
City of Grand Island



Tuesday, January 10, 2012

Council Session Packet

City Council:

Larry Carney
Linna Dee Donaldson
Scott Dugan
Randy Gard
John Gericke
Peg Gilbert
Chuck Haase
Mitchell Nickerson
Bob Niemann
Kirk Ramsey

Mayor:

Jay Vavricek

City Administrator:

Mary Lou Brown

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.

Invocation - Pastor Paul Hofrichter, Evangelical Free Church, 2609 South Blaine Street

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, January 10, 2012

Council Session

Item C1

Recognition of Milton Loeb, Senior Engineering Technician with the Public Works Department for 40 Years of Service with the City of Grand Island

The Mayor and City Council will recognize Milton Loeb, Senior Engineering Technician for 40 years of service with the City of Grand Island. Mr. Loeb was hired on January 10, 1972 as an Engineering Aide I, was promoted to Engineering Aide II on November 1, 1974, Aide III on March 17, 1975, Aide IV on February 12, 1990 and to his current position of Senior Engineering Technician on October 30, 1992. We congratulate and thank Mr. Loeb for his dedication and service to the City of Grand Island.

Staff Contact: Mayor Vavricek

Loyalty Year Service Award

WE HEREBY EXPRESS OUR SINCERE APPRECIATION TO

MILTON LOEB

For your Loyalty, Diligence, and Outstanding Performance During Your Tenure With

City of
GRAND



ISLAND

Department Director

[Signature]
Mayor

Date

1-3-2012

Date

12-13-11



City of Grand Island

Tuesday, January 10, 2012

Council Session




Item C2

Presentation on Street Improvement District No. 1256 - Capital Avenue Widening; Moores Creek Drain to Webb Road Assessment Methods

Staff Contact: John Collins, Public Works Director




Street Improvement District No. 1256

Capital Avenue Widening – Moore's Creek Drain to Webb Road Timeline

-  January 5, 1967 – Special Assessment Manual developed for Street Improvement Districts
-  July 15, 2005 – Ordinance No. 8985 was approved to create Street Improvement District No. 1256
-  August 8, 2006 – Resolution No. 2006-219 approved continuation of Street Improvement District No. 1256

Street Improvement District No. 1256

Capital Avenue Widening – Moore's Creek Drain to Webb Road Timeline (cont.)

-  May 13, 2008 – Resolution No. 2008-122 awarded the construction bid to The Diamond Engineering Company in the amount of \$3,365,842.25
-  August 26, 2008 – Resolution No. 2008-231 corrected the contract bid award to The Diamond Construction Company to the amount of \$3,379,328.25 (mathematical errors were found in the contractor's bid document – total quantity amounts were incorrectly computed)
-  November 8, 2011 – Resolution No. 2011-336 approved Certificate of Final Completion with The Diamond Engineering Company and scheduled the Board of Equalization for this project on December 20, 2011

SPECIAL ASSESSMENT MANUAL
FOR
STREET IMPROVEMENT DISTRICTS
CITY OF GRAND ISLAND
GRAND ISLAND, NEBRASKA
JANUARY 5, 1967

** ENGINEERING DEPARTMENT

ALFRED E. RASMUSSEN, P.E.
DIRECTOR OF PUBLIC WORKS

STANDARD ASSESMENT PROCEDURES
STREET IMPROVEMENT DISTRICTS
CITY OF GRAND ISLAND, NEBRASKA
ENGINEERING DEPARTMENT

GENERAL

These assessment methods and procedures are presented as guidelines for determining special assessments on street improvement districts in the City of Grand Island in accordance with all appropriate State Statutes. No attempt will be made herein to define all procedures from the establishment of the improvement district through the issuance of bonds, but instead we are concerned here chiefly with the mathematical procedures involved in the computation of individual assessments.

STATUTORY REQUIREMENTS FOR MAKING ASSESSMENTS

Section 16-622 provides that, "The cost of paving.....shall be assessed upon the lots and lands in such districts specially benefited thereby in proportion to such benefits. The amounts thereof shall be determined by the mayor and council....."

