requirements, so as to allow Bank to rely on this information prior to processing the checks. If Customer has selected a processing option that uses ACH Entries to collect payments from Payor Customers, Bank will apply certain automated internal edits and screens to determine whether the original paper check is a source document that qualifies for conversion to an ACH Entry. Customer acknowledges and agrees that Customer is the Originator of such ACH Entries under NACHA Rules regardless of whether Customer or Bank initiates the ACH Entry into the payment system. Bank shall have no liability to Customer or any other person in the event that a Payor Customer's check or check information is processed or converted by Bank to an ACH Entry, Check Image, Substitute Check, Demand Draft or PIL, and such check or check information was not eligible for any reason for processing as, or conversion to, such an item.

5. Processing of Checks

a. Bank shall image all checks that are mailed to Customer's lockbox and shall process checks based on the processing options selected by Customer. Bank shall send Customer a file containing information on all payments that have posted to Customer's lockbox account. Customer acknowledges that current image technology may not capture all security features (e.g. watermarks) contained in the original paper checks, and agrees to assume any and all losses resulting from claims based on security features that do not survive the image process.

b. Bank shall not be liable to Customer for (i) electronically converting checks for which Payor Customers had electronically opted-out and for which Customer or its agent did not provide Bank with timely or accurate MICR Data formatting requirements; and (ii) for failure to electronically process checks if such processing would violate this Agreement, or any other agreement between Customer and Bank.

6. Collection of Checks

Bank may in its sole discretion determine the manner in which Bank will seek to collect a check received at Customer's lockbox. Without limiting the generality of the preceding sentence, Bank may, at its option: (i) present or transfer a Check Image or MICR Data to the paying bank, a Federal Reserve Bank, image share/exchange network, or other collecting bank; (ii) create a Substitute Check, a Demand Draft or a PIL from the Check Image and/or MICR Data and collect such item, or (iii) collect the original paper check.

7. Returns

a. Customer agrees that Bank may charge the account of Customer for any and all returned items and ACH Entries, including a returned Check Image, a returned Substitute Check or a returned Demand Draft or PIL that relates to the original paper check.

b. Bank will provide Customer with a report of Check Images, paper items (which may include Substitute Checks, Demand Drafts or PILs) and ACH Entries that are returned. If Bank receives a Check Image as a return, Bank may provide Customer with: (i) a report of returned Check Images, or (ii) Substitute Checks or other copies created from the returned Check Images. Bank is not obligated to produce a Substitute Check from a returned Check Image.

c. If Customer elects to have its returned paper items directed to another financial institution or entity apart from Bank, Bank shall not be liable for any late returned items. Customer shall indemnify and hold Bank

harmless from and against, any liability, loss or damage (including attorneys' fees and other costs incurred in connection therewith) relating to or arising out of any late returned item, including those claimed or incurred under Regulation CC of the Board of Governors of the Federal Reserve System ("Regulation CC") or for any breach of warranty claim.

8. Representation of Returns

a. If an ACH Entry is returned because the original paper check was ineligible as a source document for the ACH Entry, Bank shall use reasonable efforts to collect the check related to the ACH Entry by presenting the original paper check (if not destroyed) or creating, in Bank's sole discretion, a Substitute Check, a Demand Draft or a PIL from the image of the original paper check. Customer represents and warrants to Bank that Customer has obtained all necessary and appropriate authorizations from its Payor Customers for Bank to create, and present for payment to Payor Customer's financial institution, any such Substitute Check, Demand Draft or PIL.

b. In the event the original paper check is required for representation in order to collect a returned Check Image, ACH Entry, Substitute Check, Demand Draft or PIL, Customer shall attempt to obtain a replacement check, or otherwise collect from the Payor Customer, if the original paper check has been destroyed.

9. Storage of Check Images

Bank shall store Check Images, MICR Data and ACH Entry information on the RLCC system or other similar system, and shall make Check Images, MICR Data or ACH Entry information available to Customer according to the fee schedule. Customer may purchase internet access, CDs, DVDs or file transmission, if available, of Check Images, MICR Data or ACH Entry information, at the price outlined in the fee schedule. Customer is solely responsible for safeguarding the security and confidentiality of, Transaction Data, Check Images and other information that is stored on, printed or downloaded from, the internet, CDs, DVDs, other portable media, file transmissions, or Customer's computer systems. If RLCC services are terminated, Bank will retain Check Images, MICR Data or ACH Entry information for the duration required under NACHA Rules or applicable law.

10. Substitute Check Received for Deposit

Bank reserves the right to reject the deposit of a Substitute Check that was created by another financial institution, Customer, Payor Customers or any other person.

11. No Authorization to Create Substitute Checks

Customer agrees that Customer and any of its agents may not use the Check Images created by, or stored in, the RLCC system or other similar system, CDs or DVDs, or otherwise transmitted to Customer, to print a Substitute Check for any reason.

12. Representations and Warranties

With respect to each original paper check, Check Image or Electronic Deposit, Customer is deemed to make to Bank any representation or warranty that Bank makes, under applicable law, clearinghouse rule, Federal Reserve Operating Circular, bi-lateral agreement or otherwise, to any person (including without limitation a collecting bank, a Federal Reserve Bank, a Receiving Depository Financial Institution, a paying bank, a returning bank, the drawee, the drawer, any endorser, or any other transferee) when Bank transfers, presents or originates the original paper check, Electronic Deposit or Check Image, or a Substitute Check, Demand Draft, PIL or ACH Entry created from that Check Image or MICR Data.

13. Customer Responsibility

With respect to each original paper check, Check Image or Electronic Deposit, Customer shall indemnify and hold Bank harmless from and against any and all claims, demands, damages, losses, liabilities, penalties and expenses (including, without limitation, reasonable attorney fees and court costs at trial or on appeal) arising directly or indirectly: (a) from Customer's breach of a representation or warranty as set forth in section 12 above, (b) as a result of any act or omission of Bank in the capturing, creation or transmission of the Check Image or Electronic Deposit, including without limitation the encoding of the MICR Data from the original paper check; (c) from any duplicate, fraudulent or

unauthorized check, Check Image, MICR Data, Substitute Check, Demand Draft, PIL or ACH Entry; or (d) for any loss caused by Bank's creation of a Check Image, MICR Data, Substitute Check, Demand Draft, PIL or ACH Entry instead of presentment of the original paper check; or (e) from any other act or omission arising out of Bank's action or inaction taken pursuant to any request by Customer or pursuant to this Agreement. This section 13 shall survive termination of the Agreement.

14. Rules Applicable to Collection of Checks

Customer acknowledges and agrees that an original paper check, Check Image, MICR Data, Substitute Check, Demand Draft or PIL may, in the sole discretion of Bank, be collected through one or more check clearinghouses, one or more Federal Reserve Banks, or an agreement with another financial institution or image share/exchange network. In such cases, the original paper check, Check Image, MICR Data, Substitute Check, Demand Draft or PIL is subject to the rules of that clearinghouse, Federal Reserve Bank, or image share/exchange network or financial institution agreement.

15. Accuracy and Timeliness of RLCC services

Performance of the RLCC services may be affected by external factors such as communication networks latency, mail delays and other factors beyond Bank's control. Bank will use reasonable efforts to provide the RLCC services in a prompt fashion, but shall not be liable for temporary failure to provide the RLCC services in a timely manner. Information with respect to all transactions is provided solely for Customer's convenience, and Customer shall have no recourse to Bank as to use of such information.

O. RETURNED CHECK MANAGEMENT

If selected by Customer and agreed to by Bank, Customer may direct that checks deposited by Customer at multiple bank locations and which are returned by the drawee bank(s) ("Returned Items"), be processed by Bank regardless of the identity of the bank of first deposit. Customer agrees that this Service shall be governed by this Section and all other relevant sections of this Agreement.

1. Returned Items

All checks deposited by Customer shall have been endorsed by Customer using a form of endorsement and routing number(s) prescribed by Bank directing that all Returned Items be sent to Bank. Upon receipt of any Returned Items (which may include the original, replacement paper document, or electronic image, of such Returned Items), Bank will process them as consolidated returned items and charge Customer's designated account. Customer acknowledges that the success of items processed via Returned Check Management is dependent on the quality, consistency and location of the routing information and endorsement stamp placed by Customer. All uncollected Returned Items shall be forwarded by Bank to Customer as described in the Implementation Documents.

2. Redeposited Returned Items

Upon Customer's request, Bank will automatically redeposit checks returned unpaid due to insufficient funds. Customer has a right to be notified whenever a check Customer deposits is returned unpaid. To simplify collection of these items, Customer agrees to waive this right of notification for redeposited items. If these items are returned a second time, Customer will receive a standard notification together with the original, replacement paper document, or electronic image, of the Returned Items. Bank reserves the right to place a hold on any redeposited Returned Item.

3. Adjustments.

Customer shall not receive provisional credit if Customer's adjustment request is received by Bank fifteen (15) days past the initial return date that the Returned Item posted to the account. (In the case of a duplicate Returned Item, the 15 days runs from the date of posting of the first Returned Item). For these adjustment requests, Bank shall provide Customer with credit only upon Bank's receipt of credit from the Federal Reserve or from another financial institution.

4. Reporting; Fees and Charges

Bank shall provide Customer with Returned Item activity reports using the reporting method described in the Implementation Documents. The fees and charges assessed by Bank for processing Returned Items are described in the Implementation Documents or in the fee schedules provided by Bank to Customer.

5. Late Returns

Bank will not submit any late return claims for Returned Items, unless requested by Customer and subject to the late return fees described in the Implementation Documents or in the fee schedules provided by Bank to Customer. Bank will not give preliminary credit to Customer for any late return claims. If any late return claim is accepted, Bank shall credit Customer's designated account, as soon as, but not before, the funds relating to such late return claim are made available to Bank by the financial institution to which said late return claim was made. Customer shall be liable to Bank for, and shall indemnify and hold Bank harmless from and against, any liability, loss or damage (including attorneys' fees and other costs incurred in connection therewith) relating to or arising out of any late Returned Item, including those claimed or incurred under Regulation CC of the Board of Governors of the Federal Reserve System ("Regulation CC") or otherwise as a result of: (a) any delay in returning an item to the depository bank; (b) any noncompliance with the expeditious return and notice-of-nonpayment requirements of Regulation CC; and (c) any breach of warranty made by Customer or Bank.

6. Misrouted Items

From time to time, Returned Items may be routed by the drawee banks to the bank of first deposit. Customer shall provide all of its banks of first deposit with instructions, in a form acceptable to Bank, describing the procedures for re-directing misrouted items to Bank.

7. Electronic Return Services

National Automated Clearinghouse Association ("NACHA") Rules allows Customer to utilize ACH to electronically collect certain checks that have been returned unpaid for insufficient funds. In the event that Customer, Bank or its third party vendor initiates an ACH entry on Customer's behalf for check collection purposes ("RCK Entry") on Returned Items, Customer agrees that such RCK Entry will comply with all relevant provisions of this Agreement and NACHA Rules. Customer shall provide clear and conspicuous notice of its electronic check representation policy at the time the check is initially presented to Customer.

8. Collection Fee Services

Customer may request that Bank or its third party vendor collect Returned Item fees on Customer's behalf. Customer agrees to comply with all relevant provisions of this Agreement and all applicable laws, rules and regulations governing collection fees, including but not limited to, the Fair Debt Collection Practices Act and NACHA Rules. If Customer elects to collect Returned Item fees via ACH, Customer makes the following representations and warranties regardless of which party initiates the ACH entry on its behalf:

a. Customer has obtained the consumer's authorization to collect Returned Item fees and has provided the consumer with an electronic or hard copy of the authorization.

b. The authorization (i) is signed by the consumer and the signature stands alone and relates to the authorization language; (ii) is identifiable as an ACH debit authorization and clearly and conspicuously states its terms; (iii) contains information about how the consumer may revoke the authorization; and (iv) if stamped on the back of the check, is in the endorsement space provided.

c. Customer shall retain the original or microfilm copy of the authorization for two years from the termination or revocation of the authorization.

9. Customer Authorizations

Customer authorizes (i) Bank to disclose to its third party vendor information concerning Customer to the extent required to deliver the requested Services; (ii) Bank or its third party vendor to debit or credit Customer's accounts to perform the Services hereunder; and (iii) Bank or its third party vendor to initiate RCK Entries, or collect Returned Item fees, on Customer's behalf in the event Customer selects Electronic Return Services or Collection Fee Services.

10. Compliance with Law

Customer will indemnify, defend and hold Bank harmless from and against any and all claims, demands, expenses, losses, liabilities, and damages, including reasonable attorney fees and court costs at trial or on appeal that arise directly or indirectly out of Customer's failure to comply with the provisions of this Agreement or applicable law, regulations and operating rules, including without limitation, the NACHA Rules.

P. COMMERCIAL SWEEP ACCOUNTS – LOAN OPTION

THIS NOTICE IS GIVEN PURSUANT TO APPLICABLE LAW: IN THE UNLIKELY EVENT OF THE BANK FAILURE, THE FEDERAL DEPOSIT INSURANCE CORPORATION ("FDIC") WILL ALLOW THE LOAN SWEEP TRANSFER OF EXCESS BALANCES IN CUSTOMER'S DEPOSIT ACCOUNT, ABOVE A PRE-ESTABLISHED THRESHOLD, OUT OF THE DEPOSIT ACCOUNT TO PAY DOWN THE LOAN AT BANK ON THE DAY OF FAILURE. THE REMAINING FUNDS IN THE DEPOSIT ACCOUNT WILL BE DEEMED DEPOSITS UNDER FDIC RULES AND WILL BE INSURED UP TO THE APPLICABLE FDIC LIMITS.

A. Definitions

1. "Account" means Customer's deposit account at Bank which Customer has designated as being covered by the Services described herein.
2. "Available Funds" means the total of the collected funds in the Account as of the close of business on any Business Day, determined in accordance with the manner in which Bank generally provides credit for deposited checks.
3. "Business Day" means any day other than a Saturday or Sunday on which Bank is open to the public for carrying on substantially all of its banking functions.
4. "Credit" means any loan arrangement which is designated as a line of credit where Bank has agreed will be subject to the Services described herein.
5. "Credit Agreement" means any loan agreement, promissory note, guaranty or other agreement, instrument or document which evidences, secures or guarantees the Credit.
6. "Deficiency Amount" means the amount by which the Target Balance exceeds the amount of Available Funds as of the close of business on any Business Day.
7. "Event of Insolvency" means any of the following: (i) Customer or Guarantor shall die or cease to exist; (ii) any Guarantor shall attempt to revoke its guaranty or other obligation to Bank, or such guaranty or other obligation shall become unenforceable in whole or in part; (iii) any bankruptcy, insolvency or receivership proceeding, or any assignment for the benefit of creditors, shall be commenced under any Federal or state law by or against Customer or any Guarantor; (iv) Customer or any Guarantor shall become the subject of any out-of-court settlement with its creditors; or (v) Customer or any Guarantor is unable or admits in writing its inability to pay its debts as they mature.
8. "Excess Funds" means the amount of Available Funds as of the close of business on any Business Day which exceeds the Target Balance.
9. "Guarantor" means any guarantor, surety, accommodation party or joint obligor of the obligations of Customer under the Credit.
10. "Target Balance" means that amount of funds which Customer desires to maintain in the Account and which is mutually agreeable to Bank and Customer from time to time.
11. "Transaction" means either a Loan Transaction or a Repayment Transaction.

B. Initiation of Transactions

1. As of the close of business on each Business Day, Bank will determine the amount of Excess Funds, if any. If Bank determines that there are Excess Funds, Bank will debit the Account and credit the Credit in an amount equal to the lesser of (i) the amount of Excess Funds or (ii) the outstanding principal balance of the Credit plus all interest, fees and charges then outstanding under the Credit (a "Repayment Transaction"); provided, however, that Bank will not be required to initiate any Repayment Transaction in an amount less than a minimum sum mutually agreeable to Bank and Customer. Customer grants Bank a security interest in and right of set-off with respect to the Account for purposes of effecting Repayment Transactions.

2. As of the close of business on each Business Day, Bank will determine the Deficiency Amount, if any. If Bank determines that there is a Deficiency Amount, Bank will charge the Credit in an amount equal to the lesser of (i) the amount by which such available balance is less than the Target Balance or (ii) the amount which is available to be borrowed under the Credit (the lesser of such amounts being referred to as the "Loan Amount"), plus the amount of any fees and charges under the Credit, and credit the Account in an amount equal to the Loan Amount (a "Loan Transaction"); provided, however, that Bank will not be required to initiate any Loan Transaction in an amount less than a minimum sum mutually established by Bank, and Bank will not be required to initiate any Loan Transaction if any default exists under any Credit Agreement or these Terms and Conditions or Bank is otherwise excused or prohibited under any Credit Agreement or applicable law from making an advance to Customer. In addition, Bank will not be required to initiate any Loan Transaction, and the Services hereunder shall immediately and automatically terminate without notice, if: (A) the Credit has matured or been terminated; (B) Customer has cancelled the Credit; (C) an Event of Insolvency has occurred; or (D) Bank has demanded payment under the Credit.

3. If Bank has agreed to provide any other service to Customer pursuant to which Bank is authorized to transfer Excess Funds from the Account, (i) these Terms and Conditions shall prevail over the terms and conditions of such other service, (ii) Bank may initiate a Repayment Transaction or Loan Transaction under these Terms and Conditions in lieu of or prior to initiating the transfer of Excess Funds under such other service and (iii) Bank shall not be in default as to such other service solely by reason of not initiating the transfer of Excess Funds under such other service.

4. Overdrafts

Bank may debit the Account as set forth in section 1 above, even though, subsequent to such debit, and as a result of additional transfers or withdrawals from the Account, the return of checks unpaid, or any other cause, the Account becomes overdrawn. In such event, Customer will be assessed Bank's then prevailing charges for overdrafts.

5. Ordinary Course

Customer and Bank intend that each Repayment Transaction hereunder be (a) in the ordinary course of business or financial affairs of Customer and Bank and (b) made according to ordinary business terms.

Q. COMMERCIAL SWEEP ACCOUNTS – INVESTMENT OPTION

NOTICE: THE INVESTMENT OPTIONS OFFERED BY BANK UNDER THE COMMERCIAL SWEEP ACCOUNT ARE SUBJECT TO INVESTMENT RISKS, INCLUDING LOSS OF PRINCIPAL OF THE AMOUNT INVESTED.

1. General Terms Applicable to All Investment Options

a. If a Commercial Sweep Account Investment Option has been requested and agreed to by Bank, Customer authorizes Bank to transfer funds on a manual or automated basis to and from the demand deposit account ("DDA") and investment device selected by Customer. Funds will be transferred between the accounts so that: (a) to the extent funds are available in either account, Customer's DDA maintains an average collected balance equal to a pre-established balance ("Peg Balance"); and (b) any collected funds in the DDA that exceed the Peg Balance are invested by Bank as directed by Customer in accordance with this Agreement. Amounts invested in money market mutual funds, including investment income, will be liquidated and credited back to the DDA as needed so that the average collected balance of Customer's DDA equals the Peg Balance. Amounts invested in other investment options, including interest or other investment income, will be credited back to the DDA upon maturity. Bank may limit the amount of excess collected funds that it will invest on behalf of Customer on any particular Business Day. Bank may also impose a maximum redemption amount to bring the DDA to the Peg Balance on a particular Business Day. If Customer's Investment Option is not available on a given Business Day, then all excess funds will remain in the DDA until the next Business Day.

b. Bank is authorized to accept verbal instructions, including telephone instructions, from Customer representatives for the transfer of funds between Bank and Customer and between Customer's accounts. Bank may rely on any instructions received from Customer that it reasonably believes to be genuine.

c. Bank is authorized to execute as Agent for Customer all certificates of ownership and other instruments required by law or by contract. Bank shall not be accountable for errors in judgment but only for gross negligence or willful misconduct. Bank shall not be required to comply with any direction of Customer which in Bank's judgment, may subject it to liability or to defend or prosecute any suit or action unless indemnified in a manner and amount satisfactory to it.

d. Customer may, by written instrument executed by Customer and delivered to Bank, terminate this Service and withdraw from the account the principal and accumulated income upon paying all sums due to Bank and indemnifying Bank to its satisfaction against liabilities incurred in the administration of the account.

e. Bank will act as agent to invest on the order and for the benefit of Customer. The Services described herein are provided by Bank to Customer solely as bona fide treasury management services. Bank does not undertake any fiduciary obligation to Customer with respect to these services. Bank's duties to act for Customer hereunder are solely mechanical and administrative in nature.

2. Investment Options**a. Repurchase Agreements**

- (i) **Terms.** If Customer chooses to invest excess funds in repurchase agreements, Customer and Bank agree to be bound by the Master Repurchase Agreement with Bank. If Customer's investments in repurchase agreements exceed its typical investment amount by \$10 million or more on a given Business Day, Customer agrees to notify Bank by providing sufficient advance notice to allow Bank to adequately collateralize the investments. Bank will exercise reasonable efforts to invest the entire amount but cannot guarantee full investment under these circumstances. If Customer fails to notify Bank in advance or if Bank is unable to invest any or all of the additional funds in repurchase agreements, Customer agrees that Bank may be required to withhold or withdraw any interest that may have been previously paid.

