



# City of Grand Island

Tuesday, August 09, 2011

Council Session

## Item G19

**#2011-203 - Approving Agreement for Temporary Construction Easement in the Moores Creek Drain Extension Project No. 2008-D-2 Area (North Road and Old Potash Highway)**

Staff Contact: John Collins, Public Works Director

# Council Agenda Memo

**From:** Scott Griepenstroh, Public Works Project Manager

**Meeting:** August 9, 2011

**Subject:** Approving Agreement for Temporary Construction Easement in the Moores Creek Drain Extension Project No. 2008-D-2 Area (North Road and Old Potash Highway)

**Item #'s:** G-19

**Presenter(s):** John Collins, Public Works Director

## Background

Sections of northwest Grand Island experienced significant flooding during the 1967 flood. Most of the area north of Capital Avenue and west of Broadwell Avenue are within the 100 year flood plain. The area between Webb Road and US Highway 281 bounded by Capital Avenue on the north and with State Street on the south is also within the 100 year flood plain. There have been flood control improvements built in the area in the past, but Moores Creek wetlands and northern Grand Island can still suffer considerable flood damage due to spill over flood waters from two other watershed namely Silver Creek and Prairie Creek.

The Moore's Creek Drain Extension Project is a continuation of the master drainage plan for the City.

The estimate of the project is \$640,000.00. Public Works plans to let the project to contract yet this fall. Actual work may start this fall and carry through the winter, depending on the weather. The entire project may take up to three (3) months to complete.

## Discussion

The planned work includes adding a culvert to drain the water north across Old Potash Highway, on the east side of North Road. A temporary construction easement will be needed from Little B's Corporation. All easement documents have been signed and

returned by the property owners. Authorization of the easement document is contingent upon City Council approval.

### **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 Agreement for Temporary Construction Easement between the City of Grand Island, Public Works Department and Little B's Corporation.

### **Sample Motion**

Move to approve the Temporary Construction Easements.

## **AGREEMENT FOR TEMPORARY CONSTRUCTION OCCUPANCY**

Agreement made and entered into by and between the City of Grand Island, a municipal corporation of the State of Nebraska, herein referred to as "City", and LITTLE B'S CORPORATION, a Nebraska Corporation, herein referred to as "Owner", whether one or more.

### **Recitals**

WHEREAS, the City intends to construct Storm Drainage Project 2008-D-2, on or adjacent to property owned by Owner; and

WHEREAS, project activity on Storm Sewer Project 2008-D-2 shall be coordinated with Water Main District 456T – Engleman Road so that the closing of Old Potash Highway will not occur simultaneously with the closing of 13<sup>th</sup> Street; and

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

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

### **Section One Right of Entry**

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

Beginning at a point on the west line of Section 24-11-10 being 60' south of northwest corner Section 24-11-10 thence east on a line 60' south of and parallel to the north line of said Section 24-11-10 for a distance of 130' thence south on a line 130' east of and parallel to the west line of Section 24-11-10 for a distance of 50' thence west on a line 110' south of and parallel to the north line of Section 24-11-10 for a distance of 130' to the west line of Section 24-11-10 thence north on the west line of Section 24-11-10 for a distance of 50' to the point of beginning excepting there from the west 33' being road right-of-way;

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

### **Section Two Term of Agreement**

The premises may be occupied and used by the City for the purpose related hereto during the period beginning upon execution of this agreement and continuing until the construction work for STORM DRAINAGE PROJECT 2008-D-2 has been completed.