Section 16-635 provides that, "The word lot as used herein shall be taken to mean lot as described and designated upon the record plat of any such city; and in case there is no recorded plat of any such city, it shall mean a lot as described and designated upon any generally recognized map of any such city. The word land shall mean any subdivided real estate; Provided, if the lots and real estate abutting upon that part of the street ordered paved, repaved, graveled or macadamized, as shown upon any recorded plat or map, are not of uniform depth, or, if for any reason, it shall appear just and proper to the mayor and council, they are authorized and empowered to determine and establish the depth to which such real estate shall be charged and assessed with the costs of the improvement, which shall be determined and established according to the benefits accruing to the property by reason of such improvements. Real estate may be so charged and assessed to a greater depth than lots as shown on any such plat or map."

According to the above provisions it is the duty of the City Council to determine the extent of the area to be assessed and the benefits, or special assessments, which the various tracts receive. Normal procedure, however, is for the City Engineer to define the assessable area and to calculate the special assessments (benefits) with these then being reviewed and approved by the City Council.

CRITERIA FOR DETERMINING BENEFITS TO PROPERTY

Although each district must be reviewed individually, the same basic principles are generally used in each case. The assessable area, or district boundary, is usually established by including all property which extends back from the improved street half way to the next parallel street. Recognizing that it is difficult to show benefit to property a great distance back from the street it is our policy to use 300 feet as the maximum limit for this distance.

The theory of assessing each individual lot or tract is that the cost will be spread according to the frontage on the improved street and that the benefits or assessments will decrease as the distance of the land from the street increases. Such a variance in proportion to the distance back should decrease for every increment of distance and the benefits for property nearer the street should be proportionately greater than those for property further away. To make this workable it is necessary to develop a curve which will indicate the relative benefits for all property involved.

In order to develop such a curve various methods used by other engineers were studied, including the previous method used in Grand Island. This previous method utilized a "zone" system whereby, for example, the 11 feet of a property nearest the street would be assessed the same amount as the next 11 feet, provided the frontage was identical. Since the assessment is equal to benefit it is difficult to prove that property further away from the street receives the same benefit as the closer property. Therefore, for comparison purposes, the previous method was converted to curve form. All of these various methods were then plotted on a large-scale graph with distance from the street plotted against the relative benefits. From this it was obvious that the previous method used in Grand Island varied considerably from all other methods, the main difference being that a greater proportion of the benefits were allotted to property further away from the street.

To develop a new curve for reasonable benefits it was decided that it should be based on the assessment being cut in half for each 60-foot increment back from the improved street. This translated into an equation becomes:

$$F = 2 - 2^a;$$

$$\text{where "a"} = \left[\frac{60 - Y}{60} \right];$$

where "y" = the perpendicular distance
from the improved street
to the property boundary
line ;

and where "F" = the assessment factor for "y" depth.

The percentage value is then determined by assuming that the assessment factor for y = 300 is 100 percent.

This equation (using percentage instead of actual assessment factor) in graph form is presented on Plate I and in tabular form on Plate II. The values in the tabular form were actually calculated and were not merely extracted from the graph. The actual assessment calculations are made as follows:

1. To determine the assessment factor (percentage) for a rectangular lot abutting on the street, select the percentage value corresponding to the lot depth (distance), interpolating when necessary.
2. To determine the assessment factor (percentage) for a rectangular lot not abutting on the street, subtract the percentage value for the intervening depth, from the improved street to the front side of the lot, from the percentage value for the entire depth from the improved street.
3. Multiply the assessment factor obtained by the frontage of the property, which will result in a certain number of "points" for the selected property.
4. When the "points" for each tract of land in the assessment district have been determined, add them all together to determine the total number of points in the district.

5. The cost of the improvements is then divided by the total number of "points" to obtain the value per point, which is then spread back over each individual property.