- (ii) **Confirmations.** After each repurchase transaction, Bank will deliver to Customer (via mail, fax, email, or other electronic means, including without limitation, posting to a password protected website) a confirmation ("Confirmation") describing any information required by applicable law, and any other terms and information which Bank may include at its discretion. The information contained in the Confirmation shall be considered true and correct and conclusively binding unless Customer notifies Bank of any error therein within three (3) business days after the date the Confirmation is mailed, faxed, emailed, personally delivered to Customer or sent via other electronic means, including without limitation, posting to a password protected website. If Customer elects to receive Confirmations electronically, Customer acknowledges and agrees that Customer will no longer receive Confirmations by mail. If Customer desires to discontinue receiving Confirmations electronically, Customer shall provide written notice to Bank, whereupon Bank shall resume delivering mailed Confirmations.

b. Eurodollar Investments

- (i) **Terms.** If Customer chooses to invest excess funds in Eurodollars, Bank is authorized to sweep excess funds from Customer's DDA into overnight Eurodollar time deposits at the Cayman Islands branch of Bank. The minimum amount that may be swept pursuant to this option is \$100,000. Excess funds less than \$100,000 in a given business day will not be invested unless otherwise agreed by Bank. Customer's Eurodollar investments may be registered in the name of Bank's nominee or nominees. Earnings in Eurodollar investments shall be credited to Customer's DDA on a daily basis. CUSTOMER ASSUMES ALL RISK OF LOSS ARISING FROM ANY ACTION TAKEN WITH RESPECT TO THE CAYMAN DEPOSIT BY THE GOVERNMENT OF THE CAYMAN ISLANDS OR ANY SOVEREIGN OR MILITARY POWER (DE FACTO OR DE JURE).
- (ii) **THIS NOTICE IS GIVEN PURSUANT TO APPLICABLE LAW: IN THE UNLIKELY EVENT OF BANK FAILURE, THE BALANCES RESIDING IN CUSTOMER'S EURODOLLAR SWEEP ACCOUNT AT BANK WILL NOT BE DEEMED "DEPOSITS" UNDER RULES PROMULGATED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION ("FDIC") AND WILL NOT BE INSURED BY THE FDIC. IN THE UNLIKELY EVENT OF BANK FAILURE, CUSTOMER'S CLAIM FOR FUNDS THAT WERE SWEEPED INTO THE EURODOLLAR SWEEP ACCOUNT WILL BE TREATED AS UNSECURED GENERAL CREDITOR CLAIMS.**

c. Mutual Funds

- (i) **Terms.** If Customer chooses the Mutual Fund sweep option, excess funds will be invested in the First American fund offered for this service. Bank affiliates serve as investment advisor, custodian, transfer agent, and accounting services agent and receive compensation for such services as disclosed in the prospectus for the selected fund.
- (ii) **Customer Acknowledgments.** BY ACCEPTING THIS SERVICE, CUSTOMER HEREBY ACKNOWLEDGES THAT IT HAS RECEIVED A COPY OF THE PROSPECTUS OF ANY DESIGNATED FUND. CUSTOMER FURTHER ACKNOWLEDGES THAT BANK IS NOT PROVIDING ANY INVESTMENT ADVICE HEREIN TO CUSTOMER AND MAKES NO REPRESENTATION OR WARRANTY AS TO THE SUITABILITY OR SAFETY OF THE INVESTMENTS IN ANY FUND OFFERED UNDER THIS SERVICE.
- (iii) **THIS NOTICE IS GIVEN PURSUANT TO APPLICABLE LAW: IN THE UNLIKELY EVENT OF BANK FAILURE, CUSTOMER WILL MAINTAIN ITS INTEREST IN THE MONEY FUND SHARES FOLLOWING A COMPLETED MONEY FUND SWEEP. THE VALUE OF THE SHARES IN THE MONEY FUND SWEEP WILL NOT BE DEEMED "DEPOSITS" UNDER RULES PROMULGATED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION ("FDIC") AND WILL NOT BE INSURED BY**

THE FDIC. ON THE DAY OF FAILURE, HOWEVER, THE FDIC MAY DISALLOW THAT DAY'S SWEEP TO OCCUR. IF THE SWEEP IS DISALLOWED, ANY EXCESS BALANCES THAT WOULD HAVE NORMALLY SWEEPED ON THAT BUSINESS DAY WILL REMAIN IN THE DEPOSIT ACCOUNT AND WILL BE TREATED AS DEPOSITS. THOSE DEPOSITS WILL BE INSURED UP TO THE APPLICABLE FDIC INSURANCE LIMITS. THE SAME RESULT MAY OCCUR IF BANK HAS INSUFFICIENT SHARES FOR THE MONEY FUND SWEEP.

d. Commercial Paper.

- (i) **Terms.** If Customer chooses the Commercial Paper sweep option, excess funds shall be invested in an unsecured short-term promissory note issued by Bank. At the end of each Business Day, excess funds are automatically transferred from Customers' DDA into a sweep account that invests in overnight commercial paper. The minimum amount that may be swept pursuant to this option is \$25,000. Excess funds less than \$25,000 on a given business day will not be invested in the Commercial Paper sweep.
- (ii) **THIS NOTICE IS GIVEN PURSUANT TO APPLICABLE LAW: IN THE UNLIKELY EVENT OF BANK FAILURE, THE BALANCES RESIDING IN CUSTOMER'S COMMERCIAL PAPER SWEEP ACCOUNT AT BANK WILL NOT BE DEEMED "DEPOSITS" UNDER RULES PROMULGATED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION ("FDIC") AND WILL NOT BE INSURED BY THE FDIC. IN THE UNLIKELY EVENT OF BANK FAILURE, CUSTOMER'S CLAIM FOR FUNDS THAT WERE SWEEPED INTO THE COMMERCIAL PAPER SWEEP ACCOUNT WILL BE TREATED AS UNSECURED GENERAL CREDITOR CLAIMS.**

R. MASTER REPURCHASE AGREEMENT (MRA)

THIS NOTICE IS GIVEN PURSUANT TO APPLICABLE LAW: ALL FUNDS IN THE REPURCHASE AGREEMENT SWEEP WILL NOT BE DEEMED "DEPOSITS" AND WILL NOT BE INSURED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION ("FDIC"). IN THE UNLIKELY EVENT OF BANK FAILURE, CUSTOMER WILL MAINTAIN ITS OWNERSHIP OR SECURITY INTEREST IN THE SECURITIES THAT ARE SUBJECT TO THE REPURCHASE AGREEMENT AND, UPON LIQUIDATION, WILL RECEIVE THE VALUE OF THE SECURITIES UP TO THE AMOUNT OF FUNDS SWEEPED FROM THE ACCOUNT.

1. Applicability

From time to time the parties hereto may enter into transactions in which one party ("Seller") agrees to transfer to the other ("Buyer") securities or other assets ("Securities") against the transfer of funds by Buyer, with a simultaneous agreement by Buyer to transfer to Seller such Securities at a date certain or on demand, against the transfer of funds by Seller. Each such transaction shall be referred to herein as a "Transaction" and, unless otherwise agreed in writing, shall be governed by this MRA.

2. Definitions

a. "Act of Insolvency", with respect to any party, (i) the commencement by such party as debtor of any case or proceeding under any bankruptcy, insolvency, reorganization, liquidation, moratorium, dissolution, delinquency or similar law, or such party seeking the appointment or election of a receiver, conservator, trustee, custodian or similar official for such party or any substantial part of its property, or the convening of any meeting of creditors for purposes of commencing any such case or proceeding or seeking such an appointment or election, (ii) the commencement of any such case or proceeding against such party, or another seeking such an appointment or election, or the filing against a party of an application for a protective decree under the provisions of the Securities Investor Protection Act of 1970, which (A) is consented to or not timely contested by such party, (B) results in the entry of an order for relief, such an appointment or election, the issuance of such a protective decree or the entry of an order having a similar effect, or (C) is not dismissed within 15 days, (iii) the making by such party of a general assignment for the benefit of creditors, or (iv) the admission in writing by such party of such party's inability to pay such party's debts as they become due;

b. "Additional Purchased Securities", Securities provided by Seller to Buyer pursuant to Paragraph 4(a) hereof;

c. "Buyer's Margin Amount", with respect to any Transaction as of any date, the amount obtained by application of the Buyer's Margin Percentage to the Repurchase Price for such Transaction as of such date;

d. "Buyer's Margin Percentage", with respect to any Transaction as of any date, a percentage (which may be equal to the Seller's Margin Percentage) agreed to by Buyer and Seller or, in the absence of any such agreement, the percentage obtained by dividing the Market Value of the Purchased Securities on the Purchase Date by the Purchase Price on the Purchase Date for such Transaction;

e. "Confirmation", the meaning specified in Paragraph 3(b) hereof;

f. "Income", with respect to any Security at any time, any principal thereof and all interest, dividends or other distributions thereon;

g. "Margin Deficit", the meaning specified in Paragraph 4(a) hereof;

h. "Margin Excess", the meaning specified in Paragraph 4(b) hereof;

i. "Margin Notice Deadline", the time agreed to by the parties in the relevant Confirmation, or otherwise as the deadline for giving notice requiring same day satisfaction of margin maintenance obligations as provided in Paragraph 4 hereof (or, in the absence of any such agreement, the deadline for such purposes established in accordance with market practice);

j. "Market Value", with respect to any Securities as of any date, the price for such Securities on such date obtained from a generally recognized source agreed to by the parties or the most recent closing bid quotation from such a source, plus accrued income to the extent not included therein (other than any Income credited or transferred to, or applied to the obligations of, Seller pursuant to Paragraph 5 hereof) as of such date (unless contrary to market practice for such Securities);

k. "Price Differential", with respect to any Transaction as of any date, the aggregate amount obtained by daily application of the Pricing Rate for such Transaction to the Purchase Price for such Transaction on a 360 day per year basis for the actual number of days during the period commencing on (and including) the Purchase Date for such Transaction and ending on (but excluding) the date of determination (reduced by any amount of such Price Differential previously paid by Seller to Buyer with respect to such Transaction);

l. "Pricing Rate", the per annum percentage rate for determination of the Price Differential;

m. "Prime Rate", the prime rate of U.S. commercial banks as published in The Wall Street Journal (or, if more than one such rate is published, the average of such rates);

n. "Purchase Date", the date on which Purchased Securities are to be transferred by Seller to Buyer;

o. "Purchase Price", (i) on the Purchase Date, the price at which Purchased Securities are transferred by Seller to Buyer, and (ii) thereafter, except where Buyer and Seller agree otherwise, such price increased by the amount of any cash transferred by Buyer to Seller pursuant to Paragraph 4(b) hereof and decreased by the amount of any cash transferred by Seller to Buyer pursuant to Paragraph 4(a) hereof or applied to reduce Seller's obligations under clause (ii) of Paragraph 5 hereof;

p. "Purchased Securities", the Securities transferred by Seller to Buyer in a Transaction hereunder. The term "Purchased Securities" with respect to any Transaction at any time also shall include Additional Purchased Securities delivered pursuant to Paragraph 4(a) hereof and shall exclude Securities returned pursuant to Paragraph 4(b) hereof;

q. "Repurchase Date", the date on which Seller is to repurchase the Purchased Securities from Buyer, including any date determined by application of the provisions of Paragraph 3(c) or 11 hereof;

r. "Repurchase Price", the price at which Purchased Securities are to be transferred from Buyer to Seller upon termination of a Transaction, which will be determined in each case (including Transactions terminable upon demand) as the sum of the Purchase Price and the Price Differential as of the date of such determination;

s. "Seller's Margin Amount", with respect to any Transaction as of any date, the amount obtained by application of the Seller's Margin Percentage to the Repurchase Price for such Transaction as of such date;

t. "Seller's Margin Percentage", with respect to any Transaction as of any date, a percentage (which may be equal to the Buyer's Margin Percentage) agreed to by Buyer and Seller or, in the absence of any such agreement, the percentage obtained by dividing the Market Value of the Purchased Securities on the Purchase Date by the Purchase Price on the Purchase Date for such Transaction.

3. Initiation; Confirmation; Termination

a. An agreement to enter into a Transaction may be made orally or in writing at the initiation of either Buyer or Seller. On the Purchase Date for the Transaction, the Purchased Securities shall be transferred to Buyer or its agent against the transfer of the Purchase Price to an account of Seller.

b. Upon agreeing to enter into a Transaction hereunder, Buyer or Seller (or both), as shall be agreed, shall promptly deliver to the other party a written confirmation of each Transaction (a "Confirmation"). The

Confirmation shall describe the Purchased Securities (including CUSIP number, if any), identify Buyer and Seller and set forth (i) the Purchase Date, (ii) the Purchase Price, (iii) the Repurchase Date, unless the Transaction is to be terminable on demand, (iv) the Pricing Rate or Repurchase Price applicable to the Transaction, and (v) any additional terms or conditions of the Transaction not inconsistent with this MRA. The Confirmation, together with this MRA, shall constitute conclusive evidence of the terms agreed between Buyer and Seller with respect to the Transaction to which the Confirmation relates, unless with respect to the Confirmation specific objection is made promptly after receipt thereof. In the event of any conflict between the terms of such Confirmation and this MRA, this MRA shall prevail.

c. In the case of Transactions terminable upon demand, such demand shall be made by Buyer or Seller, no later than such time as is customary in accordance with market practice, by telephone or otherwise on or prior to the business day on which such termination will be effective. On the date specified in such demand, or on the date fixed for termination in the case of Transactions having a fixed term, termination of the Transaction will be effected by transfer to Seller or its agent of the Purchased Securities and any Income in respect thereof received by Buyer (and not previously credited or transferred to, or applied to the obligations of, Seller pursuant to Paragraph 5 hereof) against the transfer of the Repurchase Price to an account of Buyer.

4. Margin Maintenance

a. If at any time the aggregate Market Value of all Purchased Securities subject to all Transactions in which a particular party hereto is acting as Buyer is less than the aggregate Buyer's Margin Amount for all such Transactions (a "Margin Deficit"), then Buyer may by notice to Seller require Seller in such Transactions, at Seller's option, to transfer to Buyer cash or additional Securities reasonably acceptable to Buyer ("Additional Purchased Securities"), so that the cash and aggregate Market Value of the Purchased Securities, including any such Additional Purchased Securities, will thereupon equal or exceed such aggregate Buyer's Margin Amount (decreased by the amount of any Margin Deficit as of such date arising from any Transactions in which such Buyer is acting as Seller).

b. If at any time the aggregate Market Value of all Purchased Securities subject to all Transactions in which a particular party hereto is acting as Seller exceeds the aggregate Seller's Margin Amount for all such Transactions at such time (a "Margin Excess"), then Seller may by notice to Buyer require Buyer in such Transactions, at Buyer's option, to transfer cash or Purchased Securities to Seller, so that the aggregate Market Value of the Purchased Securities, after deduction of any such cash or any Purchased Securities so transferred, will thereupon not exceed such aggregate Seller's Margin Amount (increased by the amount of any Margin Excess as of such date arising from any Transactions in which such Seller is acting as Buyer).

c. If any notice is given by Buyer or Seller under subparagraph (a) or (b) of this Paragraph at or before the Margin Notice Deadline on any business day, the party receiving such notice shall transfer cash or Additional Purchased Securities as provided in such subparagraph no later than the close of business in the relevant market on such day. If any such notice is given after the Margin Notice Deadline, the party receiving such notice shall transfer such cash or Securities no later than the close of business in the relevant market on the next business day following such notice.

d. Any cash transferred pursuant to this Paragraph shall be attributed to such Transactions as shall be agreed upon by Buyer and Seller.

e. Seller and Buyer may agree, with respect to any or all Transactions hereunder, that the respective rights of Buyer or Seller (or both) under subparagraphs (a) and (b) of this Paragraph may be exercised only where a Margin Deficit or Margin Excess, as the case may be, exceeds a specified dollar amount or a specified percentage of the Repurchase Prices for such Transactions (which amount or percentage shall be agreed to by Buyer and Seller prior to entering into any such Transactions).

f. Seller and Buyer may agree, with respect to any or all Transactions hereunder, that the respective rights of Buyer and Seller under

subparagraphs (a) and (b) of this Paragraph to require the elimination of a Margin Deficit or a Margin Excess, as the case may be, may be exercised whenever such a Margin Deficit or Margin Excess exists with respect to any single Transaction hereunder (calculated without regard to any other Transaction outstanding under this MRA).

5. Income Payments

Seller shall be entitled to receive an amount equal to all Income paid or distributed on or in respect of the Securities that is not otherwise received by Seller, to the full extent it would be so entitled if the Securities had not been sold to Buyer. Buyer shall, as the parties may agree with respect to any Transaction (or, in the absence of any such agreement, as Buyer shall reasonably determine in its discretion), on the date such Income is paid or distributed either (i) transfer to or credit to the account of Seller such Income with respect to any Purchased Securities subject to such Transaction or (ii) with respect to Income paid in cash, apply the Income payment or payments to reduce the amount, if any, to be transferred to Buyer by Seller upon termination of such Transaction. Buyer shall not be obligated to take any action pursuant to the preceding sentence (A) to the extent that such action would result in the creation of a Margin Deficit, unless prior thereto or simultaneously therewith Seller transfers to Buyer cash or Additional Purchased Securities sufficient to eliminate such Margin Deficit, or (B) if an Event of Default with respect to Seller has occurred and is then continuing at the time such Income is paid or distributed.

6. Security Interest

Although the parties intend that all Transactions hereunder be sales and purchases and not loans, in the event any such Transactions are deemed to be loans, Seller shall be deemed to have pledged to Buyer as security for the performance by Seller of its obligations under each such Transaction, and shall be deemed to have granted to Buyer a security interest in, all of the Purchased Securities with respect to all Transactions hereunder and all Income thereon and other proceeds thereof. In all Transactions, Seller is acting as agent for Buyer. In the event of Seller's default under the MRA, Buyer has the right to either: (i) direct Seller to sell the Securities, or (ii) sell the Securities, and, following any sale pursuant to this sentence, apply the proceeds in satisfaction of Seller's liability hereunder.

7. Payment and Transfer

Unless otherwise mutually agreed, all transfers of funds hereunder shall be in immediately available funds. All Securities transferred by one party hereto to the other party (i) shall be in suitable form for transfer or shall be accompanied by duly executed instruments of transfer or assignment in blank and such other documentation as the party receiving possession may reasonably request, (ii) shall be transferred on the book entry system of a Federal Reserve Bank, or (iii) shall be transferred by any other method mutually acceptable to Seller and Buyer.

8. Segregation of Purchased Securities

To the extent required by applicable law, all Purchased Securities in the possession of Seller shall be segregated from other securities in its possession and shall be identified as subject to this MRA. Segregation may be accomplished by appropriate identification on the books and records of the holder, including a financial or securities intermediary or a clearing corporation. All of Seller's interest in the Purchased Securities shall pass to Buyer on the Purchase Date and, unless otherwise agreed by Buyer and Seller, nothing in this MRA shall preclude Buyer from engaging in repurchase transactions with the Purchased Securities or otherwise selling, transferring, pledging or hypothecating the Purchased Securities, but no such transaction shall relieve Buyer of its obligations to transfer Purchased Securities to Seller pursuant to Paragraph 3, 4 or 11 hereof, or of Buyer's obligation to credit or pay Income to, or apply Income to the obligations of, Seller pursuant to Paragraph 5 hereof.

Required Disclosure for Transactions in Which the Seller Retains Custody of the Purchased Securities

Seller is not permitted to substitute other securities for those subject to this MRA and therefore must keep Buyer's securities segregated at all times, unless in this MRA Buyer grants Seller the right to substitute other securities. If Buyer grants the right to substitute, this means that Buyer's securities will likely be commingled with Seller's own securities during the trading day. Buyer is advised that, during any trading day that Buyer's securities are commingled with Seller's securities, they [will]* [may]** be subject to liens granted by Seller to [its clearing bank]* [third parties]** and may be used by Seller for deliveries on other securities transactions. Whenever the securities are commingled, Seller's ability to re-segregate substitute securities for Buyer will be subject to Seller's ability to satisfy [the clearing]* [any]** lien or to obtain substitute securities.

* Language to be used under 17 C.F.R. §403.4(e) if Seller is a government securities broker or dealer other than a financial institution.

** Language to be used under 17 C.F.R. §403.5(d) if Seller is a financial institution.

9. Substitution

Seller may not substitute other Securities for any Purchased Securities.

10. Representations

Each of Buyer and Seller represents and warrants to the other that (i) it is duly authorized to execute and deliver this MRA, to enter into Transactions contemplated hereunder and to perform its obligations hereunder and has taken all necessary action to authorize such execution, delivery and performance, (ii) it will engage in such Transactions as principal (or, if agreed in writing in advance of any Transaction by the other party hereto, as agent for a disclosed principal), (iii) the person signing this MRA on its behalf is duly authorized to do so on its behalf (or on behalf of any such disclosed principal), (iv) it has obtained all authorizations of any governmental body required in connection with this MRA and the Transactions hereunder and such authorizations are in full force and effect and (v) the execution, delivery and performance of this MRA and the Transactions hereunder will not violate any law, ordinance, charter, bylaw or rule applicable to it or any agreement by which it is bound or by which any of its assets are affected. On the Purchase Date for any Transaction Buyer and Seller shall each be deemed to repeat all the foregoing representations made by it.