### **Section Three Compensation**


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

Section Four  
**Restoration**

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

Section Five  
**Assignment**

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

Dated August 1, ~~2008~~ 2011 

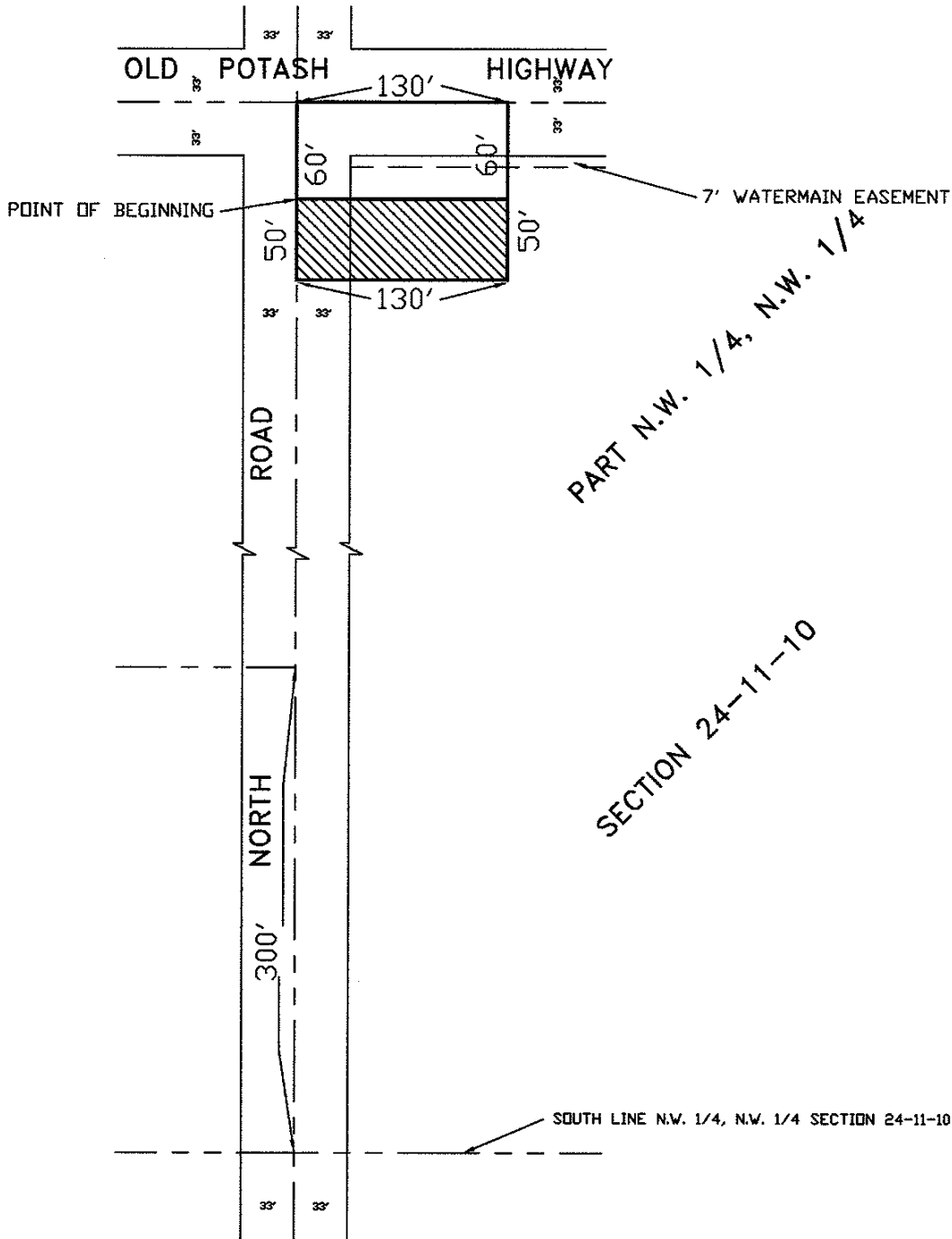
CITY OF GRAND ISLAND, NEBRASKA  
a Municipal Corporation

LITTLE B'S CORPORATION,  
a Nebraska Corporation

By \_\_\_\_\_

By  \_\_\_\_\_

Title Pres. \_\_\_\_\_



CITY OF  
**GRAND ISLAND**  
 PUBLIC WORKS DEPARTMENT

DATE: 3/10/08  
 DRN BY: L.D.C.  
 SCALE: 1" = 100'

PLAT TO ACCOMPANY  
 TEMPORARY EASEMENT

RESOLUTION 2011-203

WHEREAS, a temporary construction easement is required by the City of Grand Island, from Little B's Corporation, in the Moores Creek Drain Extension Project No. 2008-D-2 area, as follows:

BEGINNING AT A POINT ON THE WEST LINE OF SECTION 24-11-10 BEING 60' SOUTH OF NORTHWEST CORNER SECTION 24-11-10 THENCE EAST ON A LINE 60' SOUTH OF AND PARALLEL TO THE NORTH LINE OF SAID SECTION 24-11-10 FOR A DISTANCE OF 130' THENCE SOUTH ON A LINE 130' EAST OF AND PARALLEL TO THE WEST LINE OF SECTION 24-11-10 FOR A DISTANCE OF 50' THENCE WEST ON A LINE 110' SOUTH OF AND PARALLEL TO THE NORTH LINE OF SECTION 24-11-10 FOR A DISTANCE OF 130' TO THE WEST LINE OF SECTION 24-11-10 THENCE NORTH ON THE WEST LINE OF SECTION 24-11-10 FOR A DISTANCE OF 50' TO THE POINT OF BEGINNING EXCEPTING THERE FROM THE WEST 33' BEING ROAD RIGHT-OF-WAY.

WHEREAS, an Agreement for Temporary Construction Easement has been reviewed and approved by the City Legal Department.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the City of Grand Island be, and hereby is, authorized to enter into the Agreement for Temporary Construction Easement on the above described tract of land.

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, August 9, 2011.

\_\_\_\_\_  
Jay Vavricek, Mayor

Attest:

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

Approved as to Form    ☐ \_\_\_\_\_  
August 4, 2011            ☐ City Attorney