In the case of irregular lots it is necessary to divide the area into rectangles or triangles requiring several computations to determine the full assessment. There are four possible positions for triangular figures:

- (1) With the base along the street.
- (2) With the base toward the street but at some distance from the street.
- (3) With the vertex on the street.
- (4) With the vertex toward but at some distance from the street.

In the first two cases, the parcels are considered as rectangles with the same depth as for the triangular figure, but with a frontage equal to two-thirds the length of the original base. In cases 3 and 4, the parcels are considered as rectangles with the same depths as the triangular parcels but with the base to be assessed as frontage equal to one-third the length of the original base. These methods are illustrated on Plate III.

Plates IV and V are included to illustrate an assessment problem.

DEVIATIONS FROM STANDARD METHOD

While the standard method described above can be used in most instances, there are certain cases where deviation may be appropriate. The assessments arrived at by the standard method must still be reviewed by the engineer to satisfy himself that similar properties have similar assessments and that properties that are dissimilar nevertheless have assessments that are reasonably in proportion. When this test is not satisfied, the method must be adjusted until fair assessments and proper benefits are derived.

In cases where a tier of lots of equal depth abut upon the improved street and make up the entire district, assessments may be computed using frontage only since there is no purpose in computing "points". This can also be done where the variance in depth on each side of the street is not great and it can be assumed that half the cost is attributable to each side of the street.

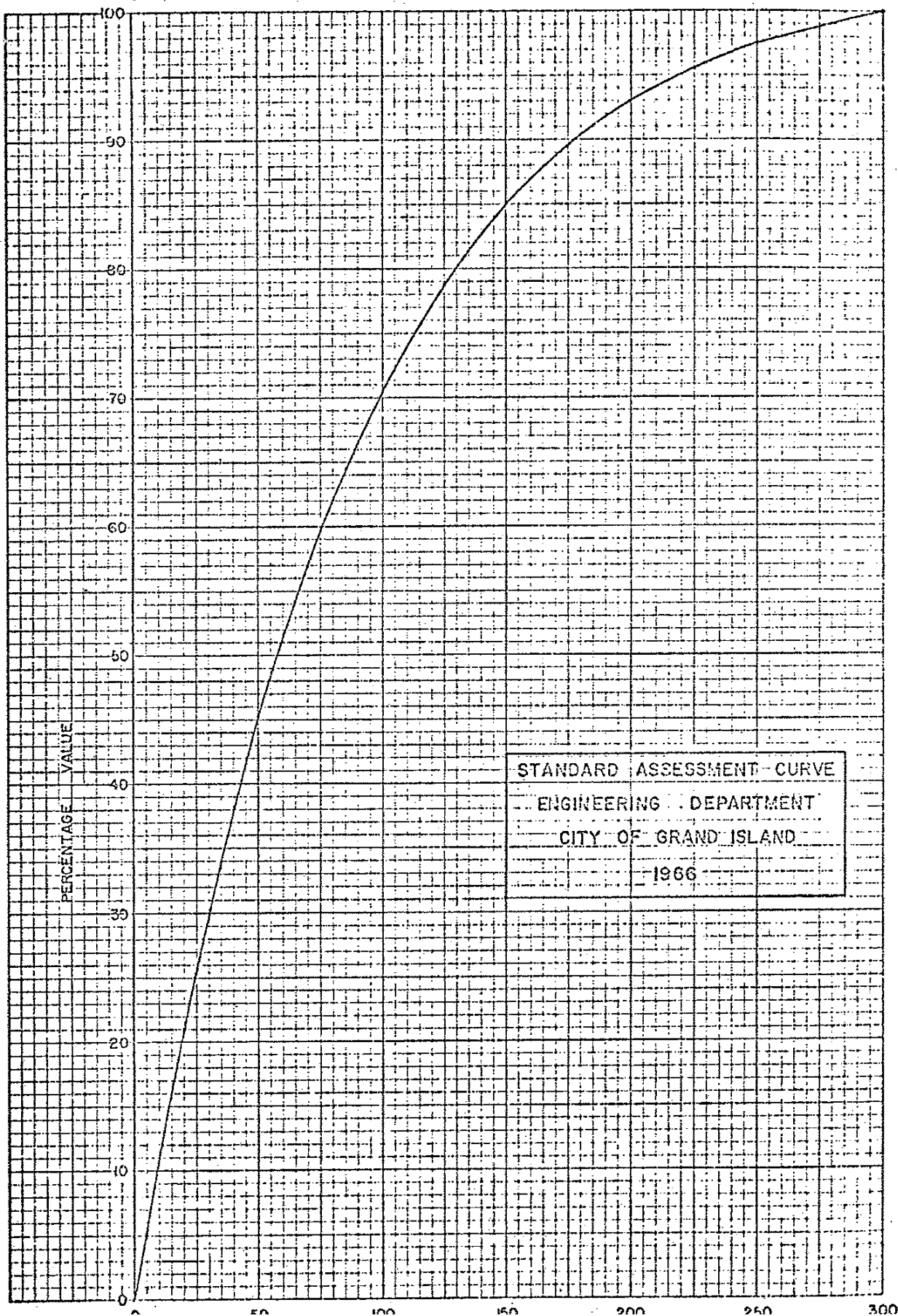
When the calculated benefits do not appear to be reasonable it is also possible to spread a portion of the costs to front footage and the remainder to area. Usually the assessments are calculated with 50 percent based on area and 50 percent on frontage, but this may be varied to arrive at a reasonable schedule.