11. Events of Default

In the event that (i) Seller fails to transfer or Buyer fails to purchase Purchased Securities upon the applicable Purchase Date, (ii) Seller fails to repurchase or Buyer fails to transfer Purchased Securities upon the applicable Repurchase Date, (iii) Seller or Buyer fails to comply with Paragraph 4 hereof, (iv) Buyer fails, after one business day's notice, to comply with Paragraph 5 hereof, (v) an Act of Insolvency occurs with respect to Seller or Buyer, (vi) any representation made by Seller or Buyer shall have been incorrect or untrue in any material respect when made or repeated or deemed to have been made or repeated, or (vii) Seller or Buyer shall admit to the other its inability to, or its intention not to, perform any of its obligations hereunder (each an "Event of Default"):

a. The non-defaulting party may, at its option (which option shall be deemed to have been exercised immediately upon the occurrence of an Act of Insolvency), declare an Event of Default to have occurred hereunder and, upon the exercise or deemed exercise of such option, the Repurchase Date for each Transaction hereunder shall, if it has not already occurred, be deemed immediately to occur (except that, in the event that the Purchase Date for any Transaction has not yet occurred as of the date of such exercise or deemed exercise, such Transaction shall be deemed immediately canceled). The non-defaulting party shall (except upon the occurrence of an Act of Insolvency) give notice to the defaulting party of the exercise of such option as promptly as practicable.

b. In all Transactions in which the defaulting party is acting as Seller, if the non-defaulting party exercises or is deemed to have exercised the option referred to in subparagraph (a) of this Paragraph, (i) the defaulting party's obligations in such Transactions to repurchase all Purchased Securities, at the Repurchase Price therefor on the Repurchase Date determined in accordance with subparagraph (a) of this Paragraph, shall thereupon become immediately due and payable, (ii) all Income paid after such exercise or deemed exercise shall be retained by the non-

defaulting party and applied to the aggregate unpaid Repurchase Prices and any other amounts owing by the defaulting party hereunder, and (iii) the defaulting party shall immediately deliver to the non-defaulting party any Purchased Securities subject to such Transactions then in the defaulting party's possession or control.

c. In all Transactions in which the defaulting party is acting as Buyer, upon tender by the non-defaulting party of payment of the aggregate Repurchase Prices for all such Transactions, all right, title and interest in and entitlement to all Purchased Securities subject to such Transactions shall be deemed transferred to the non-defaulting party, and the defaulting party shall deliver all such Purchased Securities to the non-defaulting party.

d. If the non-defaulting party exercises or is deemed to have exercised the option referred to in subparagraph (a) of this Paragraph, the non-defaulting party, without prior notice to the defaulting party, may: (i) as to Transactions in which the defaulting party is acting as Seller, (A) immediately sell, in a recognized market (or otherwise in a commercially reasonable manner) at such price or prices as the non-defaulting party may reasonably deem satisfactory, any or all Purchased Securities subject to such Transactions and apply the proceeds thereof to the aggregate unpaid Repurchase Prices and any other amounts owing by the defaulting party hereunder or (B) in its sole discretion elect, in lieu of selling all or a portion of such Purchased Securities, to give the defaulting party credit for such Purchased Securities in an amount equal to the price therefor on such date, obtained from a generally recognized source or the most recent closing bid quotation from such a source, against the aggregate unpaid Repurchase Prices and any other amounts owing by the defaulting party hereunder; and (ii) as to Transactions in which the defaulting party is acting as Buyer, (A) immediately purchase, in a recognized market (or otherwise in a commercially reasonable manner) at such price or prices as the non-defaulting party may reasonably deem satisfactory, securities ("Replacement Securities") of the same class and amount as any Purchased Securities that are not delivered by the defaulting party to the non-defaulting party as required hereunder or (B) in its sole discretion elect, in lieu of purchasing Replacement Securities, to be deemed to have purchased Replacement Securities at the price therefor on such date, obtained from a generally recognized source or the most recent closing offer quotation from such a source. The parties acknowledge and agree that (1) the Securities subject to any Transaction hereunder are instruments traded in a recognized market, (2) in the absence of a generally recognized source for prices or bid or offer quotations for any Security, the non-defaulting party may establish the source therefor in its sole discretion and (3) all prices, bids and offers shall be determined together with accrued Income (except to the extent contrary to market practice with respect to the relevant Securities).

e. As to Transactions in which the defaulting party is acting as Buyer, the defaulting party shall be liable to the non-defaulting party for any excess of the price paid (or deemed paid) by the non-defaulting party for Replacement Securities over the Repurchase Price for the Purchased Securities replaced thereby and for any amounts payable by the defaulting party under Paragraph 5 hereof or otherwise hereunder.

f. For purposes of this Paragraph 11, the Repurchase Price for each Transaction hereunder in respect of which the defaulting party is acting as Buyer shall not increase above the amount of such Repurchase Price for such Transaction determined as of the date of the exercise or deemed exercise by the non-defaulting party of the option referred to in subparagraph (a) of this Paragraph.

g. The defaulting party shall be liable to the non-defaulting party for (i) the amount of all reasonable legal or other expenses incurred by the non-defaulting party in connection with or as a result of an Event of Default, (ii) damages in an amount equal to the cost (including all fees, expenses and commissions) of entering into replacement transactions and entering into or terminating hedge transactions in connection with or as a result of an Event of Default, and (iii) any other loss, damage, cost or expense directly arising or resulting from the occurrence of an Event of Default in respect of a Transaction.

h. To the extent permitted by applicable law, the defaulting party shall be liable to the non-defaulting party for interest on any amounts owing by

the defaulting party hereunder, from the date the defaulting party becomes liable for such amounts hereunder until such amounts are (i) paid in full by the defaulting party or (ii) satisfied in full by the exercise of the non-defaulting party's rights hereunder. Interest on any sum payable by the defaulting party to the non-defaulting party under this Paragraph 11(h) shall be at a rate equal to the greater of the Pricing Rate for the relevant Transaction or the Prime Rate.

i. The non-defaulting party shall have, in addition to its rights hereunder, any rights otherwise available to it under any other agreement or applicable law.

12. Single Agreement

Buyer and Seller acknowledge that, and have entered hereinto and will enter into each Transaction hereunder in consideration of and in reliance upon the fact that, all Transactions hereunder constitute a single business and contractual relationship and have been made in consideration of each other. Accordingly, each of Buyer and Seller agrees (i) to perform all of its obligations in respect of each Transaction hereunder, and that a default in the performance of any such obligations shall constitute a default by it in respect of all Transactions hereunder, (ii) that each of them shall be entitled to set off claims and apply property held by them in respect of any Transaction against obligations owing to them in respect of any other Transactions hereunder and (iii) that payments, deliveries and other transfers made by either of them in respect of any Transaction shall be deemed to have been made in consideration of payments, deliveries and other transfers in respect of any other Transactions hereunder, and the obligations to make any such payments, deliveries and other transfers may be applied against each other and netted.

13. Notices and Other Communications

Any and all notices, statements, demands or other communications hereunder may be given by a party to the other by mail, facsimile, telegraph, messenger or otherwise to the address specified by Bank, or so sent to such party at any other place specified in a notice of change of address hereafter received by the other. All notices, demands and requests hereunder may be made orally, to be confirmed promptly in writing, or by other communication as specified in the preceding sentence.

14. Entire Agreement; Severability

This MRA shall supersede any existing agreements between the parties containing general terms and conditions for repurchase transactions. Each provision and agreement herein shall be treated as separate and independent from any other provision or agreement herein and shall be enforceable notwithstanding the unenforceability of any such other provision or agreement.

15. Nonassignability; Termination

a. The rights and obligations of the parties under this MRA and under any Transaction shall not be assigned by either party without the prior written consent of the other party, and any such assignment without the prior written consent of the other party shall be null and void. Subject to the foregoing, this MRA and any Transactions shall be binding upon and shall inure to the benefit of the parties and their respective successors and assigns. This MRA may be terminated by either party upon giving written notice to the other, except that this MRA shall, notwithstanding such notice, remain applicable to any Transactions then outstanding.

b. Subparagraph (a) of this Paragraph 15 shall not preclude a party from assigning, charging or otherwise dealing with all or any part of its interest in any sum payable to it under Paragraph 11 hereof.

16. Governing Law

This MRA shall be governed by the laws of the State of New York without giving effect to the conflict of law principles thereof.

17. No Waivers, Etc.

No express or implied waiver of any Event of Default by either party shall constitute a waiver of any other Event of Default and no exercise of any remedy hereunder by any party shall constitute a waiver of its right to exercise any other remedy hereunder. No modification or waiver of any

provision of this MRA and no consent by any party to a departure herefrom shall be effective unless and until such shall be in writing and duly executed by both of the parties hereto. Without limitation on any of the foregoing, the failure to give a notice pursuant to Paragraph 4(a) or 4(b) hereof will not constitute a waiver of any right to do so at a later date.

18. Use of Employee Plan Assets

a. If assets of an employee benefit plan subject to any provision of the Employee Retirement Income Security Act of 1974 ("ERISA") are intended to be used by either party hereto (the "Plan Party") in a Transaction, the Plan Party shall so notify the other party prior to the Transaction. The Plan Party shall represent in writing to the other party that the Transaction does not constitute a prohibited transaction under ERISA or is otherwise exempt therefrom, and the other party may proceed in reliance thereon but shall not be required so to proceed.

b. Subject to the last sentence of subparagraph (a) of this Paragraph, any such Transaction shall proceed only if Seller furnishes or has furnished to Buyer its most recent available audited statement of its financial condition and its most recent subsequent unaudited statement of its financial condition.

c. By entering into a Transaction pursuant to this Paragraph, Seller shall be deemed (i) to represent to Buyer that since the date of Seller's latest such financial statements, there has been no material adverse change in Seller's financial condition which Seller has not disclosed to Buyer, and (ii) to agree to provide Buyer with future audited and unaudited statements of its financial condition as they are issued, so long as it is a Seller in any outstanding Transaction involving a Plan Party.

19. Intent

a. The parties recognize that each Transaction is a "repurchase agreement" as that term is defined in Section 101 of Title 11 of the United States Code, as amended (except insofar as the type of Securities subject to such Transaction or the term of such Transaction would render such definition inapplicable), and a "securities contract" as that term is defined in Section 741 of Title 11 of the United States Code, as amended (except insofar as the type of assets subject to such Transaction would render such definition inapplicable).

b. It is understood that either party's right to liquidate Securities delivered to it in connection with Transactions hereunder or to exercise any other remedies pursuant to Paragraph 11 hereof is a contractual right to liquidate such Transaction as described in Sections 555 and 559 of Title 11 of the United States Code, as amended.

c. The parties agree and acknowledge that if a party hereto is an "insured depository institution," as such term is defined in the Federal Deposit Insurance Act, as amended ("FDIA"), then each Transaction hereunder is a "qualified financial contract," as that term is defined in FDIA and any rules, orders or policy statements thereunder (except insofar as the type of assets subject to such Transaction would render such definition inapplicable).

d. It is understood that this MRA constitutes a "netting contract" as defined in and subject to Title IV of the Federal Deposit Insurance Corporation Improvement Act of 1991 ("FDICIA") and each payment entitlement and payment obligation under any Transaction hereunder shall constitute a "covered contractual payment entitlement" or "covered contractual payment obligation", respectively, as defined in and subject to FDICIA (except insofar as one or both of the parties is not a "financial institution" as that term is defined in FDICIA).

20. Disclosure Relating to Certain Federal Protections

The parties acknowledge that they have been advised that:

a. In the case of Transactions in which one of the parties is a broker or dealer registered with the Securities and Exchange Commission ("SEC") under Section 15 of the Securities Exchange Act of 1934 ("1934 Act"), the Securities Investor Protection Corporation has taken the position that the provisions of the Securities Investor Protection Act of 1970 ("SIPA") do not protect the other party with respect to any Transaction hereunder;

b. In the case of Transactions in which one of the parties is a government securities broker or a government securities dealer registered with the SEC under Section 15C of the 1934 Act, SIPA will not provide protection to the other party with respect to any Transaction hereunder; and

c. In the case of Transactions in which one of the parties is a financial institution, funds held by the financial institution pursuant to a Transaction hereunder are not a deposit and therefore are not insured by the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund, as applicable.

STATE OF NEBRASKA SERVICE CONTRACT AMENDMENT

State Purchasing Bureau
301 Centennial Mall South, 1st Floor
Lincoln, Nebraska 68508

OR

P.O. Box 94847
Lincoln, Nebraska 68509-4847
Telephone: (402) 471-2401
Fax: (402) 471-2089

CONTRACT NUMBER

27775 04

| | |
|--|---|
| PAGE 1 OF 2 BUSINESS UNIT 9000 | ORDER DATE 05/11/09 BUYER MARY LANNING |
| VENDOR NUMBER: 552910 | |
| VENDOR ADDRESS: U S BANK MAIN OFFICE 233 S 13TH STREET LINCOLN NE 68508-2017 | |

THE CONTRACT PERIOD IS AUGUST 31, 2007 THROUGH AUGUST 30, 2012.

THIS SERVICE CONTRACT HAS BEEN AMENDED PER THE FOLLOWING INFORMATION:

THIS CONTRACT IS NOT AN EXCLUSIVE CONTRACT TO FURNISH THE SERVICES SHOWN BELOW, AND DOES NOT PRECLUDE THE PURCHASE OF SIMILAR SERVICES FROM OTHER SOURCES.

THE STATE RESERVES THE RIGHT TO EXTEND THE PERIOD OF THIS CONTRACT BEYOND THE TERMINATION DATE WHEN MUTUALLY AGREEABLE TO THE VENDOR/CONTRACTOR AND THE STATE OF NEBRASKA.

Original/Bid Document 1686 Z1

Contract to supply and deliver ACH Origination Services and Returned Check Collection Services as per the attached specifications for a period of five (5) years beginning August 31, 2007 through August 30, 2012. The contract may be renewed for two (2) additional one (1) year period as mutually agreed upon by both parties. The State reserves the right to extend the period of this contract beyond the termination date when mutually agreeable to the vendor and the State of Nebraska.

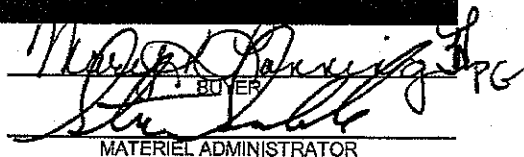
The contract shall incorporate the following previously submitted documents:

1. Contract Award;
2. Any Contract Amendments, in order of significance;
3. Any Request for Proposal Addenda and/or Amendments to include Questions and Answers;
4. The original RFP document;
5. The signed Request for Proposal forms; and
6. The Contractor's Proposal.

VENDOR CONTACT: Tim Schlegelmilch
PHONE: 402-434-1134
FAX: 402-434-1110

AMENDMENT ONE (1) - Agreement with Wayne State College, UNL, and Department of Revenue. Added lines 4 and 5. (05/11/09 jc)

| Line | Description | Qty | Unit of Measure | Unit Price | Extended Price |
|------|---|----------|-----------------|------------|----------------|
| 1 | ACH Orig & Bad Debt Collection Treasury Management | 737775 | \$ | 1.0000 | 737,775.00 |
| 2 | ACH Orig & Bad Debt Collection | 105868.9 | \$ | 1.0000 | 105,868.90 |


BUYER
MATERIAL ADMINISTRATOR

STATE OF NEBRASKA SERVICE CONTRACT AMENDMENT

State Purchasing Bureau
301 Centennial Mall South, 1st Floor
Lincoln, Nebraska 68508

OR

P.O. Box 94847
Lincoln, Nebraska 68509-4847
Telephone: (402) 471-2401
Fax: (402) 471-2089

CONTRACT NUMBER
27775 04

| | |
|-----------------------|------------------------|
| PAGE 2 OF 2 | ORDER DATE 05/11/09 |
| BUSINESS UNIT 9000 | BUYER MARY LANNING |
| VENDOR NUMBER: 552910 | |

| Line | Description | Qty | Unit of Measure | Unit Price | Extended Price |
|------|--|-----------|-----------------|------------|---------------------|
| | Child Support Payment Center | | | | |
| 3 | ACH Orig & Bad Debt Collection Dept of Labor-Unemployment | 141277.95 | \$ | 1.0000 | 141,277.95 |
| 4 | Epay functionality UNL | 100000 | \$ | 1.0000 | 100,000.00 |
| 5 | Epay functionality Wayne State College | 100000 | \$ | 1.0000 | 100,000.00 |
| | Total Order | | | | 1,184,921.85 |


BUYER INITIALS

**U.S. Bank Treasury Management Terms and Conditions Supplement
E-Payment Service Terms and Conditions
University of Nebraska – Lincoln Attachment**

This document serves as an attachment to the E-Payment Service Terms and Conditions as previously agreed to by Customer and U.S. Bank. Customer and University of Nebraska - Lincoln (herein "Agency") agree that this attachment is governed by the E-Payment Service Terms and Conditions and the U.S. Bank Treasury Management Services Agreement Terms and Conditions.

1. Agency

The Agency for this Attachment is the University of Nebraska – Lincoln (UNL).

2. Purpose

To provide E-check payment processing for the Office of the Bursar's customers when paying their Centralized Student Account bill via UNL's online payment process.

Requirements

U.S. Bank will assist UNL with completing the questionnaires that will define the requirements for the payment website.

U.S. Bank will set up a test site based on the questionnaires completed by UNL and will provide the test site to UNL for testing and review prior to going live.

U.S. Bank will brand the website with a banner graphic provided by UNL along with naming conventions provided by UNL in the questionnaire.

Once testing is complete and signed off on by UNL, U.S. Bank will move the test site into a production environment to begin accepting payments. Since testing may take place after the site is promoted into a production environment, both test and production environments should be available simultaneously.

U.S. Bank will host the secure website where UNL payers will enter their banking information to authorize one-time payments to UNL.

U.S. Bank will process these payments according to industry and Federal protocol and regulations with funding settlement to take place as previously agreed to by U.S. Bank and the Nebraska State Treasurer.

U.S. Bank will provide a remittance/posting file each business morning (excluding federal holidays) that will include all transactions authorized to settle that day. The remittance file is available for download from the E-Payment administrative website or via file transmission through U.S. Bank Data Distribution Services (DDS).

3. Agency License.

Bank shall have the right and license to use the Agency's name, trademarks, service mark, copyrights and logos and other textual information in connection with the Customer Payment Site solely for the purposes contemplated herein. However, Bank may not use the seal of the State of Nebraska in connection with the Customer Payment Site.

4. Administrative Terminal

Customer shall be solely responsible for setting up Authorized Users, access entitlements and internal controls within the Administrative Terminal.

5. Links

Agency agrees to be responsible for providing the agreed-upon data concerning Payer in a manner further described in this section. Providing the data in this manner meets Bank's encryption or security methods during the exchange.

U.S. Bank can support encryption for the data passed from UNL's website to E-Payment, however we do not require it to be encrypted. If UNL elects to encrypt the data, it must be according to the E-Payment specifications. If encrypted, U.S. Bank will provide the proprietary algorithm and instructions for encrypting the data.

6. Integrated Voice Response (IVR)

Agency Payers will not participate in payment through IVR.

7. Call Center

Agency Payers will not have access to make payments via the Bank call center.

8. Recurring Payments.



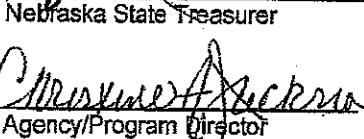
Agency Payers will not be authorized to make establish recurring payments.

9. Fees.

Agency agrees to pay fees for services described in the pricing detail attached to this document.

10. Convenience Fee

Neither the Agency, Customer nor Bank shall be authorized to collect any convenience fee from any Agency Payer. Collection of such fee shall violate this agreement.

| | |
|---|------------------------|
|  US Bank | <u>1/20/09</u> Date |
|  Nebraska State Treasurer | <u>1/15/09</u> Date |
|  Agency/Program Director | <u>1/12/09</u> Date |

U.S. Bank E-Payment Service **Pro Forma Analysis**

Customer Name: University of Nebraska-Lincoln
 Date: 12/11/2008

| | Estimated Volume | Price | Ext Price |
|---|---------------------|-----------|--------------------|
| One-Time Fees | | | |
| Setup Fee | | | |
| Web Only | 1 | \$ 900.00 | \$ 900.00 |
| Total One-Time Fees | | | \$ 900.00 |
| Monthly Fees | | | |
| Maintenance & Reporting | | | |
| Web Only | 1 | \$ 195.00 | \$ 195.00 |
| Transaction Fees | | | |
| One-Time Payments (web or admin) ¹ | | | |
| 1-1,000 items per mo | | \$ 0.59 | \$ - |
| 1,001 -10,000 items per mo | | \$ 0.40 | \$ - |
| 10,001 - 50,000 items per mo | 3,700 | \$ 0.35 | \$ 1,295.00 |
| 50,000+ items per mo | | \$ 0.20 | \$ - |
| ACH Payments | | | |
| ACH Return | 20 | \$ 1.25 | \$ 25.00 |
| ACH Notification of Change | 10 | \$ 1.25 | \$ 12.50 |
| Total Monthly Fees | | | \$ 1,527.50 |
| ¹ volume pricing is based on total State volume, which currently is greater than 10,000 per month. | | | |
| Optional Services | | | |
| Test Site | | | |
| Setup Fee - Web Only | 1 | \$ 600 | \$ 600.00 |
| Monthly Maintenance Fee | 1 | \$ 45 | \$ 45.00 |

**U.S. Bank E-Payment Service
Pro Forma Analysis**

Customer Name: University of Nebraska-Lincoln
Date: 1/9/2009

| | Estimated Volume | Price | Ext. Price |
|---|---------------------|-----------|--------------------|
| One-Time Fees | | | |
| Setup Fee | | | |
| Web Only | 1 | \$ 900.00 | \$ 900.00 |
| Total One-Time Fees | | | \$ 900.00 |
| Monthly Fees | | | |
| Maintenance & Reporting | | | |
| Web Only | 1 | \$ 195.00 | \$ 195.00 |
| Transaction Fees | | | |
| One-Time Payments (web or admin) ¹ | | | |
| 1-1,000 items per mo | | \$ 0.59 | \$ - |
| 1,001 -10,000 items per mo | | \$ 0.40 | \$ - |
| 10,001 - 50,000 items per mo | 3,700 | \$ 0.35 | \$ 1,295.00 |
| 50,000+ items per mo | | \$ 0.20 | \$ - |
| ACH Payments | | | |
| ACH Return | 20 | \$ 1.25 | \$ 25.00 |
| ACH Notification of Change | 10 | \$ 1.25 | \$ 12.50 |
| Total Monthly Fees | | | \$ 1,527.50 |

¹ volume pricing is based on total State volume, which currently is greater than 10,000 per month.



**U.S. Bank Treasury Management Terms and Conditions Supplement
E-Payment Service Terms and Conditions
WAYNE STATE COLLEGE Attachment**

This document serves as an attachment to the E-Payment Service Terms and Conditions as previously agreed to by Customer and U.S. Bank. Customer and Nebraska State College System Board of Trustees dba Wayne State College (herein "Agency") agree that this attachment is governed by the E-Payment Service Terms and Conditions and the U.S. Bank Treasury Management Services Agreement Terms and Conditions.

1. Agency

The Agency for this Attachment is the Nebraska State College System Board of Trustees dba Wayne State College.

2. Purpose

Agency will use this account to process tuition, fee and other payments from students and/or persons on behalf of students.

3. Requirements.

U.S. Bank will process transaction and provide accurate information to the Agency on a regular basis as mutually agreed by both Bank and Agency.

Agency will utilize e-check payment mechanisms.

Data collected by U.S. Bank on Agency's behalf as a part of the payment process will include student ID#, payment amount, name, address.

Payment amounts will settle to the Agency account within one (1) business day of processing.

The data will be remitted to the agency via the E-Pay admin site in a .csv or .xml file.

4. Agency License.

Bank shall have the right and license to use the Agency's name, trademarks, service mark, copyrights and logos and other textual information in connection with the Customer Payment Site solely for the purposes contemplated herein. However, Bank may not use the seal of the State of Nebraska in connection with the Customer Payment Site.

5. Administrative Terminal

Customer shall be solely responsible for setting up Authorized Users, access entitlements and internal controls within the Administrative Terminal.

6. Links

Agency agrees to be responsible for providing the agreed-upon data concerning Payer in a manner further described in this section. Providing the data in this manner meets Bank's encryption or security methods during the exchange.

"U.S. Bank can support encryption for the data passed from Wayne State College's website to E-Payment, however we do not require it to be encrypted. If Wayne State College elects to encrypt the data, it must be according to the E-Payment specifications. If encrypted, U.S. Bank will provide the proprietary algorithm and instructions for encrypting the data."



7. Integrated Voice Response (IVR)

Agency Payers will not participate in payment through IVR.

8. Call Center

Agency Payers will not have access to make payments via the Bank call center.

9. Recurring Payments.

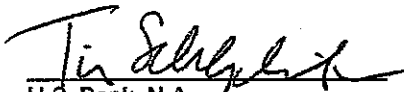


Agency Payers will not be authorized to make establish recurring payments.

10. Fees.

Agency agrees to pay fees as follows for services described in this attachment: in accordance with current State of Nebraska contract.

11. Convenience Fee

Neither the Agency, Customer nor Bank shall be authorized to collect any convenience fee from any Agency Payer. Collection of such fee shall violate this agreement.

| | |
|---|------------------------|
|  U.S. Bank N.A. | <u>3-4-09</u> Date |
|  Nebraska State Treasurer | <u>2/27/09</u> Date |
|  Agency/Program Director | <u>2/25/09</u> Date |

U.S. Bank E-Payment Service **Pro Forma Analysis**

Customer Name: **Wayne State College**
 Date: **3/2/2009**

| | Estimated Volume | Price | Ext Price |
|---|---------------------|-----------|------------------|
| One-Time Fees | | | |
| Setup Fee | | | |
| Web Only | | \$ 900.00 | \$ 900.00 |
| Total One-Time Fees | | | \$ 900.00 |
| Monthly Fees | | | |
| Maintenance & Reporting | | | |
| Web Only | | \$ 195.00 | \$ 195.00 |
| Transaction Fees | | | |
| One-Time Payments (web or admin) ¹ | | | |
| 1-1,000 items per mo | | \$ 0.59 | \$ - |
| 1,001 -10,000 items per mo | | \$ 0.40 | \$ - |
| 10,001 - 50,000 items per mo | | \$ 0.35 | \$ 350.00 |
| 50,000+ items per mo | | \$ 0.20 | \$ - |
| ACH Payments | | | |
| ACH Return | | \$ 1.25 | \$ 6.25 |
| ACH Notification of Change | | \$ 1.25 | \$ 2.50 |
| Total Monthly Fees | | | \$ 553.75 |
| Optional Services | | | |
| Test Site | | | |
| Setup Fee - Web Only | | \$ 600 | \$ 600.00 |
| Monthly Maintenance Fee | | \$ 45 | \$ 45.00 |

¹ volume pricing is based on total State volume, which currently is greater than 10,000 per month.



**U.S. Bank Treasury Management Terms and Conditions Supplement
E-Payment Service Terms and Conditions
Department of Revenue Attachment**

This document serves as an attachment to the E-Payment Service Terms and Conditions as previously agreed to by Customer and U.S. Bank. Customer and Department of Revenue (herein "Agency") agree that this attachment is governed by the E-Payment Service Terms and Conditions and the U.S. Bank Treasury Management Services Agreement Terms and Conditions.

1. Agency

The Agency for this Attachment is the Nebraska Department of Revenue.

2. Purpose

The purpose of this Attachment is the collection of certain tax receipts through the use of Automated Clearing House (ACH). There will be two methods of entering payment information. The first method is similar to an electronic check where all financial information must be entered for each transaction. In the second method, information will be stored on behalf of the taxpayer and retrieved based upon state ID and a password. These two methods shall be referenced as "electronic check method" and "registered method", respectively. Initially, a file will be provided to Bank by Agency to establish existing registered users.

Taxpayers using the registered method will have additional payment functionality. Registered method users will be able to add or delete recurring payments for up to one year in advance. Registered method users will also be able to edit their user profile.

3. Requirements.

Bank will provide Agency functionality for the Customer Payment Site under this Attachment as follows:

- a. The EFT data collection system shall collect tax payment information through a Web based system with 24-hour, 7 day a week access. In addition, the system will offer 24-hour, toll-free telephone call input, offering touch-tone access. The call scripts for such systems shall follow existing scripts provided by Agency to Bank provided it is reasonably acceptable to Bank.
- b. The EFT data collection system shall collect, at a minimum, the date and time the transaction was completed, the state assigned taxpayer identification number, the type of tax being paid, the amount of funds to be transferred, the date the funds are to be transferred, and the period for which the tax is being paid. Separate scripts may be used for making payments, deleting scheduled payments, and inquiring about outstanding payments. All three functions must be available in both the Web and phone systems.
- c. The EFT data collection system must provide a confirmation number to users to document the tax payment reporting. The confirmation should be a minimum of five digits and a maximum of eight digits with the first digit being equal to the last digit of the calendar day.
- d. The registered method must provide password security for users. Password maintenance will be available through the Web and phone systems.
- e. The EFT data collection system shall perform a set of minimum, point-of-entry edits against the data prior to successful conclusion of a data collection session, issuance of the user's confirmation number, and inclusion of the record in the requested daily file. These edits include, but are not limited to:



U.S. Bank Treasury Management Terms and Conditions Supplement E-Payment Service Terms and Conditions

Customer may select the E-Payment service via Agency Attachment(s) that would allow its customers ("Payers") to make convenient payments through the Internet, an Integrated Voice Response (IVR) system, or a 'live' call center. Customer and Agency as defined in Agency Attachment(s) agrees that this Service shall be governed by this Supplement and the U.S. Bank Treasury Management Services Agreement and Terms and Conditions.

1. Internet

a. Customer Payment Site. "Customer Payment Site" means the interactive Internet payment site hosted by Bank where Payers may make payments to Customer over the Internet. Bank will configure, implement, host and support the Customer Payment Site.

b. Software License and Liability Disclaimer. Bank will provide all computer software necessary to operate and maintain the Customer Payment Site. Customer has no rights of ownership in any software provided by or through Bank and shall not transfer, copy, alter, modify, reverse engineer, reproduce, or convey in any manner, in whole or in part any such software. Customer shall return all software and any user manuals associated with any software upon request. BANK PROVIDES THIS SERVICE ON AN "AS IS" AND "AS AVAILABLE" BASIS AND MAKES NO REPRESENTATIONS AND WARRANTIES, WHETHER EXPRESS, IMPLIED, OR STATUTORY INCLUDING WITHOUT LIMITATION, ALL WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

c. Customer License. Bank shall only have such right and license to use Agency name, logos, and the like as so extended in the "Agency License" in the Agency Attachment(s).

d. Administrative Terminal. "Administrative Terminal" means the interactive Internet site hosted by Bank where Customer may access reports, initiate payments on behalf of Payers, or initiate refunds. Bank will configure, implement, host and support the Administrative Terminal. Any Agency responsibility related to the Administrative Terminal is defined on the Agency Attachment(s).

e. Links. As defined in the Agency Attachment(s), Agency shall provide and maintain one or more secure links on its website to the Customer Payment Site and shall be responsible for ensuring that the link to the Customer Payment Site takes Payer to the appropriate area within the Customer Payment Site. Encryption and security methods shall be as agreed to in the Agency Attachment(s). Customer and Bank agree to use industry-standard security procedures and technology to ensure the security of the Customer's website and the Customer Payment Site and to prevent data theft or unauthorized access.

f. Payer Authentication. Depending on the applicable payment processing channel, Customer shall be responsible for verifying the identity of each Payer prior to the time Payer is linked to the Customer Payment Site. Customer agrees that Payers shall not be granted access to the Customer Payment Site link until Customer has verified the identity of each Payer using a commercially reasonable fraud detection system. For every Payer that accesses the Customer Payment System, Bank may rely on Customer to have completed such verification.

2. Compliance with Laws and Regulations

Customer agrees to comply with all applicable laws, rules and regulations as identified in the U.S. Bank Treasury Management Services Agreement, including without limitation, the Payment Network Regulations (the rules and regulations of any credit card association, including Visa and MasterCard), EFT networks (including but not limited to Interlink or Maestro), the National



Automated Clearing House Association, governmental agency or authority, or any other entity or association that issues or sponsors a payment device), including but not limited to, the requirements of the Payment Card Industry (PCI) Data Security Standard, the Electronic Fund Transfer Act, Regulation E, and the Electronic Signatures in Global and National Commerce Act.

3. Integrated Voice Response (IVR)

Agreement regarding IVR obligations shall be documented in the Agency Attachment(s).

4. Call Center

Agreement regarding Call Center obligations shall be documented in the Agency Attachment(s).

5. Payer Authorization

If payment is made via the Internet, Payer will be prompted to authorize the payment and print a confirmation once Payer has reviewed the payment data and input the information necessary to complete the payment. If payment is made via the IVR or call center, the confirmation number will be read to Payer. Bank is not responsible for the detection of errors made by Payer or Customer and may rely on the information submitted or communicated by Payer or Customer.

6. Payment Processing

Payments shall be processed in the manner mutually agreed to between Bank and Customer. Such processing may include ACH debit entries, debit cards, credit cards or other payment processing methods. Customer shall at all times be considered the originator of Payer's payment. Customer shall designate in writing to Bank the bank account to be utilized for such payments. Payments may be initiated through the Customer Payment Site, IVR system or Administrative Terminal as further defined and specified in the Agency Attachment(s). If payments through Administrative Terminal are authorized in the Agency Attachment(s), Bank will notify Customer of such payments that were initiated through the Administrative Terminal by delivering a file as set forth in the Implementation Memo. Adjustment, return, reversal, and/or chargeback of payments shall be as agreed upon in the U.S. Bank Treasury Management Services Agreement.

7. Recurring Payments

The E-Payment Service provides Customer with the ability to offer Payers the option of making fixed or variable recurring payments. If permitted by applicable regulations and authorized in the Agency Attachment(s), Payers have the ability to initiate a payment that recurs semi-weekly, weekly, semi-monthly, monthly or quarterly. Payers must be pre-registered in order to initiate variable recurring payments.

8. Fees

In addition to Bank's standard fees, Customer agrees to pay additional fees and expenses for implementation of the E-Payment Service or other additional services, if any, as defined in the Agency Attachment(s). The fees defined in the Agency Attachment(s) shall be fixed from the effective date of the Agency Attachment(s) through the term of the Agreement between Bank and Customer. Customer also agrees to pay the applicable fees and expenses charged by the payment transaction processor supported by Bank, as set forth in Customer's agreement with such processor.



9. Convenience Fee

The E-Payment Service offers a flexible convenience fee option that allows Customer to define and collect a convenience fee to be charged to Payers in connection with the payment transaction. Payers are provided with the opportunity to stop the payment process if they do not wish to pay the convenience fee.

If permitted by applicable regulations and authorized in the Agency Attachment(s), a convenience fee may be collected. Any such collection by Bank or Customer shall be unauthorized except as otherwise defined in the Agency Attachment(s).

10. Transaction Controls

Customer agrees to notify Bank of any material change or anticipated material change in daily dollar activity or type of transaction processing.

U.S. Bank, N.A.

Signed: Tim Schlegel

Date: 10-26-07

State of Nebraska

Signed: [Signature]

Date: 10-26-07

STATE OF NEBRASKA SERVICE CONTRACT AWARD

State Purchasing Bureau
301 Centennial Mail South, 1st Floor
Lincoln, Nebraska 68508

OR

P.O. Box 94847
Lincoln, Nebraska 68509-4847
Telephone: (402) 471-2401
Fax: (402) 471-2089

CONTRACT NUMBER

27775 04

| | |
|--|------------------------|
| PAGE 1 OF 3 | ORDER DATE 08/31/07 |
| BUSINESS UNIT 9000 | BUYER MARY LANNING |
| VENDOR NUMBER: 552910 | |
| VENDOR ADDRESS: U S BANK MAIN OFFICE 233 S 13TH STREET LINCOLN NE 68508-2017 | |

AN AWARD HAS BEEN MADE TO THE VENDOR/CONTRACTOR NAMED ABOVE FOR THE SERVICES AS LISTED BELOW FOR THE PERIOD:

AUGUST 31, 2007 THROUGH AUGUST 30, 2012

THIS CONTRACT IS NOT AN EXCLUSIVE CONTRACT TO FURNISH THE SERVICES SHOWN BELOW, AND DOES NOT PRECLUDE THE PURCHASE OF SIMILAR SERVICES FROM OTHER SOURCES.

THE STATE RESERVES THE RIGHT TO EXTEND THE PERIOD OF THIS CONTRACT BEYOND THE TERMINATION DATE WHEN MUTUALLY AGREEABLE TO THE VENDOR/CONTRACTOR AND THE STATE OF NEBRASKA.

Original/Bid Document 1686 Z1



Contract to supply and deliver ACH Origination Services and Returned Check Collection Services as per the attached specifications for a period of five (5) years beginning August 31, 2007 through August 30, 2012. The contract may be renewed for two (2) additional one (1) year period as mutually agreed upon by both parties. The State reserves the right to extend the period of this contract beyond the termination date when mutually agreeable to the vendor and the State of Nebraska.

The contract shall incorporate the following previously submitted documents:

1. Contract Award;
2. Any Contract Amendments, in order of significance;
3. Any Request for Proposal Addenda and/or Amendments to include Questions and Answers;
4. The original RFP document;
5. The signed Request for Proposal forms; and
6. The Contractor's Proposal.

VENDOR CONTACT: Tim Schlegelmilch
PHONE: 402-434-1134
FAX: 402-434-1110

| Line | Description | Qty | Unit of Measure | Unit Price | Extended Price |
|------|--|----------|-----------------|------------|----------------|
| 1 | ACH Orig & Bad Debt Collection Treasury Management | 737775 | \$ | 1.0000 | 737,775.00 |
| 2 | ACH Orig & Bad Debt Collection Child Support Payment Center | 105868.9 | \$ | 1.0000 | 105,868.90 |


BUYER

MANAGERIAL ADMINISTRATOR

STATE OF NEBRASKA SERVICE CONTRACT AWARD

State Purchasing Bureau
301 Centennial Mail South, 1st Floor
Lincoln, Nebraska 68508

OR

P.O. Box 94847
Lincoln, Nebraska 68509-4847
Telephone: (402) 471-2401
Fax: (402) 471-2089

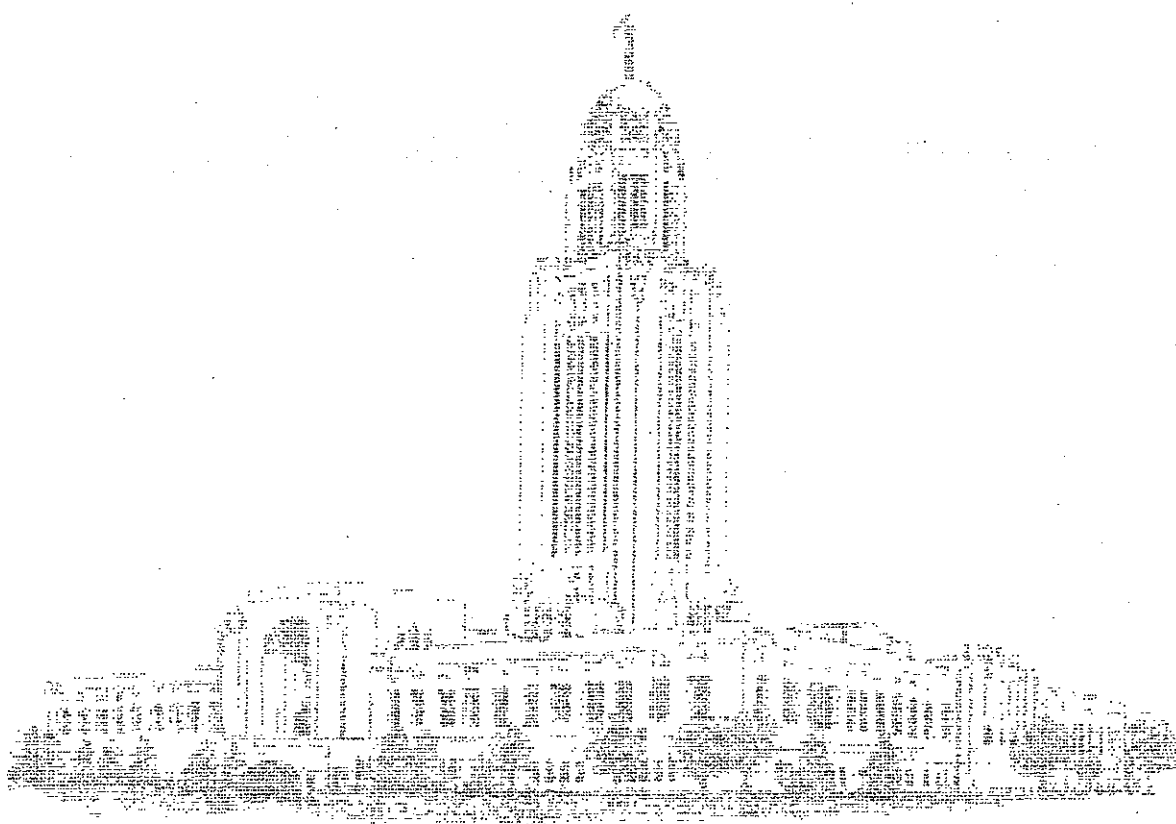
CONTRACT NUMBER
27775 04

| | |
|-----------------------|------------------------|
| PAGE 2 OF 3 | ORDER DATE 08/31/07 |
| BUSINESS UNIT 9000 | BUYER MARY LANNING |
| VENDOR NUMBER: 552910 | |

| Line | Description | Qty | Unit of Measure | Unit Price | Extended Price |
|------|--|-----------|-----------------|------------|----------------|
| 3 | ACH Orig & Bad Debt Collection Dept of Labor-Unemployment | 141277.95 | \$ | 1.0000 | 141,277.95 |

Total Order

984,891.85



BUYER INITIALS

STATE OF NEBRASKA
Lincoln, Nebraska

STANDARD CONDITIONS AND TERMS OF CONTRACTUAL SERVICES AND LEASING SOLICITATION AND OFFER

It is the responsibility of the bidder to check the website for all information relevant to this solicitation to include addenda and/or amendments issued prior to the opening date. Website address:
<http://www.das.state.ne.us/materiel/purchasing/purchasing.html>

SCOPE: These standard conditions and terms of Request for Proposal for Contractual Services and acceptance apply in like force to this inquiry and to any subsequent contract resulting therefrom.

EXECUTION: Proposals must be signed in ink by the bidder on the State of Nebraska's Request for Proposal for Contractual Services form. All proposals must be typewritten or in ink and include the signed State of Nebraska's Request for Proposal for Contractual Services form. Erasures and alterations must be initialed by the contractor in ink. No telephone, facsimile or voice proposals will be accepted. Failure to comply with these provisions may result in the rejection of the proposal.

PAYMENT: Payment will be made by the responsible agency in conjunction with the State of Nebraska Prompt Payment Act (Neb. Rev. Stat. §81-2401 through 81-2408). The State may request that payment be made electronically instead of by State warrant.