CONCLUSIONS

Each street improvement district is usually different in some way from previous districts. For this reason it is difficult to set one rule for all assessments and never allow deviation. Properties must be assessed according to benefits derived and this fact must not be ignored just to satisfy a mathematical procedure. We can only use our best judgement and experience to spread assessments and we must always satisfy ourselves that the benefits exist. Even when this is done it will still be necessary for us to justify the assessments and to explain these methods whenever necessary.

EUGENE DIETRZEN CO.
MADE IN U. S. A.

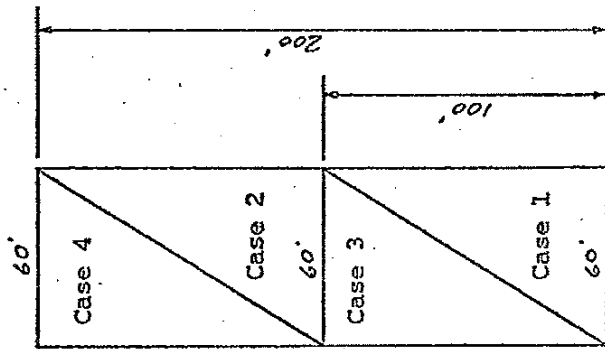
NO. 34UR-10 DIETRZEN GRAPH PAPER
10 X 10 PER INCH



Copyright 1966 by Eugene Dietzgen Co.

PAVEMENT ASSESSMENT SCHEDULE
-September 1967-

Dist.	%	Dist.	%	Dist.	%	Dist.	%	Dist.	%	Dist.	%
1.	1.1	51.	45.9	101.	71.1	151.	85.2	201.	93.1	251.	97.5
2.	2.3	52.	46.7	102.	71.5	152.	85.4	202.	93.2	252.	97.6
3.	3.5	53.	47.3	103.	71.8	153.	85.6	203.	93.3	253.	97.7
4.	4.6	54.	47.9	104.	72.2	154.	85.8	204.	93.4	254.	97.8
5.	5.7	55.	48.6	105.	72.5	155.	86.0	205.	93.6	255.	97.8
6.	6.9	56.	49.2	106.	72.9	156.	86.2	206.	93.6	256.	97.9
7.	8.1	57.	49.8	107.	73.2	157.	86.4	207.	93.8	257.	97.9
8.	9.1	58.	50.4	108.	73.6	158.	86.6	208.	93.9	258.	98.0
9.	10.2	59.	51.0	109.	73.9	159.	86.8	209.	94.0	259.	98.0
10.	11.3	60.	51.6	110.	74.3	160.	87.0	210.	94.1	260.	98.1
11.	12.3	61.	52.2	111.	74.6	161.	87.1	211.	94.2	261.	98.2
12.	13.3	62.	52.7	112.	74.9	162.	87.3	212.	94.3	262.	98.2
13.	14.3	63.	53.4	113.	75.2	163.	87.5	213.	94.4	263.	98.3
14.	15.4	64.	53.9	114.	75.6	164.	87.7	214.	94.6	264.	98.3
15.	16.4	65.	54.5	115.	75.9	165.	87.8	215.	94.6	265.	98.4
16.	17.4	66.	55.0	116.	76.2	166.	88.1	216.	94.7	266.	98.4
17.	18.3	67.	55.6	117.	76.5	167.	88.2	217.	94.8	267.	98.5
18.	19.4	68.	56.2	118.	76.9	168.	88.4	218.	94.9	268.	98.5
19.	20.4	69.	56.7	119.	77.1	169.	88.6	219.	95.0	269.	98.6
20.	21.3	70.	57.3	120.	77.4	170.	88.7	220.	95.1	270.	98.7
21.	22.2	71.	57.8	121.	77.7	171.	88.9	221.	95.2	271.	98.7
22.	23.1	72.	58.3	122.	78.0	172.	89.1	222.	95.3	272.	98.8
23.	24.0	73.	58.8	123.	78.3	173.	89.2	223.	95.4	273.	98.8
24.	25.0	74.	59.3	124.	78.6	174.	89.4	224.	95.4	274.	98.9
25.	25.9	75.	59.8	125.	78.9	175.	89.5	225.	95.5	275.	98.9
26.	26.7	76.	60.3	126.	79.1	176.	89.7	226.	95.6	276.	99.0
27.	27.6	77.	60.8	127.	79.4	177.	89.9	227.	95.7	277.	99.0
28.	28.5	78.	61.3	128.	79.7	178.	90.0	228.	95.8	278.	99.1
29.	29.3	79.	61.8	129.	79.9	179.	90.2	229.	95.9	279.	99.1
30.	30.2	80.	62.2	130.	80.2	180.	90.3	230.	95.9	280.	99.2
31.	31.1	81.	62.7	131.	80.5	181.	90.5	231.	96.1	281.	99.2
32.	31.9	82.	63.2	132.	80.8	182.	90.6	232.	96.2	282.	99.3
33.	32.7	83.	63.6	133.	81.0	183.	90.7	233.	96.2	283.	99.3
34.	33.5	84.	64.1	134.	81.3	184.	90.9	234.	96.3	284.	99.3
35.	34.3	85.	64.6	135.	81.5	185.	91.0	235.	96.4	285.	99.4
36.	35.1	86.	65.0	136.	81.8	186.	91.1	236.	96.5	286.	99.4
37.	35.9	87.	65.4	137.	82.0	187.	91.3	237.	96.5	287.	99.5
38.	36.6	88.	65.9	138.	82.2	188.	91.5	238.	96.6	288.	99.5
39.	37.5	89.	66.3	139.	82.5	189.	91.6	239.	96.7	289.	99.6
40.	38.2	90.	66.7	140.	82.7	190.	91.8	240.	96.8	290.	99.6
41.	38.9	91.	67.2	141.	83.0	191.	91.9	241.	96.8	291.	99.6
42.	39.7	92.	67.6	142.	83.2	192.	92.0	242.	96.9	292.	99.7
43.	40.4	93.	68.0	143.	83.5	193.	92.1	243.	97.0	293.	99.7
44.	41.1	94.	68.4	144.	83.7	194.	92.2	244.	97.1	294.	99.8
45.	41.9	95.	68.7	145.	83.9	195.	92.4	245.	97.1	295.	99.8
46.	42.6	96.	69.2	146.	84.1	196.	92.5	246.	97.2	296.	99.8
47.	43.3	97.	69.6	147.	84.3	197.	92.6	247.	97.2	297.	99.9
48.	43.9	98.	70.0	148.	84.5	198.	92.7	248.	97.3	298.	99.9
49.	44.6	99.	70.3	149.	84.8	199.	92.9	249.	97.4	299.	99.9
50.	45.3	100.	70.7	150.	85.0	200.	93.0	250.	97.5	300.	100.0