COLLUSIVE BIDDING: The bidder's signature on the State of Nebraska's Request for Proposal for Contractual Services form is a guarantee that the prices quoted have been arrived at without collusion with other eligible bidders and without effort to preclude the State of Nebraska from obtaining the lowest possible competitive price.

SPECIFICATIONS: Bidders must submit a proposal in accordance with the Terms and Conditions of the Request for Proposal.

ALTERNATE TERMS AND CONDITIONS: The State, at its sole discretion, may entertain alternative terms and conditions which deviate from the Request for Proposal requirements. Alternative terms and conditions may be considered if overall contract performance would be improved but not compromised, and if they are in the best interest of the State of Nebraska. Alternative terms and conditions must be submitted with the proposal and must be clearly identified and detailed in such a way that allows such deviations to be fully evaluated. Alternative terms and conditions are discouraged and unless explicitly accepted by the State are deemed to be rejected.

PROPOSAL OPENING: Openings shall be public on the date and time specified in the Request for Proposal. It is the bidder's responsibility to assure the proposal is delivered no later than the designated date, time and place of the proposal opening. Telephone and/or fax proposals are not acceptable. A proposal may not be altered after opening of the proposals.

LATE PROPOSALS: Proposals received after the time and date of the proposal opening will be considered late proposals. Late proposals will be returned to the bidder unopened. The State is not responsible for proposals that are late or lost due to mail service inadequacies, traffic or other similar reasons.

RECYCLING: Preference will be given to items which are manufactured or produced from recycled material or which can be readily reused or recycled after their normal use as per state statute (Neb. Rev. Stat. §81-15, 159).

AWARD: All purchases, leases, or contracts which are based on competitive proposals will be awarded according to the provisions in the Request for Proposal. The State reserves the right to reject any or all proposals, wholly or in part, or to award to multiple bidders in whole or in part. The State reserves the right to waive any deviations or errors that are not material, do not invalidate the legitimacy of the proposal, and do not improve the bidder's competitive position. All awards will be made in a manner deemed in the best interest of the State.

PERFORMANCE AND DEFAULT: The State reserves the right to require a performance bond from the successful contractor, as provided by law, without expense to the State. Otherwise, in case of default of the contractor, the State may contract the service from other sources and hold the contractor responsible for any excess cost occasioned thereby.

NONDISCRIMINATION: The Nebraska Fair Employment Practice Act prohibits contractors of the State of Nebraska, and their subcontractors, from discriminating against any employee or applicant for employment, with respect to hire, tenure, terms, conditions or privileges of employment because of race, color, religion, sex, disability, or national origin (Neb. Rev. Stat. §§48-1101 to 48-1125). The contractor guarantees compliance with the Nebraska Fair Employment Practice Act, and breach of this provision shall be regarded as a material breach of contract. The contractor shall insert a similar provision in all subcontracts for services to be covered by any contract resulting from this Request for Proposal.

DRUG POLICY: Contractor certifies that it maintains a drug free work place environment to ensure worker safety and workplace integrity. Contractor agrees to provide a copy of its drug free workplace policy at any time upon request by the State.

GRIEVANCE AND PROTEST: Grievance and protest procedure is available by contacting the buyer. Any Protests must be filed by a vendor within ten (10) calendar days after the intent to award decision is posted to the internet.

RESOLUTION 2010-97

WHEREAS, the City of Grand Island needs to become compliant with the "Payment Card Industry Data Security Standards" (PCI DSS) requirement before June 1, 2010; and

WHEREAS, the City of Grand Island wants to implement on-line E-Payment services for customers to pay bills on-line through credit/debit cards and e-checks; and

WHEREAS, the additional E-Payment monthly service costs will be approximately \$620.15 per month depending on monthly volume and how many departments become involved with on-line payment services; and

WHEREAS, the City of Grand Island will charge customers a \$2.00 per credit/debit card user fee to process one time on-line or one time call in payments; and

WHEREAS, the US Bank Treasury Management Service Agreement has been reviewed and approved by the City Attorney's office;

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, US Bank Treasury Management Service Agreement between the City and US Bank is hereby approved.

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

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, April 13, 2010.

Margaret Hornady, Mayor

Attest:

RaNae Edwards, City Clerk

| | |
|---------------------|-----------------|
| Approved as to Form | ☐ _____ |
| April 8, 2010 | ☐ City Attorney |



City of Grand Island

Tuesday, April 13, 2010

Council Session

Item G6

**#2010-98 - Approving Bid Award - Burdick Station Diesel Fuel
Tank and Rogers Reservoir #1 Painting**

Staff Contact: Gary R. Mader

Council Agenda Memo

From: Gary R. Mader, Utilities Director
Dale Shotkoski, City Attorney

Meeting: April 13, 2010

Subject: Burdick Station Diesel Fuel Tank and
Rogers Reservoir #1 Painting

Item #'s: G-6

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

Background

The Utilities Department uses a number of large, steel storage reservoirs for power plant fuel storage and for water storage. Being of steel construction, periodic painting of the surfaces of these reservoirs is required as routine maintenance. The tanks are coated with specialized painting systems to prevent corrosion of the steel shells and the tank support structures, and are regularly inspected for the condition of paint coatings. During inspections last year, two of the storage tanks showed significant deterioration of the exterior surfaces. One of the tanks is at the Burdick Station Power Plant. It is a 460,000 gallon fuel oil storage tank that provides fuel storage for the Gas Turbine generating units there. That tank has not been painted in over 20 years. The second tank needing painting is a 3,000,000 water storage reservoir located at the Rogers Pumping Station on the west side of the City; at the intersection of Old Potash and North Road. That tank was last painted over 15 years ago. The repainting of these two large storage tanks is included in the current Electric and Water Budgets. Power plant staff developed bid specifications for the repainting of the tanks.

Discussion

The specifications for the Burdick Station Diesel Fuel Tank and Rogers Reservoir #1 Painting were advertised and issued for bid in accordance with the City purchasing code. Bids were publicly opened on March 23, 2010. Specifications were sent to 24 potential bidders and responses were received as listed below. The engineer's estimate for this project was \$190,000.00.

| Bidder | Bid Price |
|-------------------------------------|---------------|
| Mongan Painting Company | \$ 154,748.75 |
| W.S. Bunch Company | \$ 161,217.00 |
| J.R. Stelzer Company | \$ 163,300.00 |
| F & H Coatings | \$ 168,125.38 |
| Taylor's Industrial Coatings | \$ 199,593.96 |
| TMI Coatings | \$ 214,300.00 |
| Superior Industrial Maintenance Co. | \$ 280,397.00 |
| Maguire Iron | \$ 284,739.00 |

The bids were reviewed by Utility Engineering staff. The contract specification required that each bidder provide a number of administrative and certification documentations with their bid. The "as read" low bidder did not provide a number of those required submittals including; a project schedule, certification from the Steel Structure Painting Council (SSPC) for qualifications as a lead removal contractor (the old paint on the fuel oil tank contains lead), a lead abatement plan in accordance with SSPC standards, five references of like work scale including three with lead paint removal; and a manufacturers warranty for materials used. After several contacts, the required information was not received. Therefore, the "as read" bid from Mongan Painting Company is deemed non-compliant with the specifications. The second low bid from W.S. Bunch Company is compliant with specifications and less than the engineer's estimate.

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 award the Contract for Burdick Station Diesel Fuel Tank and Rogers Reservoir #1 Painting to W.S. Bunch Company of Omaha, Nebraska, as the low responsive bidder, in a contract amount of \$161,217.00.

Sample Motion

Move to accept the bid of \$161,217.00 from W. S. Bunch Company for the Burdick Station Diesel Fuel Tank and Rogers Reservoir #1 Painting contract.

Purchasing Division of Legal Department
INTEROFFICE MEMORANDUM



Wes Nespor, Purchasing Agent

*Working Together for a
Better Tomorrow, Today*

BID OPENING

BID OPENING DATE: March 23, 2010 at 2:00 p.m.

FOR: Burdick Station Diesel Fuel Tank & Rogers Reservoir 1 Painting

DEPARTMENT: Utilities

ESTIMATE: \$190,000.00

FUND/ACCOUNT: 520

PUBLICATION DATE: March 5, 2010

NO. POTENTIAL BIDDERS: 24

SUMMARY

| | | |
|----------------------|--|---|
| Bidder: | <u>Superior Industrial Maintenance Co.</u> Harrisburg, NC | <u>Taylor's Industrial Coatings</u> Lake Wales, FL |
| Bid Security: | Great American Ins. Co. | Old Republic Surety Co. |
| Exceptions: | None | None |

| | | |
|-------------------|---------------------|--------------------|
| Bid Price: | | |
| Material: | \$178,670.00 | \$115,689.84 |
| Labor: | \$ 89,220.00 | \$ 76,072.64 |
| Sales Tax: | <u>\$ 12,507.00</u> | <u>\$ 7,831.48</u> |
| Total Bid: | \$280,397.00 | \$199,593.96 |

| | | |
|----------------------|--|-------------------------------------|
| Bidder: | <u>F & H Coatings</u> Kechi, KS | <u>TMI Coatings</u> St. Paul, MN |
| Bid Security: | Nationwide Mutual Ins. Co. | North American Specialty Ins. Co. |
| Exceptions: | None | None |

| | | |
|-------------------|--------------|--------------------|
| Bid Price: | | |
| Material: | \$ 35,500.00 | \$ 30,000.00 |
| Labor: | \$132,625.38 | \$182,200.00 |
| Sales Tax: | <u>---</u> | <u>\$ 2,100.00</u> |
| Total Bid: | \$168,125.38 | \$214,300.00 |

Bidder: Maguire Iron
Sioux Falls, SD
Bid Security: Great American Ins. Co.
Exceptions: None

Mongan Painting Co.
Cherokee, IA
Merchants Bonding Co.
Noted

Bid Price:
Material: \$ 73,682.80
Labor: \$211,056.20
Sales Tax: ----
Total Bid: \$284,739.00

\$ 35,625.00
\$109,000.00
\$ 10,123.75
\$154,748.75

Bidder: J.R. Stelzer Co.
Lincoln, NE
Bid Security: Merchants Bonding Co.
Exceptions: None

W.S. Bunch Co.
Omaha, NE
United Fire & Casualty Co.
None

Bid Price:
Material: \$ 40,800.00
Labor: \$119,400.00
Sales Tax: \$ 3,100.00
Total Bid: \$163,300.00

\$ 62,107.00
\$ 94,940.00
\$ 4,170.00
\$161,217.00

cc: Gary Mader, Utilities Director
Dale Shotkoski, City Attorney
Jeff Pederson, City Administrator

Bob Smith, Assist. Utilities Director
Pat Gericke, Utilities Admin. Assist.
Larry Keown, Burdick Power Plant Supt.

P1405

RESOLUTION 2010-98

WHEREAS, the Utilities Department invited sealed bids for Burdick Station Diesel Fuel Tank and Rogers Reservoir #1 Painting; and

WHEREAS, on March 23, 2010, bids were received, opened and reviewed; and

WHEREAS, W.S. Bunch Company of Omaha, Nebraska, submitted a bid in accordance with the terms of the advertisement of bids and plans and specifications and all other statutory requirements contained therein, such bid being in the amount of \$161,217.00; and

WHEREAS, the bid of W. S. Bunch Company of Omaha, Nebraska, is less than the estimate for Burdick Station Diesel Fuel Tank and Rogers Reservoir #1 Painting.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the bid of W.S. Bunch Company of Omaha, Nebraska, in the amount of \$161,217.00, for Burdick Station Diesel Fuel Tank and Rogers Reservoir #1 Painting is hereby approved as the lowest responsible bid.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, April 13, 2010.

Margaret Hornady, Mayor

Attest:

RaNae Edwards, City Clerk

| | |
|---------------------|-----------------|
| Approved as to Form | ☐ _____ |
| April 8, 2010 | ☐ City Attorney |



City of Grand Island

Tuesday, April 13, 2010

Council Session

Item G7

**#2010-99 - Approving Bid Award - 2010 Truck with Digger
Derrick Unit - Utilities Line Division**

Staff Contact: Gary R. Mader

Council Agenda Memo

From: Gary R. Mader, Utilities Director
Dale Shotkoski, City Attorney

Meeting: April 13, 2010

Subject: 2010 Truck with Digger Derrick Unit – Line Division

Item #'s: G-7

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

Background

The three construction crews of the Utilities Line Division maintain approximately 400 miles of overhead line in the Grand Island area; rebuilding older lines as needed, re-locating lines to accommodate projects such as the widening of Capital Avenue, and building new lines as the City expands and new development occurs. Each of these crews has a digger/derrick truck and a bucket truck as basic equipment. The digger/derrick units are heavy trucks used to dig the holes for power poles and to handle and place the poles for line construction and repair. The boom, hydraulic auger, outriggers and auxiliary equipment used for line construction are powered from the truck engine when the unit is in service.

The Department currently has a 13 year old digger/derrick that is nearing the end of its reliable life. Unit #73 is a 1997 model. Since the truck engine provides the power for the hydraulic construction equipment on the truck, each truck is equipped with an hour meter to schedule maintenance and gage wear. Unit #73 has about 8,700 hours on it, which is the equivalent of about 260,000 miles at an average 30 mph engine speed.

To ensure safe operation under heavy loads and near energized power lines, line construction trucks are tested and inspected annually to ensure structural integrity and to ensure dielectric strength is retained. These tests are conducted by firms specializing in this specific type of equipment. At the last inspection of Unit #73, the inspector noted that the boom rotation gear was worn and other components were showing their age. Because of concerns last year about the continued reliable operation of this unit, it was included for replacement in the current Electric Department budget.

Discussion

Specifications for replacement of Unit #73 were prepared by Department staff, advertised in accordance with the City Purchasing Code, sent to six potential bidders, and posted on the City's Web Site. The bids were publically opened on March 23, 2010. Four bids were received as tabulated below.

Terex Utilities – San Antonio, Texas

| | | |
|------------------|---------------------|---------------------------------------|
| Base Price | \$141,139.00 | Terex digger |
| Truck | +\$ 83,626.00 | Four Star Freightliner Montgomery, AL |
| | - \$ 16,000.00 | Trade-In |
| <hr/> | | |
| TOTAL BID | \$208,765.00 | |

Terex Utilities – San Antonio, Texas

| | | |
|------------------|---------------------|--|
| Base Price | \$141,139.00 | Terex digger |
| Truck | +\$ 89,395.00 | Hansen International, Grand Island, NE |
| | - \$ 16,000.00 | Trade-In |
| <hr/> | | |
| TOTAL BID | \$214,534.00 | |

Terex Utilities – San Antonio, Texas

| | | |
|------------------|---------------------|---|
| Base Price | \$141,139.00 | Terex digger |
| Truck | +\$ 90,645.00 | Great Plains International, Sioux Falls, SD |
| | - \$ 16,000.00 | Trade-In |
| <hr/> | | |
| TOTAL BID | \$215,784.00 | |

Nebraska Truck Center – Grand Island, NE

| | | |
|------------------|---------------------|----------------------------------|
| Base Price | \$225,212.00 | Terex digger, Freightliner Truck |
| | - \$ 16,000.00 | Trade-In |
| <hr/> | | |
| TOTAL BID | \$209,212.00 | |

The bids were reviewed by Utility staff. All of the bids included some minor exceptions, but none that materially affect the ability of the bid equipment to meet the job requirements as specified. All bids are evaluated as in compliance with the specifications. The lowest bid is from Terex Utilities in the amount of \$208,765.00

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 purchase of the 2010 Truck with Digger Derrick Unit from Terex Utilities of San Antonio, Texas, in the amount of \$208,765.00, net price with trade-in of the old unit.

Sample Motion

Move to approve the purchase of a 2010 Truck with Digger Derrick Unit from Terex Utilities of San Antonio, Texas, in the amount of \$208,765.00.

Purchasing Division of Legal Department
INTEROFFICE MEMORANDUM



Wes Nespor, Purchasing Agent

*Working Together for a
Better Tomorrow, Today*

BID OPENING

BID OPENING DATE: March 23, 2010 at 2:15 p.m.

FOR: 2010 Truck with Digger Derrick Unit

DEPARTMENT: Utilities

ESTIMATE: \$220,000.00

FUND/ACCOUNT: 520

PUBLICATION DATE: March 4, 2010

NO. POTENTIAL BIDDERS: 6

SUMMARY

| | | |
|--------------------------|--|--|
| Bidder: | <u>TEREX Utilities</u> San Antonio, TX | <u>Nebraska Truck Center, Inc.</u> Grand Island, NE |
| Bid Security: | Westchester Fire Ins. Co. | Universal Surety Co. |
| Exceptions: | Noted | Noted |
| Total Base Price: | \$141,139.00 | \$225,212.00 |
| Less Trade-In: | <u>\$ 16,000.00</u> | <u>\$ 16,000.00</u> |
| Total Cost: | \$125,139.00 + Chassis Option | \$209,212.00 |
| Chassis Option: | \$83,626.00 (Freightliner) | |
| | \$89,395.00 (International - Hansen) | |
| | \$90,645.00 (International – Great Plains) | |

cc: Gary Mader, Utilities Director
Dale Shotkoski, City Attorney
Jeff Pederson, City Administrator

Bob Smith, Assist. Utilities Director
Pat Gericke, Utilities Admin. Assist.
Ray Micek, Elec. Dist. Supt.

RESOLUTION 2010-99

WHEREAS, the Utilities Department invited sealed bids for a 2010 Truck with Digger Derrick Unit for the Line Division; and

WHEREAS, on March 23, 2010, bids were received, opened and reviewed; and

WHEREAS, Terex Utilities of San Antonio, Texas, submitted a bid in accordance with the terms of the advertisement of bids and plans and specifications and all other statutory requirements contained therein, such bid being in the amount of \$208,765.00; and

WHEREAS, the bid of Terex Utilities of San Antonio, Texas, is less than the estimate for the 2010 Truck with Digger Derrick Unit.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the bid of Terex Utilities of San Antonio, Texas, in the amount of \$208,765.00, for a 2010 Truck with Digger Derrick Unit is hereby approved as the lowest responsible bid.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, April 13, 2010.

Margaret Hornady, Mayor

Attest:

RaNae Edwards, City Clerk

| | |
|---------------------|-----------------|
| Approved as to Form | ☐ _____ |
| April 8, 2010 | ☐ City Attorney |



City of Grand Island

Tuesday, April 13, 2010

Council Session

Item G8

**#2010-100 - Approving Change Order #1 - On-Site Technical
Advisor for GT3 Combustion Inspection - Burdick Station**

Staff Contact: Gary R. Mader

Council Agenda Memo

From: Gary R. Mader, Utilities Director
Dale Shotkoski, City Attorney

Meeting: April 13, 2010

Subject: On-Site Technical Advisor for GT3 Combustion
Inspection - Change Order #1

Item #'s: G-8

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

Background

Burdick Generating Station utilizes three steam turbines and three gas turbines for electrical generation. Gas Turbine 3 (GT3) is a General Electric Frame 6 turbine generator and was commissioned in 2003. Based on the hours of operation and the number of unit starts, the manufacturer recommended performing a combustion inspection. A combustion inspection includes dismantling and inspection of combustion path components such as fuel nozzles and combustion chambers and is needed to properly ensure proper combustion for unit performance, efficiency, and emission control. It is also used to determine any future repair work based on the manufacturer's recommendations. In performing turbine generator inspections of this scope, the Department utilizes technical advisors specializing in these services. The advisors work with plant management to schedule work activities, order replacement parts, and provide technical guidance to plant maintenance staff during the inspection. Plant staff developed specifications to solicit bids for technical advisors for this work which included requirements of experience and factory training for General Electric Frame 6 gas turbine generator combustion inspections. These specifications required a firm bid based on an estimated project schedule of two weeks, with unit pricing to adjust the total cost based on actual project duration. General Electric International was awarded the contract for the On-Site Technical Advisor for GT3 Combustion Inspection at the Council Meeting of December 15, 2009 in the amount of \$42,602.05.

Discussion

This was the first combustion inspection done on this unit and the initial contract time estimate of two weeks proved to be too optimistic. The combustion inspection of GT3

required an additional five days of technical advisor time to complete. The additional cost is \$12,800.00, per the contract unit pricing, for a final contract cost of \$55,402.05.

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 authorizing Change Order #1 to the On-Site Technical Advisor for GT3 Combustion Inspection at the Burdick Generating Station for an addition to the contract price of \$12,800.00 to GE International.

Sample Motion

Move to approve Change Order #1 with GE International for the On-Site Technical Advisor for GT3 Combustion Inspection for an additional amount of \$12,800.00.

**INTEROFFICE
MEMORANDUM**



*Working Together for a
Better Tomorrow. Today.*

TO: General Electric International
222 South 15th Street, #232
Omaha, NE 68102
Attn: John Kottmann

PROJECT: On-site Technical Advisor for GT3 Combustion Inspection Contract Change Order
- Burdick Generating Station

You are hereby directed to make the following change in your contract:

1 Additional payment per the attached spreadsheet.

ADD: \$12,800.00

| | |
|---|--------------------|
| The original Contract Sum | <u>\$42,602.05</u> |
| Previous Change Order Amounts | <u>\$0.00</u> |
| The Contract Sum is increased by this Change Order | <u>\$12,800.00</u> |
| The Contract Sum is decreased by this Change Order | <u>\$</u> |
| The total modified Contract Sum to date | <u>\$55,402.05</u> |

Approval and acceptance of this Change Order acknowledges understanding and agreement that the cost and time adjustments included represent the complete values arising out of and/or incidental to the work described therein.