Street

DETERMINATION OF POINTS: (100' = 70.7%: 200' = 93.0%)

Case 1 -- Frontage = $2/3 \times 60 = 40'$
 $40 \times 70.7 = \underline{2828 \text{ Points}}$

Case 3 -- Frontage = $1/3 \times 60 = 20'$
 $20 \times 70.7 = \underline{1414 \text{ Points}}$

Case 2 -- Frontage = $2/3 \times 60 = 40'$
 $40 \times (93.0 - 70.7)$
 $= 40 \times 22.3 = \underline{892 \text{ Points}}$

Case 4 -- Frontage = $1/3 \times 60 = 20'$
 $20 \times (93.0 - 70.7)$
 $= 20 \times 22.3 = \underline{446 \text{ Points}}$

ASSESSMENT CALCULATIONS
 FOR TRIANGLES
 ENGINEERING DEPARTMENT
 CITY OF GRAND ISLAND
 1915

\$0.1234736

Corrected 1971

[illegible]

OFFICIAL PROCEEDINGS

CITY OF GRAND ISLAND, NEBRASKA

MINUTES OF CITY COUNCIL REGULAR MEETING

July 12, 2005

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 July 12, 2005. Notice of the meeting was given in the *Grand Island Independent* on July 6, 2005.

Mayor Jay Vavricek called the meeting to order at 7:00 p.m. The following members were present: Councilmember's Meyer, Whitesides, Pielstick, Gilbert, Nickerson, Cornelius, Pauly, Hornady, Walker, and Haase. The following City Officials were present: City Administrator Gary Greer, City Clerk RaNae Edwards, Finance Director David Springer, Public Works Director Steve Riehle, and City Attorney Doug Walker.

INVOCATION was given by Councilmember Jackie Pielstick followed by the PLEDGE OF ALLEGIANCE.

MAYOR COMMUNICATION: Mayor Vavricek commented on Grand Island's 10th Annual "National Night Out" to be held on August 2, 2005 and encouraged neighborhoods to participate. The Mayor thanked the citizens of Grand Island who took part in the many cleanups offered by the City of Grand Island this spring.

PUBLIC HEARINGS:

Public Hearing on Acquisition of Tracts of Right-of-Way and Permanent Easements along Capital Avenue between the Moores Creek Drain and Webb Road for Street Widening Project. Steve Riehle, Public Works Director reported that acquisition of right-of-way and permanent easements were required in conjunction with the widening project along Capital Avenue from the Moores Creek Drainway (located west of the Dairy Queen) to Webb Road. No public testimony was heard.

ORDINANCES:

#8982 – Consideration of Annexation of Land Located North of Capital Avenue and East of St. Paul Road and Various Properties Adjacent to the City of Grand Island. (Second Reading)

Chad Nabity, Regional Planning Director reported this related to the Public Hearing held on June 28, 2005, and was the second of three readings as required by state statutes.

Motion by Pielstick, second by Walker to approve Ordinance #8982 on second reading only. Upon roll call vote, all voted aye. Motion adopted.

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

#8985 – Consideration of Creation of Street Improvement District No. 1256, Widening of Capital Avenue from the Moores Creek Drain to Webb Road

#8986 – Consideration of Lease-Purchase Agreement with the Grand Island Facilities Corporation and Authorizing the Execution of Documents for the Library Expansion

#8987 – Consideration of Proposed Water Rate Increase

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 Whitesides seconded the motion. Upon roll call vote, all voted aye. Motion adopted.

Steve Richie, Public Works Director reported that Ordinance #8985 was to create Street Improvement District No. 1256. The proposed district would consist of widening Capital Avenue from the Moores Creek Drain to Webb Road and was an upgrade to a multi-lane concrete curb and gutter roadway with storm sewer. A width of 41' or no more than 20% would be assessed to benefiting properties, with the remainder paid with federal funds. A ten (10) year assessment period was recommended.