APPROVED: CITY OF GRAND ISLAND

By: _____

Date _____

Attest: _____

Approved as to Form, City Attorney

ACCEPTED: MIDWEST TOWERS, INC.

By: _____

Date _____

On-Site Technical Advisor for GT3 Combustion Inspection

Comments: This additional work was identified after the inspection started.

Contract: General Electric International

\$42,602.05

| <u>Change Order Request</u> | <u>Description</u> | <u>Amount</u> |
|-------------------------------------|--|---------------|
| 001 | Engineering and design-additional 5 days | \$12,800.00 |
| 002 | | |
| 003 | | |
| 004 | | |
| 005 | | |
| 006 | | |
| 007 | | |
| 008 | | |
| 009 | | |
| 010 | | |
| 011 | | |
| 012 | | |
| 013 | | |
| 014 | | |
| 015 | | |
| 017 | | |
| 018 | | |
| 019 | | |
| 020 | | |
| 021 | | |
| 023 | | |
| 024 | | |
| 028 | | |
| 029 | | |
| 030 | | |
| | Total | \$12,800.00 |

RESOLUTION 2010-100

WHEREAS, General Electric International was awarded the contract for On-Site Technical Inspection at the December 15, 2009 City Council meeting; and

WHEREAS, the specifications required a firm bid based on an estimated project schedule of two weeks, with unit pricing to adjust the total cost based on actual project duration; and

WHEREAS, the combustion inspection of GT3 required an additional five days of technical advisor time to complete, at an additional cost of \$12,800.00 per the contract pricing, for a final contract cost of \$55,402.05.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that Change Order #1 with General Electric International resulting in an additional cost of \$12,800.00 for a final contract price of \$55,402.05, is hereby approved.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, April 13, 2010.

Margaret Hornady, Mayor

Attest:

RaNae Edwards, City Clerk

| | |
|---------------------|-----------------|
| Approved as to Form | ☐ _____ |
| April 8, 2010 | ☐ City Attorney |



City of Grand Island

Tuesday, April 13, 2010

Council Session

Item G9

#2010-101 - Approving Acquisition of Utility Easement Located Between White Cloud and Abbot Roads, and Between Engleman and North Roads (Glen and Betty Weise)

This item relates to the aforementioned Public Hearing Item E-6.

Staff Contact: Gary R. Mader

RESOLUTION 2010-101

WHEREAS, a public utility easement is required by the City of Grand Island, from Glen E. and Betty J. Wiese to install, upgrade, maintain and repair, a 115 kV electric transmission line to the northwest of the City; and

WHEREAS, a public hearing was held on April 13, 2010, for the purpose of discussing the proposed acquisition of an easement located in Hall County, Nebraska; and more particularly described as follows:

The easterly twenty-five (25) feet of the Northwest Quarter (NW¹/₄) of Section Twenty-six (26), Township Twelve (12) North, Range Ten (10) West of the 6th P.M., Hall County, Nebraska.

The above-described easement and right-of-way containing a total of 1.52 acres, more or less, as shown on the plat dated November 9, 2009, marked Exhibit "A", attached hereto and incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the City of Grand Island be, and hereby is, authorized to acquire public utility easements from Glen E. and Betty J. Wiese, on the above-described tracts of land.

- - -

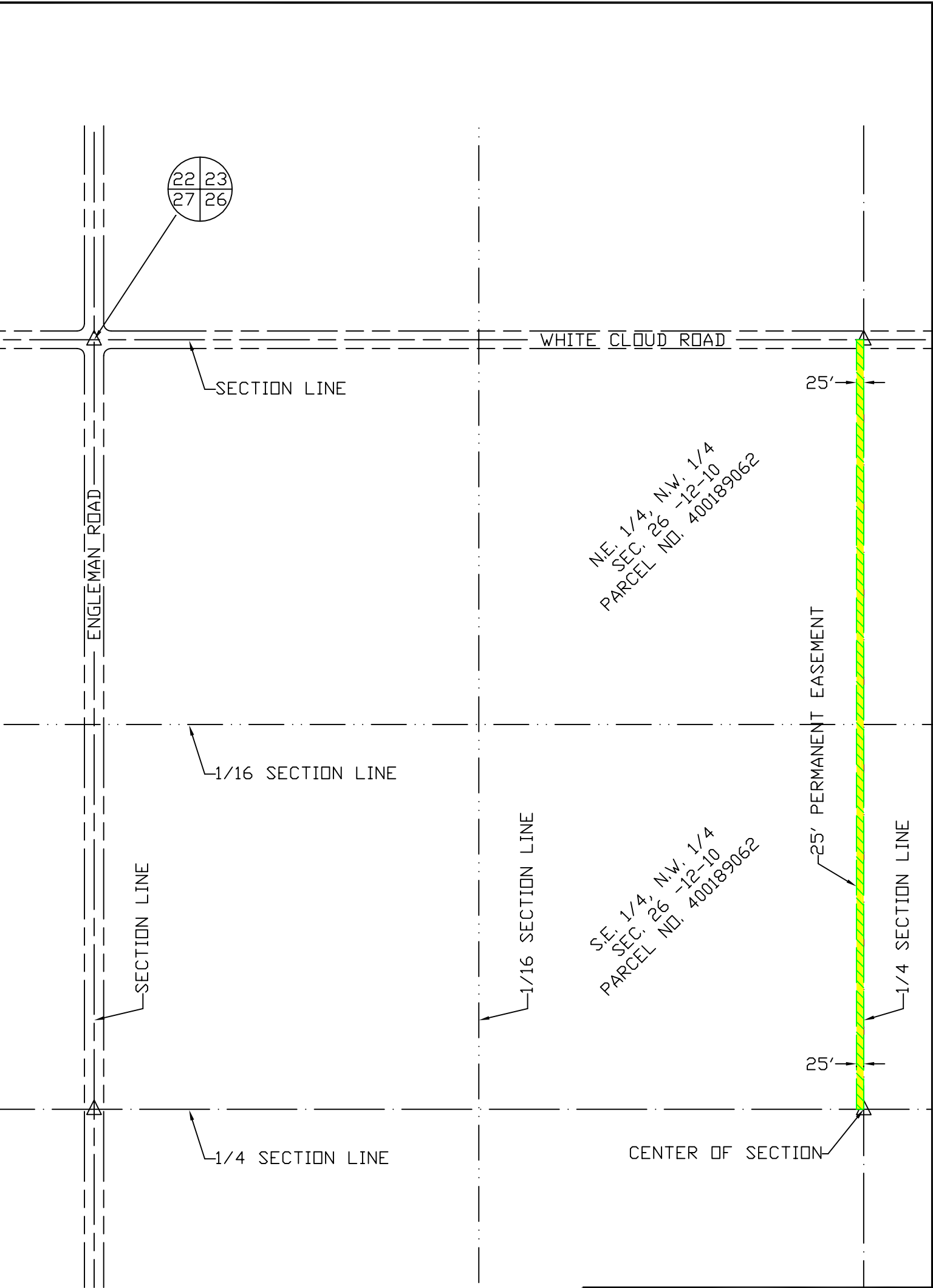
Adopted by the City Council of the City of Grand Island, Nebraska, April 13, 2010.

Margaret Hornady, Mayor

Attest:

RaNae Edwards, City Clerk

| | |
|---------------------|-----------------|
| Approved as to Form | ☐ _____ |
| April 8, 2010 | ☐ City Attorney |



LEGEND

- SECTION LINE
- 1/4 SEC. LINE
- 1/16 SEC. LINE
- ROAD
- EASEMENT

CITY OF

GRAND



ISLAND

UTILITIES DEPARTMENT

EXHIBIT "A"

| | |
|------------------|------------------|
| DRN BY: A.C.H. | SCALE: 1" = 400' |
| DATE: 11/09/2009 | # WIESE |



City of Grand Island

Tuesday, April 13, 2010

Council Session

Item G10

#2010-102 - Approving Acquisition of Utility Easement Located Between One R and Chapman Roads, and Between North and Engleman Roads (Robert and Kay Fielding)

This item relates to the aforementioned Public Hearing Item E-7.

Staff Contact: Gary R. Mader

RESOLUTION 2010-102

WHEREAS, a public utility easement is required by the City of Grand Island, from Robert M. Fielding and Kay M. Fielding, to install, upgrade, maintain and repair, a 115 kV electric transmission line to the northwest of the City; and

WHEREAS, a public hearing was held on April 13, 2010, for the purpose of discussing the proposed acquisition of an easement located in Hall County, Nebraska; and more particularly described as follows:

All of the Grantor's interest in the West Twenty Five (25) feet of the Southwest Quarter of the Southeast Quarter (SW ¼ SE ¼) of Section Fourteen (14), Township Twelve (12) North, Range Ten (10) West of the 6th P.M., Hall County, Nebraska.

The above-described easement and right-of-way containing a total of 0.05 acres, more or less, as shown on the plat dated November 9, 2009, marked Exhibit "A", attached hereto and incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the City of Grand Island be, and hereby is, authorized to acquire public utility easements from Robert M. Fielding and Kay M. Fielding, on the above-described tracts of land.

- - -

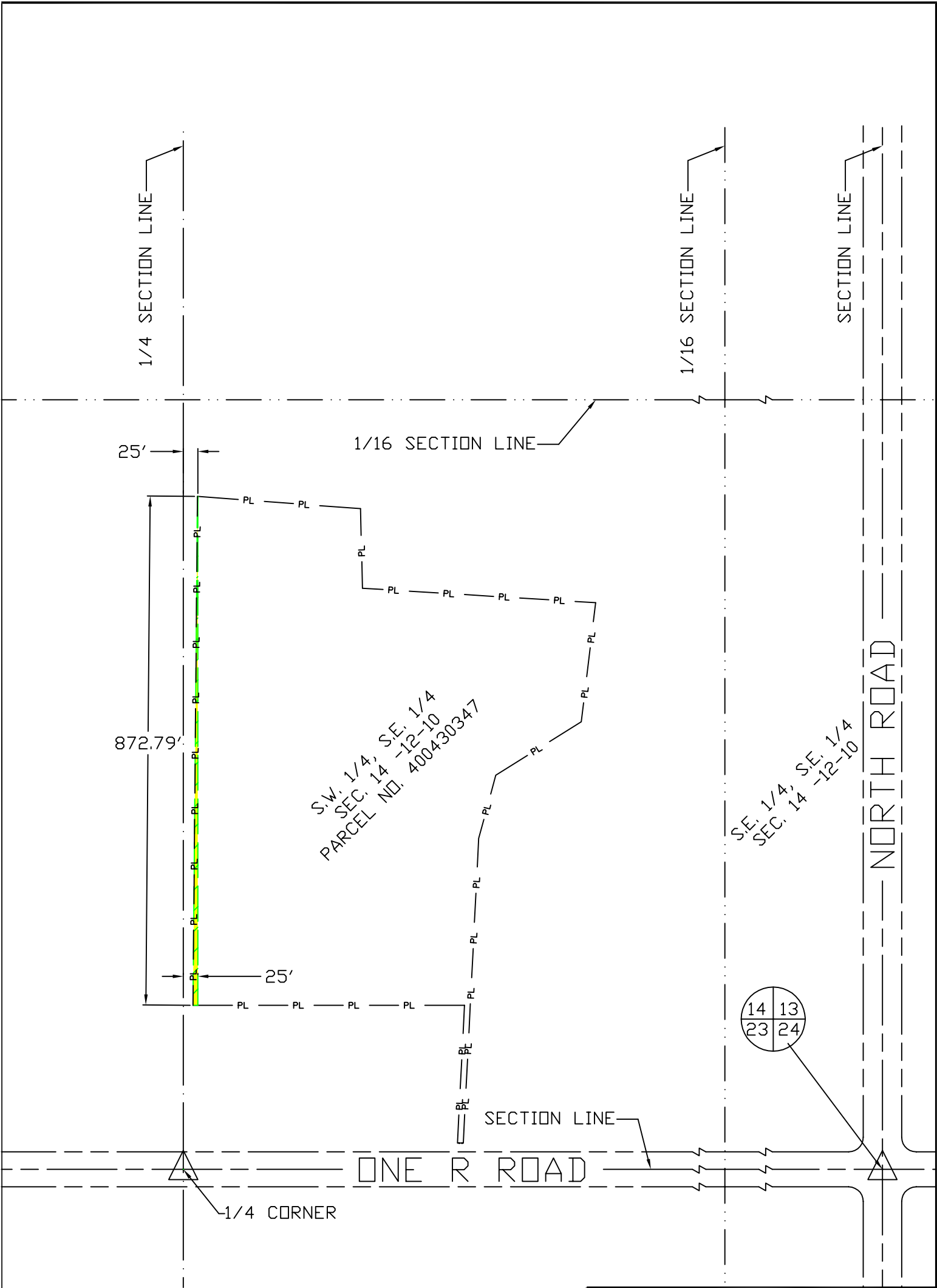
Adopted by the City Council of the City of Grand Island, Nebraska, April 13, 2010.

Margaret Hornady, Mayor


Attest:

RaNae Edwards, City Clerk

| | |
|---------------------|-----------------|
| Approved as to Form | ☐ _____ |
| April 8, 2010 | ☐ City Attorney |



LEGEND

- SECTION LINE
- 1/4 SEC. LINE
- 1/16 SEC. LINE
- ROAD
- PL — PROPERTY LINE
-  EASEMENT



CITY OF
GRAND ISLAND
UTILITIES DEPARTMENT

EXHIBIT "A"

| | |
|------------------|------------------|
| DRN BY: A.C.H. | SCALE: 1" = 200' |
| DATE: 11/09/2009 | # FIELDING |



City of Grand Island

Tuesday, April 13, 2010

Council Session

Item G11

#2010-103 - Approving Acquisition of Utility Easement Located Between One R and Chapman Roads, and Between Engleman and North Roads (Parcel #1) (Thomas and Linda Atkins)

This item relates to the aforementioned Public Hearing Item E-8.

Staff Contact: Gary R. Mader

RESOLUTION 2010-103

WHEREAS, a public utility easement is required by the City of Grand Island, from Thomas M. Atkins and Linda J. Atkins, to install, upgrade, maintain and repair, a 115 kV electric transmission line to the northwest of the City; and

WHEREAS, a public hearing was held on April 13, 2010, for the purpose of discussing the proposed acquisition of an easement located in Hall County, Nebraska; and more particularly described as follows:

The westerly Twenty-five (25) feet of the Southeast Quarter (SE¼) of Section Fourteen (14), Township Twelve (12) North, Range Ten (10) West of the 6th P.M., Hall County, Nebraska except the southerly Forty-five (45) feet thereof and that part contained in a tract of land conveyed by a warranty deed recorded as instrument No. 200509318 in the Hall County Register of Deeds.

The above-described easement and right-of-way containing a total of 1.47 acres, more or less, as shown on that plat dated November 9, 2009, marked Exhibit "A", attached hereto and incorporated herein by reference.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the City of Grand Island be, and hereby is, authorized to acquire public utility easements from Thomas M. and Linda J. Atkins, on the above-described tracts of land.

- - -

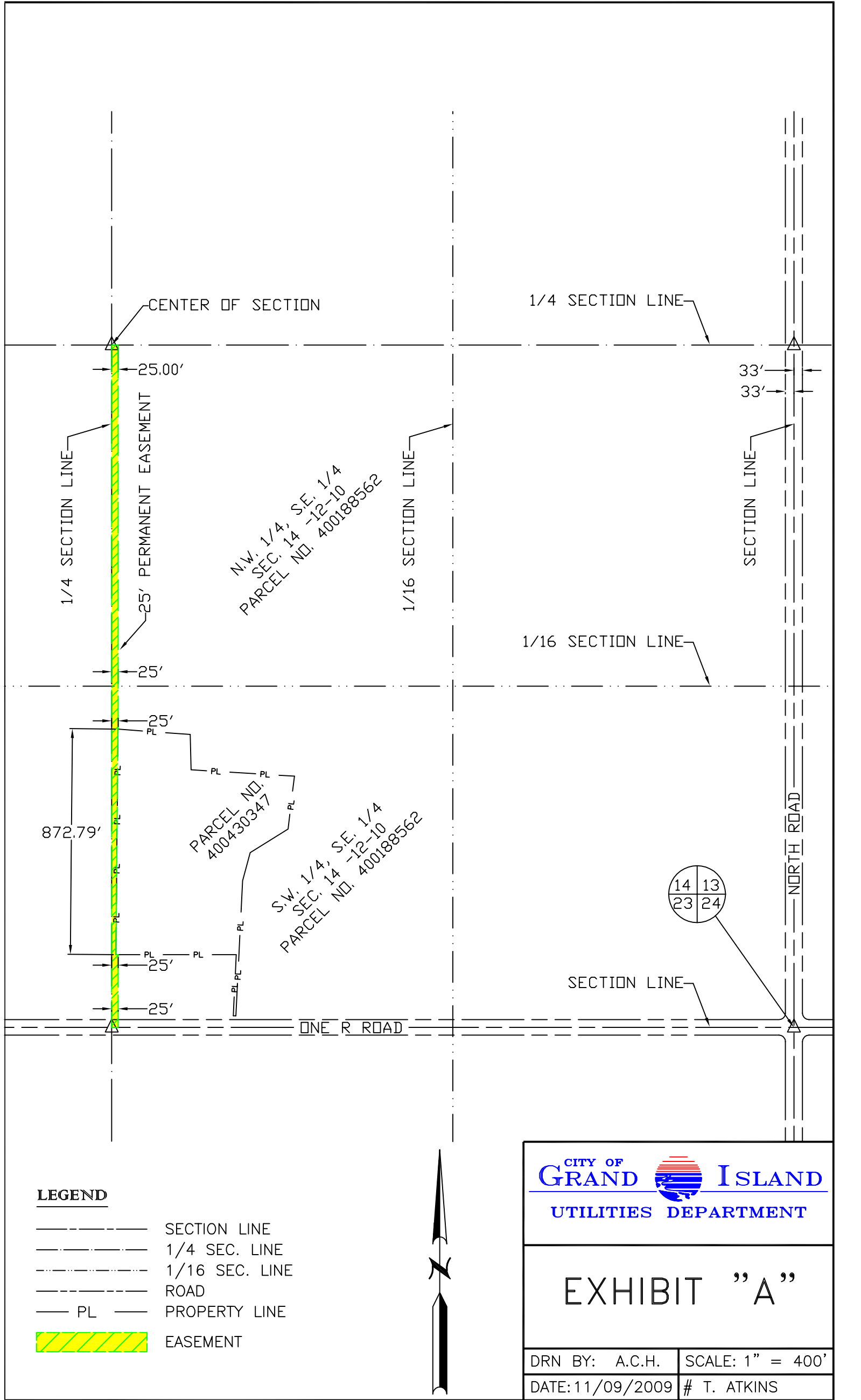
Adopted by the City Council of the City of Grand Island, Nebraska, April 13, 2010.

Margaret Hornady, Mayor

Attest:

RaNae Edwards, City Clerk

| | |
|---------------------|-----------------|
| Approved as to Form | ☐ _____ |
| April 8, 2010 | ☐ City Attorney |



LEGEND

- SECTION LINE
- 1/4 SEC. LINE
- 1/16 SEC. LINE
- ROAD
- PL PROPERTY LINE
- EASEMENT

CITY OF
GRAND ISLAND
UTILITIES DEPARTMENT

EXHIBIT "A"

| | |
|------------------|------------------|
| DRN BY: A.C.H. | SCALE: 1" = 400' |
| DATE: 11/09/2009 | # T. ATKINS |



City of Grand Island

Tuesday, April 13, 2010

Council Session

Item G12

#2010-104 - Approving Acquisition of Utility Easement Located Between One R and Chapman Roads, and Between Engleman and North Roads (Parcel #2) (Thomas and Linda Atkins)

This item relates to the aforementioned Public Hearing Item E-9.

Staff Contact: Gary R. Mader

RESOLUTION 2010-104

WHEREAS, a public utility easement is required by the City of Grand Island, from Thomas M. Atkins and Linda J. Atkins, to install, upgrade, maintain and repair, a 115 kV electric transmission line to the northwest of the City; and

WHEREAS, a public hearing was held on April 13, 2010, for the purpose of discussing the proposed acquisition of an easement located in Hall County, Nebraska; and more particularly described as follows:

The easterly Twenty-five (25) feet of the Northwest Quarter (NW¼) of Section Fourteen (14), Township Twelve (12) North, Range Ten (10) West of the 6th P.M., Hall County, Nebraska.

The above-described easement and right-of-way containing a total of 1.52 acres, more or less, as shown on the plat dated November 9, 2009, marked Exhibit "A", attached hereto and incorporated herein by reference.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the City of Grand Island be, and hereby is, authorized to acquire public utility easements from Thomas M. and Linda J. Atkins, on the above-described tracts of land.

- - -

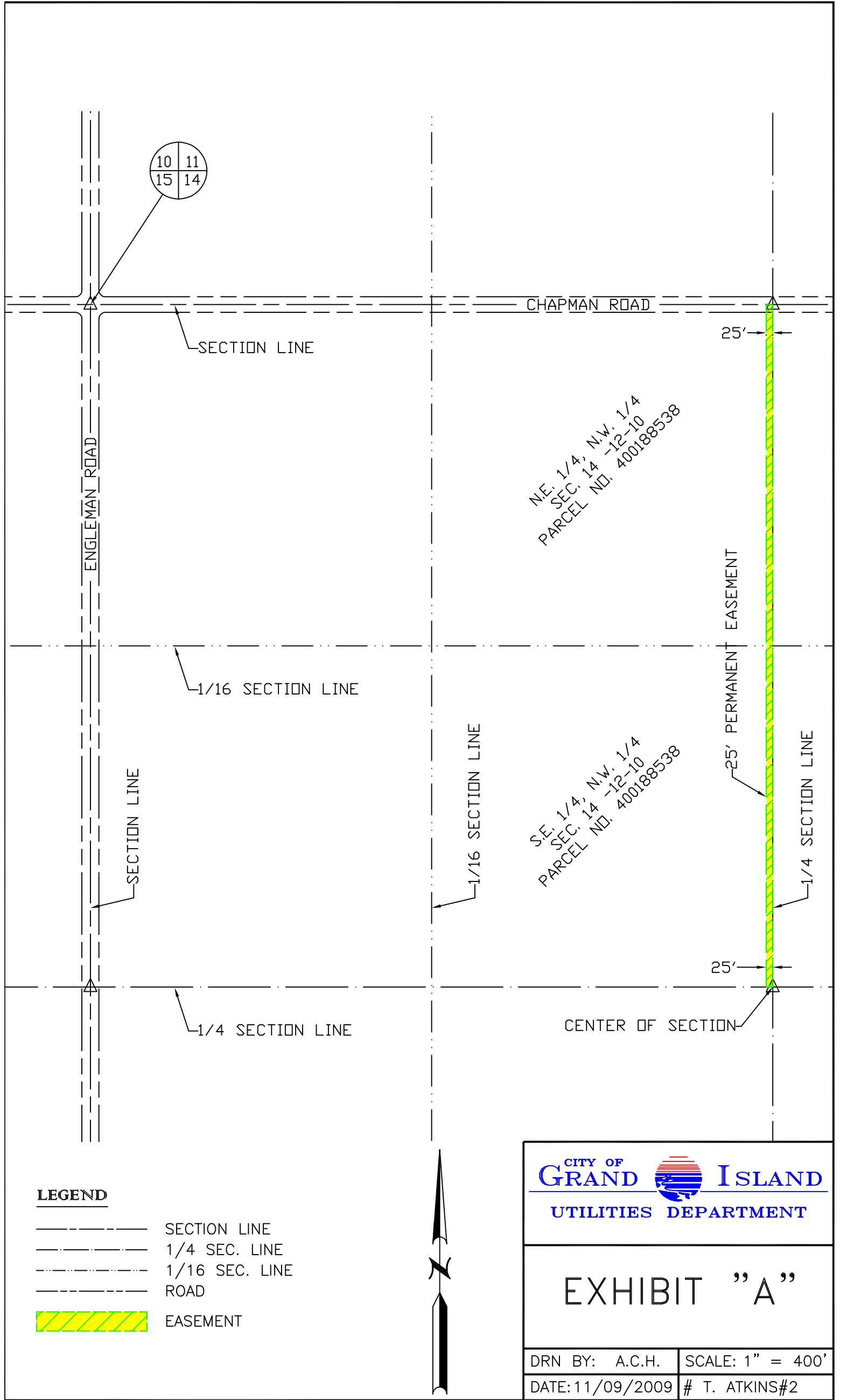
Adopted by the City Council of the City of Grand Island, Nebraska, April 13, 2010.

Margaret Hornady, Mayor

Attest:

RaNae Edwards, City Clerk

| | |
|---------------------|-----------------|
| Approved as to Form | ☐ _____ |
| April 8, 2010 | ☐ City Attorney |





City of Grand Island

Tuesday, April 13, 2010

Council Session

Item G13

**#2010-105 -Approving Acquisition of Utility Easement Located
Between Prairie and Chapman Roads, and between Engleman and
North Roads (Elmer E. Pollock)**

This item relates to the aforementioned Public Hearing Item E-10.

Staff Contact: Gary R. Mader

RESOLUTION 2010-105

WHEREAS, a public utility easement is required by the City of Grand Island, from Elmer E. Pollock, to install, upgrade, maintain and repair, a 115 kV electric transmission line to the northwest of the City; and

WHEREAS, a public hearing was held on April 13, 2010, for the purpose of discussing the proposed acquisition of an easement located in Hall County, Nebraska; and more particularly described as follows:

The southerly Twenty-Five (25) feet of the Northwest Quarter (NW1/4) of Section Eleven (11), Township Twelve (12) North, Range Ten (10) West of the 6th P.M., Hall County, Nebraska except the westerly Three Hundred Forty Four (344) feet thereof.

The above described easement and right-of-way containing a total of 1.32 acres, more or less, as shown on the plat dated November 9, 2009, marked Exhibit "A", attached hereto and incorporated herein by reference.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the City of Grand Island be, and hereby is, authorized to acquire public utility easements from Elmer E. Pollock, on the above-described tracts of land.

- - -

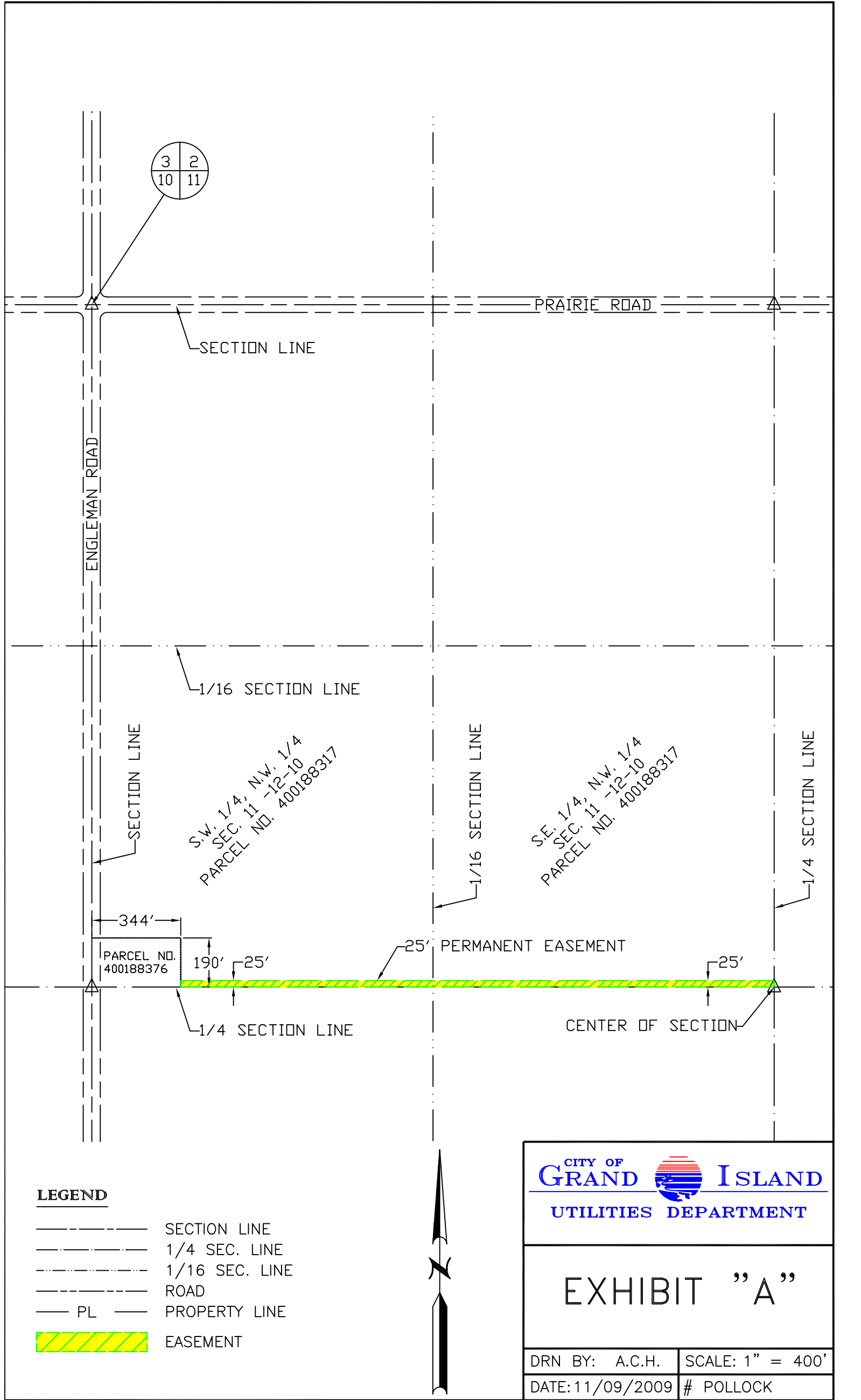
Adopted by the City Council of the City of Grand Island, Nebraska, April 13, 2010.

Margaret Hornady, Mayor

Attest:

RaNae Edwards, City Clerk

| | |
|---------------------|-----------------|
| Approved as to Form | ☐ _____ |
| April 8, 2010 | ☐ City Attorney |



LEGEND

- SECTION LINE
- 1/4 SEC. LINE
- 1/16 SEC. LINE
- ROAD
- PL PROPERTY LINE
- EASEMENT

CITY OF
GRAND ISLAND
UTILITIES DEPARTMENT

EXHIBIT "A"

| | |
|------------------|------------------|
| DRN BY: A.C.H. | SCALE: 1" = 400' |
| DATE: 11/09/2009 | # POLLOCK |



City of Grand Island

Tuesday, April 13, 2010

Council Session

Item G14

#2010-106 - Approving Utility Easement Located Between White Cloud and One R Roads, and Between Engleman and North Roads (Jeff and Susan Koch)

This item relates to the aforementioned Public Hearing Item E-11.

Staff Contact: Gary R. Mader

R E S O L U T I O N 2010-106

WHEREAS, a public utility easement is required by the City of Grand Island, from Jeff and Susan Koch, to install, upgrade, maintain and repair, a 115 kV electric transmission line to the northwest of the City; and

WHEREAS, a public hearing was held on April 13, 2010, for the purpose of discussing the proposed acquisition of an easement located in Hall County, Nebraska; and more particularly described as follows:

The westerly twenty-five (25) feet of the Northwest Quarter of the Southeast Quarter (NW¼SE¼) of Section Twenty-three (23), Township Twelve (12) North, Range Ten (10) West of the 6th P.M. Hall County, Nebraska and the westerly Twenty-five (25) feet of a tract of land in the Northeast Quarter (NE¼) of Section Twenty-three (23), Township Twelve (12) North, Range Ten (10) West of the 6th P.M. Hall County, Nebraska described as commencing at the Southeast corner of said Northeast Quarter, thence running northerly along the east line of said Northeast Quarter a distance of Thirteen and One-half (13½) rods, thence running westerly a distance of One Hundred Sixty (160) rods more or less to a point on the west line of said Northeast Quarter Fourteen and One-half (14½) rods north of the south line of said Northeast Quarter, thence southerly along the west line of said Northeast Quarter a distance of Fourteen and one-half (14½) rods to the south line of said Northeast Quarter, thence easterly along the south line of said Northeast Quarter One Hundred Sixty (160) rods more or less to the point of beginning.

The above-described easement and right-of-way containing a total of 0.89 acres, more or less, as shown on the plat dated November 9, 2009, marked Exhibit "A", attached hereto and incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the City of Grand Island be, and hereby is, authorized to acquire public utility easements from Jeff and Susan Koch, on the above-described tracts of land.

- - -

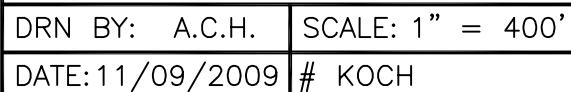
Adopted by the City Council of the City of Grand Island, Nebraska, April 13, 2010.

Margaret Hornady, Mayor

Attest:

RaNae Edwards, City Clerk

| |
|--|
| Approved as to Form <input type="checkbox"/> _____ April 8, 2010 <input type="checkbox"/> City Attorney |
|--|





City of Grand Island

Tuesday, April 13, 2010

Council Session

Item G15

#2010-107 - Approving Acquisition of Utility Easement Located South Side of the Alley Between 4th Street and the UPRR Tracks, East of Cedar Street (Five Points Bank)

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

Staff Contact: Steve Riehle

RESOLUTION 2010-107

WHEREAS, a public utility easement is required by the City of Grand Island, from Five Points Bank to survey, construct, inspect, maintain, repair, replace, relocate, extend, remove, and operate thereon, public utilities and appurtenances, including lines and transformers; and;

WHEREAS, a public hearing was held on April 13, 2010, for the purpose of discussing the proposed acquisition of an easement located in the City of Grand, Hall County, Nebraska; and more particularly described as follows:

. The northerly twenty (20.0) feet of the westerly one hundred thirty two (132.0) feet of Lot One (1) Hometown Subdivision.

The above-described easement and right-of-way containing a total of 0.060 acres, more or less, as shown on the plat dated 3/11/2010, marked Exhibit "A", attached hereto and incorporated herein by reference.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the City of Grand Island be, and hereby is, authorized to acquire public utility easements from Five Points Bank, on the above-described tracts of land.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, April 13, 2010.

Margaret Hornady, Mayor

Attest:

RaNae Edwards, City Clerk

| | |
|---------------------|-----------------|
| Approved as to Form | ☐ _____ |
| April 8, 2010 | ☐ City Attorney |



City of Grand Island

Tuesday, April 13, 2010

Council Session

Item G16

#2010-108 - Approving Proposal for Professional Engineering Consulting Services Regarding Wastewater Treatment Capacity Analysis, Treatment Process Alternatives & Rate Model Work

Staff Contact: Steven P. Riehle

Council Agenda Memo

From: Steven P. Riehle, Public Works Director

Meeting: April 13, 2010

Subject: Approving Proposal for Professional Engineering Consulting Services Regarding Wastewater Treatment Capacity Analysis, Treatment Process Alternatives & Rate Model Work

Item #'s: G-16

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

Background

The Wastewater Division of the Public Works Department advertised on March 6, 2010 for proposals for professional engineering services to analyze the treatment plant capacity, review treatment process alternatives and perform rate model work at the Wastewater Treatment Plant. The City has also asked that presentations be made to the City, JBS and NDEQ. An analysis of proper soluble BOD and coordination and design of treatments recommended shall be included.

Discussion

The RFP was sent to 11 potential firms, with two proposals being received, opened and reviewed by the City of Grand Island's Wastewater Division on March 30, 2010. Proposals were received from Black & Veatch of Kansas City, Missouri and CH2M Hill of Omaha, Nebraska. Black & Veatch of Kansas City, Missouri, with Olsson Associates of Grand Island, Nebraska as the sub-consultant submitted the highest scoring proposal in accordance with the criteria in the request for proposals. The agreement will follow the same format as the agreement with Black & Veatch for the Aeration Basin Improvement Project that was approved by the Council on October 13, 2009. The work is to be performed at actual costs with a maximum of \$59,800.00.

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 award of the proposal to Black & Veatch of Kansas City, Missouri.

Sample Motion

Move to approve the award of the proposal to Black & Veatch of Kansas City, Missouri.

RESOLUTION 2010-108

WHEREAS, a Request for Proposals for professional engineering consulting services regarding treatment capacity, process alternatives and rate model work for City of Grand Island, Wastewater Division of the Public Works Department was published in the Grand Island Daily Independent on March 6, 2010; and

WHEREAS, on March 30, 2010, two proposals were received, opened and reviewed; and

WHEREAS, Black & Veatch of Kansas City, Missouri, with Olsson Associates of Grand Island, Nebraska as a sub-consultant, submitted a proposal in accordance with the selection criteria listed in the Request for Proposals and all other statutory requirements contained therein; and

WHEREAS, the work will be performed at actual costs with a maximum of \$59,800.00; and

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the proposal of Black & Veatch of Kansas City, Missouri, with Olsson Associates of Grand Island, Nebraska as a sub-consultant, in the maximum amount of \$59,800.00 for professional engineering consulting services regarding wastewater treatment capacity, process alternatives and rate model work is hereby approved.

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

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, April 13, 2010.

Margaret Hornady, Mayor

Attest:

RaNae Edwards, City Clerk

| | |
|---------------------|-----------------|
| Approved as to Form | ☐ _____ |
| April 8, 2010 | ☐ City Attorney |



City of Grand Island

Tuesday, April 13, 2010

Council Session

Item G17

**#2010-109 - Approving Semi-Annual Report by the Citizens'
Review Committee on the Economic Development Program Plan**

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

Staff Contact: Citizens' Review Committee

RESOLUTION 2010-109

WHEREAS, Neb. Rev. Stat. §18-2715(3) and Grand Island City Code §2-110 require a report by the Citizens Advisory Review Committee to the City Council at least once every six months on its findings and suggestions on the administration of the Economic Development Plan; and

WHEREAS, a public hearing on the report submitted by the Citizens' Advisory Review Committee was held at a regular session of the Grand Island City Council on April 13, 2010; and

WHEREAS, said report gave information about the activities of the past six months that have taken place pursuant to the Economic Development Plan.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the semi-annual report of the Citizens Advisory Review Committee is hereby accepted and approved.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, April 13, 2010.

Margaret Hornady, Mayor

Attest:

RaNae Edwards, City Clerk



City of Grand Island

Tuesday, April 13, 2010

Council Session

Item H1

**Consideration of Request from Upper Plains Contracting, Inc. for
a Conditional Use Permit for Concrete Batch Plant Site Located at
3860 South Locust Street**

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

Staff Contact: Craig Lewis



City of Grand Island

Tuesday, April 13, 2010

Council Session

Item I1

#2010-110 - Consideration of Request from Highway Motels of Nebraska, Inc. dba Holiday Inn Express, 3404 West Faidley Avenue for a Class “T” Liquor License and Liquor Manager Designation for Melvin Wichman, 2518 Jan Street

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

Staff Contact: RaNae Edwards

RESOLUTION 2010-110

WHEREAS, an application was filed by Highway Motels of Nebraska, Inc. doing business as Holiday Inn Express, 3404 West Faidley Avenue for a Class "T" Liquor License; and

WHEREAS, a public hearing notice was published in the *Grand Island Independent* as required by state law on April 3, 2010; such publication cost being \$15.18; and

WHEREAS, a public hearing was held on April 13, 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 Melvin Wichman, 2518 Jan Street as liquor manager of such business upon the completion of a state approved alcohol server/seller training program.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, April 13, 2010.

Margaret Hornady, Mayor

Attest:

RaNae Edwards, City Clerk

| | |
|---------------------|-----------------|
| Approved as to Form | ☐ _____ |
| April 8, 2010 | ☐ City Attorney |



City of Grand Island

Tuesday, April 13, 2010

Council Session

Item I2

#2010-111 - Consideration of Premium Holidays

Staff Contact: Mary Lou Brown

Council Agenda Memo

From: Mary Lou Brown, Finance Director
Brenda Sutherland, Human Resources Director

Meeting: April 13, 2010

Subject: Healthcare Premium Holidays

Item #s: I-2

Presenter(s): Mary Lou Brown, Finance Director

Background

City Staff has been reviewing potential items that may be used to close the current fiscal year gap caused by declining receipts, primarily sales tax. The forecasted revenue shortfall is \$1,935,000. Items ranging from the management of open positions to reductions in the General Fund Capital program have been identified. One of the items identified is the use of excess cash reserves in the General Insurance Fund, Fund 615.

Discussion

The General Insurance Fund maintains balances related to the City's workers' compensation, general insurance and health insurance programs. The cash balances related to each of these is separately tracked within the Fund. As of March 31, 2010, the cash balance related to the health insurance program is \$4,352,748.

It is appropriate to maintain a level of reserve related to the healthcare program. Projections show that normal activity in the program may reduce the cash balance by \$300,000 to \$400,000 by the end of the fiscal year. This would leave approximately \$3,900,000 as a balance.

This balance, which over the past four years has ranged from \$2.2 million to \$4.5 million, was addressed by Council during the 2009/2010 budget process. The suggestion was made that the cash balance be used to ease the budget concerns. City Staff agreed to review the situation and make a recommendation prior to, or during, the 2010/2011 budget process.

It has been determined that an excess cash balance has been built up in the health insurance program. The balance has grown due to the following factors:

- Charging City departments a rate higher than what actual experience would support;
- Charging City employees a rate higher than what actual experience would support; and
- The impact of the City wellness program.

For the current year, employees have contributed 16% of the healthcare costs and the City the remaining 84%. Prior to this year, employees contributed 15% and the City 85%. The cash balance started to increase in the 2007/2008 timeframe which is also concurrent with the implementation of the City's wellness program. The wellness program has directly contributed to a reduction in the number of healthcare claims and this reduction has been maintained over the past couple of years.

As the City's wellness program has played a large role in the reduction of claims and therefore the excess cash reserve, we would like to address the holidays in a fashion that keeps the wellness "drive alive" and tie them to promotions that encourage healthy lifestyle choices. Continued efforts to promote a healthy workforce will continue to serve the City with an able-bodied workforce and maintenance of claims growth that has been trending well below the national average.

Since the cash balance is attributable to both the City and the City's employees, the excess cash should be drawn back out of the program in a manner that benefits both parties. It is the recommendation of Staff that up to three healthcare premium holidays be implemented for the healthcare program in the current fiscal year. These premium holidays will result in an estimated reduction of the healthcare insurance cash balance of \$420,000; the cash balance at the end of the fiscal year is projected to be at \$3,480,000.

The premium holidays will help close the budget shortfall since General Fund departments will see a reduction in the amount of costs they pay to the General Insurance Fund.

Alternatives

Alternatives to be addressed by the Council include the following:

1. Accept the recommendation of three healthcare premium holidays.
2. Modify the recommendation.
3. Deny the recommendation.

Recommendation

It is the recommendation of Staff that up to three healthcare premium holidays be implemented for both the City departments and the City employees for the healthcare program within the General Insurance Fund.

Sample Motion

Move to approve the recommendation that three healthcare premium holidays, observed by both the City departments and the employees, be implemented during the remaining months of the current fiscal year.

RESOLUTION 2010-111

WHEREAS, the City of Grand Island provides health and dental insurance to its employees; and

WHEREAS, the City's General Insurance Fund is amply funded; and

WHEREAS, administration is recommending up to three premium holidays that will reduce the fund to an acceptable limit and assist with meeting the current budget year deficit; and

WHEREAS, the premium holidays will be observed by both the City and the employees; and

WHEREAS, the premium holiday will result in neither the City nor the employee paying a premium for said holiday;

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, to approve up to three premium holidays for the City's health and dental plan.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, April 13, 2010.

Margaret Hornady, Mayor

Attest:

RaNae Edwards, City Clerk



City of Grand Island

Tuesday, April 13, 2010

Council Session

Item J1

Approving Payment of Claims for the Period of March 24, 2010 through April 13, 2010

The Claims for the period of March 24, 2010 through April 13, 2010 for a total amount of \$5,428,264.49. A MOTION is in order.

Staff Contact: Mary Lou Brown



City of Grand Island

Tuesday, April 13, 2010

Council Session

Item J2

Approving Payment of Claims for the Period of February 24, 2010 through April 13, 2010 for the Veterans Athletic Field Complex

The Claims for the Veterans Athletic Field Complex for the period of February 24, 2010 through April 13, 2010 for the following requisitions.

#15 \$56,207.00

A MOTION is in order.

Staff Contact: Mary Lou Brown

FORM OF REQUISITION

REQUISITION NO. 15

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 | \$27,140.00 | Ball field lighting |
| Diamond Engineering | P.O. Box 1327 Grand Island, NE | \$29,067.00 | Utility improvements |

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 24 day of March,
2010

CITY OF GRAND ISLAND,
NEBRASKA, as Owner

By Mary Jo Brown
Owner Representative

Schedule of Bills

| Vendor | | Name/Number | | Description | Invoice | PO # | WO# | Check # | Amount |
|----------|--------|------------------------------|--|--------------------------------|----------------|----------|-----------|-----------|-----------|
| Org | Object | PARKS & RECREATION | | | | | | | |
| 40044450 | 90122 | ATHLETIC COMPLEX | | | | | | | |
| 1 | 154 | DIAMOND ENGINEERING CO | | UTILITY IMPROVEMENT VETS FIELD | 03/15/10 PMT 1 | 22116 | | 155192 | 29,067.00 |
| 1 | 180 | ENSLEY ELECTRIC SERVICES INC | | BALL FIELD LIGHTING VETS FIELD | PMT #5 | 22119 | | 155208 | 27,140.00 |
| | | | | | | 40044450 | Org Total | 56,207.00 | |

COPY

CITY OF GRAND ISLAND

CONTRACTOR:
DIAMOND ENGINEERING CO.
P.O. BOX 1327
GRAND ISLAND, NE 68802

CITY OF GRAND ISLAND, NEBRASKA

PAYMENT NO.

1

DATE:

3/15/2010

UTILITY IMPROVEMENTS VETERANS ATHLETIC FIELD

| Item No. | Description | Price Bid | Plan Quantities | Total Cost | Quantities Placed | Total Amount Completed | Amt. Paid Prev. Est. | Total Due This Est. |
|------------------------------------|---|-------------|-----------------|--------------|-------------------|------------------------|----------------------|---------------------|
| BID SECTION D - STORM SEWER | | | | | | | | |
| | | | | \$ - | | \$ - | | \$ - |
| 1 | Type D Modified Curb Inlet | \$ 1,605.00 | 1 e.a. | \$ 1,605.00 | 0.00 e.a. | \$ - | \$ - | \$ - |
| 2 | Area Inlet | \$ 1,445.00 | 3 e.a. | \$ 4,335.00 | 3.00 e.a. | \$ 4,335.00 | | \$ 4,335.00 |
| 3 | 24" Reinforced Concrete Flared End Section | \$ 695.00 | 1 e.a. | \$ 695.00 | e.a. | \$ - | | \$ - |
| 4 | 15" Reinforced Concrete Storm Sewer Pipe | \$ 27.00 | 254 l.f. | \$ 6,858.00 | 250.00 l.f. | \$ 6,750.00 | | \$ 6,750.00 |
| 5 | 18" Reinforced Concrete Storm Sewer Pipe | \$ 33.30 | 550 l.f. | \$ 18,315.00 | 540.00 l.f. | \$ 17,982.00 | | \$ 17,982.00 |
| 6 | 24" Reinforced Concrete Storm Sewer Pipe | \$ 47.35 | 100 l.f. | \$ 4,735.00 | l.f. | \$ - | | \$ - |
| 7 | Silt Fence | \$ 4.35 | 192 l.f. | \$ 835.20 | l.f. | \$ - | | \$ - |
| 8 | Erosion Control Blanket | \$ 9.65 | 40 s.y. | \$ 386.00 | s.y. | \$ - | | \$ - |
| BID SECTION E - WATER MAIN | | | | | | | | |
| 1 | 12" D.I. Water Main (CO #2 dated 3/23/2010 increased from 432 l.f. to 654 l.f. for a difference of 222 l.f.) | \$ 30.30 | 654 l.f. | \$ 19,816.20 | l.f. | \$ - | | \$ - |
| 1a | 10" D.I. Water Main (CO #2 dated 3/23/2010 add on) | \$ 36.75 | 8 l.f. | \$ 294.00 | l.f. | \$ - | | \$ - |
| 2 | 8" D.I. Water Main (CO #2 dated 3/23/2010 decreased from 941 l.f. to 826 l.f. for a difference of 115 l.f.) | \$ 21.20 | 826 l.f. | \$ 17,511.20 | l.f. | \$ - | | \$ - |
| 3 | 6" D.I. Water Main (CO #2 dated 3/23/2010 decreased from 29 l.f. to 17 l.f. for a difference of 12 l.f.) | \$ 18.00 | 17 l.f. | \$ 306.00 | l.f. | \$ - | | \$ - |
| 4 | Jack and Bore 18" Steel Casing (CO #2 dated 3/23/2010 decreased from 40 l.f. to 0 l.f. for a difference of 40 l.f.) | \$ 255.83 | 0 l.f. | \$ - | l.f. | \$ - | | \$ - |
| 4a | Jack and Bore 24" Steel Casing (CO #2 dated 3/23/2010 add on) | \$ 420.22 | 40 l.f. | \$ 16,808.80 | l.f. | \$ - | | \$ - |
| 5 | 12" Tapping Saddle and Valve w/box (CO #2 dated 3/23/2010 decreased from 4640 ea to 0 for a difference of 4640.00 ea) | \$ 4,640.00 | 0 e.a. | \$ - | e.a. | \$ - | | \$ - |
| 5a | 10" x 10" MJ Tee (CO #2 dated 3/23/2010 add on) | \$ 1,523.12 | 1 e.a. | \$ 1,523.12 | e.a. | \$ - | | \$ - |
| 5b | 10" x 12" MJ Reducer (CO #2 dated 3/23/2010 add on) | \$ 332.79 | 1 e.a. | \$ 332.79 | e.a. | \$ - | | \$ - |
| 5c | 10" Sleeve Coupling (CO #2 dated 3/23/2010 add on) | \$ 556.26 | 2 e.a. | \$ 1,112.52 | e.a. | \$ - | | \$ - |
| 6 | 12"x8" M.J. Tee | \$ 384.25 | 1 e.a. | \$ 384.25 | e.a. | \$ - | | \$ - |
| 7 | 12"x6" M.J. Tee | \$ 353.50 | 1 e.a. | \$ 353.50 | e.a. | \$ - | | \$ - |
| 7a | 12" Retainer Gland (CO #2 dated 3/23/2010 add on) | \$ 195.98 | 8 e.a. | \$ 1,567.84 | e.a. | \$ - | | \$ - |
| 8 | 12" M.J. Cap | \$ 287.15 | 1 e.a. | \$ 287.15 | e.a. | \$ - | | \$ - |

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| | | | | | | | |
|----|---|--------------|-----------|--------------|------|------|------|
| 9 | 8" M.J. 22.5 Deg. Bend (CO #2 dated 3/23/2010 decreased from 4 e.a. to 0 for a difference of e.e.a.) | \$ 185.80 | 0 e.a. | \$ - | e.a. | \$ - | \$ - |
| 9a | 12" x 22.5 degree MJ Ell (CO #2 dated 3/23/2010 add on) | \$ 393.40 | 2 e.a. | \$ 786.80 | e.a. | \$ - | \$ - |
| 9b | 12" x 45 degree MJ Ell (CO #2 dated 3/23/2010 add on) | \$ 428.61 | 2 e.a. | \$ 857.22 | e.a. | \$ - | \$ - |
| 9c | 12" x 90 degree MJ Ell (CO #2 dated 3/23/2010 add on) | \$ 428.61 | 1 e.a. | \$ 428.61 | e.a. | \$ - | \$ - |
| 10 | 8"x6" M.J. Tee | \$ 247.20 | 2 e.a. | \$ 494.40 | e.a. | \$ - | \$ - |
| 11 | 8" M.J. Cap | \$ 230.60 | 1 e.a. | \$ 230.60 | e.a. | \$ - | \$ - |
| 12 | 12" Gate Valve w/box | \$ 1,935.00 | 1 e.a. | \$ 1,935.00 | e.a. | \$ - | \$ - |
| 13 | 8" Gate Valve w/box (CO #2 dated 3/23/2010 decreased from 3 e.a. to 2 e.a. for a difference of 1 e.a.) | \$ 1,087.00 | 2 e.a. | \$ 2,174.00 | e.a. | \$ - | \$ - |
| 14 | Fire Hydrant Assembly | \$ 3,250.00 | 3 e.a. | \$ 9,750.00 | e.a. | \$ - | \$ - |
| 15 | 1-1/2" Service Saddle | \$ 219.00 | 2 e.a. | \$ 438.00 | e.a. | \$ - | \$ - |
| 16 | 1-1/2" Corporation Stop | \$ 142.00 | 2 e.a. | \$ 284.00 | e.a. | \$ - | \$ - |
| 17 | 1-1/2" Curb Stop | \$ 358.00 | 2 e.a. | \$ 716.00 | e.a. | \$ - | \$ - |
| 18 | 1-1/2" Service Tubing | \$ 15.70 | 640 l.f. | \$ 10,048.00 | l.f. | \$ - | \$ - |
| 19 | Bell Joint Block | \$ 533.00 | 2 e.a. | \$ 1,066.00 | e.a. | \$ - | \$ - |
| 20 | Concrete Blocking for fittings (CO #2 dated 3/23/2010 increased from 4.0 c.y. to 6 c.y. for a difference of 2 c.y.) | \$ 191.35 | 6 c.y. | \$ 1,148.10 | c.y. | \$ - | \$ - |
| 21 | Dewatering | \$ 5,244.00 | 1 l.s. | \$ 5,244.00 | l.s. | \$ - | \$ - |
| 22 | Driveway Removal & Replacement CO #2 dated 3/23/2010 add on) Original Bid Section "E" | \$ 482.31 | 2 e.a. | \$ 964.62 | e.a. | \$ - | \$ - |
| | BID SECTION F - SANITARY SEWER | | | | | | |
| 1 | Tap Existing Sanitary Sewer Manhole | \$ 290.00 | 1 ea. | \$ 290.00 | ea. | \$ - | \$ - |
| 2 | 2" Low Pressure Sanitary Sewer Force Main | \$ 5.95 | 1382 l.f. | \$ 8,222.90 | l.f. | \$ - | \$ - |
| 3 | 6" P.V.C. Sanitary Sewer Pipe (CO #1 dated 2/9/2010 increased from 594 l.f. to 870 l.f. for a difference of 276 l.f.) | \$ 12.70 | 870 l.f. | \$ 11,049.00 | l.f. | \$ - | \$ - |
| 4 | Bore 2" Low Pressure Sanitary Sewer Force Main | \$ 10.00 | 154 l.f. | \$ 1,540.00 | l.f. | \$ - | \$ - |
| 5 | DH272 Grinder Pump | \$ 29,300.00 | 1 e.a. | \$ 29,300.00 | e.a. | \$ - | \$ - |
| 6 | 2" Cleanout/Valve Assembly | \$ 1,230.00 | 3 e.a. | \$ 3,690.00 | e.a. | \$ - | \$ - |
| 7 | 2" P.V.C. Conduit | \$ 4.25 | 358 l.f. | \$ 1,521.50 | l.f. | \$ - | \$ - |
| 8 | Dewatering | \$ 5,745.00 | 1 l.s. | \$ 5,745.00 | l.s. | \$ - | \$ - |
| 9 | CO #1 dated 2/9/10 addition of 6" cleanout | \$ 850.00 | 1 e.a. | \$ 850.00 | e.a. | \$ - | \$ - |
| 10 | CO #1 dated 2/9/10 addition of PVC 45 degree bend | \$ 75.00 | 1 e.a. | \$ 75.00 | l.s. | \$ - | \$ - |

| BID SECTION G - ELECTRICAL CONDUIT | | | | | | | | | |
|------------------------------------|--|-----------|-----------|---------------|-------------------------|--------------|---------|--------------|--|
| 1 | 4" P.V.C. Conduit | \$ 6.00 | 1389 l.f. | \$ 8,334.00 | l.f. | \$ - | | \$ - | |
| 2 | 2" P.V.C. Conduit | \$ 1.76 | 1353 l.f. | \$ 2,381.28 | l.f. | \$ - | | \$ - | |
| | (CO #1 dated 2/9/2010 increased from 403 l.f. to 1353 l.f. for a difference of 950 l.f.) | | | | | | | | |
| 3 | Type 1 Pull Box | \$ 560.00 | 9 e.a. | \$ 5,040.00 | e.a. | \$ - | | \$ - | |
| | (CO #1 dated 2/9/2010 increased from 4 e.a. to 9 e.a. for a difference of 5 e.a.) | | | | | | | | |
| TOTAL PROJECT COST: | | | | \$ 212,665.60 | | \$ 29,067.00 | \$ - | \$ 29,067.00 | |
| DIAMOND ENGINEERING CO. | | | | | CITY OF GRAND ISLAND | | | | |
| Signed | <i>Paul C. Haring</i> | Date | 3/15/10 | Signed | <i>Mark [illegible]</i> | Date | 3-15-10 | | |

COPY

Voucher #

| | |
|-------------|---------------------------------|
| PO # | 22116 |
| Vendor # | 154 |
| Invoice # | 1 - 3/15/10 |
| Description | Utility Improvements payment #1 |
| Approved by | <i>[Signature]</i> |
| Date | 3-15-10 |
| Org-obj# | |
| Amount | |

40044450-90122

29,067.00

Ensley Electrical Services, Inc.
PO Box 5822

Grand Island, NE 68802
308-382-8432

| | | | |
|-------------------|-------------------------------------|----------------------------------|--|
| Project: | City of Gl Parks & Recreation Dept. | | |
| App. # | 5 | Veteran's Athletic Field Complex | |
| App. Date | | 3/4/2010 | |
| Period To: | | 3/4/2010 | |

CONTINUATION SHEET[illegible]

partial payment

| Description | Quantity | Unit | Value |
|---------------------|----------|------|-------|
| Ball Field Lighting | | | |

Approved by  Date 3-9-10

COPY-5

40044450-90122

THE

27,140.00

100

Page 1 of 2 Pages

100

Architect's Certificate For Payment



City of Grand Island

Tuesday, April 13, 2010

Council Session

Item J3

Approving Payment of Claims for the Period of March 24, 2010 through April 13, 2010 for the State Fair Recreation Building

The Claims for the Period of March 24, 2010 through April 13, 2010 for the State Fair Recreational Building for the following requisitions:

#15 \$3,474.99

A MOTION is in order.

Staff Contact: Mary Lou Brown

Exhibit A to Escrow Agreement

(FORM OF PAYMENT REQUEST)

Payment Request No. 015

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> |
|--------------|--|------------------------------|--|
| Davis Design | 211 North 14 th Street Lincoln, NE 68508 | \$3,474.99 | Construction administration |

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.

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;

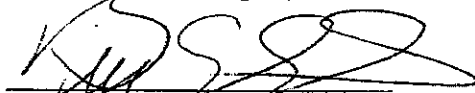
(b) an insurance certificate showing coverages as required by the Lease if such insurance certificate has not been previously provided by Lessee to the Lessor.

LESSEE:

THE CITY OF GRAND
ISLAND, NEBRASKA

By: Mary Lou Brown
Title: Finance Director
Date: 3/24/10

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)



REC'D MAR 15 2010

Invoice number 13867
February 28, 2010ARCHITECTURE
ENGINEERING
INTERIOR DESIGNSTATE FAIR PARK
GRAND ISLAND, NEBRASKA
70,000 S.F. EXHIBITION BUILDING
PROJECT NO.: 08-0192

Principals:

JON P. DALTON, PE
MATTHEW C. METCALF, AIA
WADE W. STANGE, AIA
MICHAEL A. WACHAL, PEMR. JOSEPH MCDERMOTT
STATE FAIR PARK BOARD OFFICE
P.O. BOX 1387
GRAND ISLAND, NE 68802-1387

Associate Principal:

MICHAEL D. MARSH, AIA

Estimated Construction Cost: \$ 4,556,494.00
Percent of Construction Cost: 4.00

Senior Associates:

Fee: \$ 182,259.76

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

| Phase | Contract Amount | Percent Complete | Total Billed |
|-----------------------------|-----------------|------------------|--------------|
| Schematic Design | 18,225.98 | 100.00 % | 18,225.98 |
| Design Development | 45,564.94 | 100.00 % | 45,564.94 |
| Contract Documents | 82,016.89 | 100.00 % | 82,016.89 |
| Bidding/Construction Admin. | 36,451.95 | 54.54 % | 19,880.89 |
| Total Billed | | | 165,688.70 |
| Fee previously billed | | | 162,375.22 |
| Current fee billing | | | 3,313.48 |

| Reimbursable | Cost | Mult | Amount |
|--------------------------|-------|------|--------|
| Film and Film Processing | 73.70 | 1.10 | 81.07 |
| Travel | 73.13 | 1.10 | 80.44 |
| Reimbursable subtotal | | | 161.51 |

PLEASE PAY THIS AMOUNT

3,474.99

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

FOR THE FIRM

MATTHEW C. METCALF
DAVIS DESIGN

www.davisdesign.com



211 North 14th Street
Lincoln, Nebraska 68508
(402) 476-9700

REIMBURSABLE EXPENSES WORKSHEET

Project Information

| | |
|--------------|---|
| Owner | State Fair Park Board Office |
| Project Name | State Fair Park, Grand Island, NE - 70,000 S.F. Exhibition Building |
| Project No | 08-0192 |

SUMMARY OF EXPENSES

| | | |
|----------------------------|-----------|---------------|
| Travel Expenses | \$ | 73.13 |
| Print Log Expenses | \$ | - |
| Film Processing Expenses | \$ | 73.70 |
| In-House Copy Expenses | \$ | - |
| US Postal Service Expenses | \$ | - |
| Express Shipping Expenses | \$ | - |
| Total Expenses | \$ | 146.83 |

Travel Expenses

| Date | Person(s) Traveling | # of Trips | Cost per trip | Total Cost |
|--------------|--------------------------|------------|---------------|-----------------|
| 02/02/10 | Chad Vogel | 0.25 | \$ 97.50 | \$ 24.38 |
| 02/16/10 | Chad Vogel | 0.25 | \$ 97.50 | \$ 24.38 |
| 03/02/10 | Leroy Svatora/Chad Vogel | 0.25 | \$ 97.50 | \$ 24.38 |
| Total | | | | \$ 73.13 |

Print Log Expenses

| Date | Purpose | By | Size | Quantity | Cost per sheet | Total Cost |
|--------------|---------|----|------|----------|----------------|-------------|
| | | | | | \$ - | \$ - |
| | | | | | \$ - | \$ - |
| | | | | | \$ - | \$ - |
| Total | | | | | | \$ - |

Film Processing Expenses

| Date | Place of Processing | By | Quantity | Cost per picture | Total Cost |
|--------------|---------------------|----|----------|------------------|-----------------|
| 12/15/09 | DD Photo Processing | CV | 34 | \$ 1.10 | \$ 37.40 |
| 01/05/10 | DD Photo Processing | CV | 15 | \$ 1.10 | \$ 16.50 |
| 01/19/10 | DD Photo Processing | CV | 18 | \$ 1.10 | \$ 19.80 |
| Total | | | | | \$ 73.70 |

In-House Copy Expenses

| Date | # of pages | Purpose | Type | Size | Quantity | Cost per page | Total Cost |
|--------------|------------|---------|------|------|----------|---------------|-------------|
| | | | | | | \$ - | \$ - |
| | | | | | | \$ - | \$ - |
| | | | | | | \$ - | \$ - |
| Total | | | | | | | \$ - |

US Postal Service Expenses

| Date | Description | # of pieces | Cost per piece | Total Cost |
|--------------|-------------|-------------|----------------|-------------|
| | | | \$ - | \$ - |
| | | | \$ - | \$ - |
| | | | \$ - | \$ - |
| Total | | | | \$ - |

Express Shipping Expenses

| Date | Carrier | Destination | Charge | Total Cost |
|--------------|---------|-------------|--------|-------------|
| | | | \$ - | \$ - |
| | | | \$ - | \$ - |
| | | | \$ - | \$ - |
| Total | | | | \$ - |