Doug Walker, City Attorney reported that Ordinance #8986 would authorize the City to enter into a lease purchase agreement with the Grand Island Facilities Corporation and enable the city to proceed with securing a tax exempt status and bonding for the library expansion.

Motion by Pielstick, second by Hornady to approve Ordinances #8985 and #8986.

City Clerk: Ordinances #8985 and #8986 on first reading. All those in favor of the passage of these ordinances on first reading, answer roll call vote. Upon roll call vote, all voted aye. Motion adopted.

City Clerk: Ordinances #8985 and #8986 on final passage. All those in favor of the passage of these ordinances on final passage, answer roll call vote. Upon roll call vote, all voted aye. Motion adopted.

Mayor Vavricek: By reason of the roll call votes on first reading and then upon final passage, Ordinances #8985 and #8986 are declared to be lawfully adopted upon publication as required by law.

#8987 (Proposal A) – Consideration of Proposed Water Rate Increase

Gary Mader, Utilities Director explained Ordinance #8987 with regards to the three proposals for water rate increase. Virgil Harden, Director of Business at the Grand Island Public School spoke

concerning the financial effect to the school and asked that an increase be phased in over two to three years.

Motion by Whitesides, second by Pielstick to approve Ordinance #8987 (Proposal A). A lengthy discussion was had by council on each of the proposals.

Motion by Whitesides, second by Meyer to move the previous question. Upon roll call vote, Councilmember's Meyer, Whitesides, Pielstick, Gilbert, Nickerson, Cornelius, Pauly, Walker, and Haase voted yes. Councilmember Hornady voted no. Motion adopted.

City Clerk: Ordinance #8987 (Proposal A) 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, Whitesides, Pielstick, Pauly, Walker, and Haase voted aye. Councilmember's Gilbert, Nickerson, Cornelius, and Hornady voted no. Motion adopted.

City Clerk: Ordinance #8987 (Proposal A) 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, Whitesides, Pielstick, Pauly, Walker, and Haase voted aye. Councilmember's Gilbert, Nickerson, Cornelius, and Hornady voted no. Motion adopted.

Mayor Vavricek: By reason of the roll call votes on first reading and then upon final passage, Ordinance #8987 (Proposal A) is declared to be lawfully adopted upon publication as required by law.

CONSENT AGENDA: It was noted that item G-4 was pulled from the agenda to the July 26, 2005 meeting. Motion by Hornady, second by Cornelius to approve the Consent Agenda excluding item G-4. Upon roll call vote, all voted aye. Motion adopted.

Approving Minutes of June 28, 2005 City Council Regular Meeting.

Approving Minutes of July 5, 2005 City Council Study Session. Councilmember Pauly abstained.

Approving Appointments of Mary Webb, Richard Willis, Holger Honore, and Mike Wenzl to the Building Code Advisory Board.

Approving Appointments of Bill Lawrey and Jeff Reed to the Business Improvement District #3 Board. This item was pulled to the July 26, 2005 City Council meeting.

Approving Garbage Haulers License for Heartland Disposal, 2423 W. Old Lincoln Highway. Councilmember's Meyer, Whitesides, and Pielstick voted no.

Approving Preliminary Plat for Westgate Ninth Subdivision.

#2005-194 – Approving Final Plat and Subdivision Agreement for Westgate Ninth Subdivision. It was noted that E. Marsden and Jacquelyn Garey, owners had submitted the final plat for Westgate Ninth Subdivision located on 9.07 acres of land for the purpose of creating 9 lots.

#2005-195 – Approving Final Plat and Subdivision Agreement for Jakubowski Subdivision. It was noted that Paul and Ruby Jakubowski, Kevin and Diane McDermott, owners had submitted the final plat for Jakubowski Subdivision for the purpose to divide an existing lot with 2 houses on it into two lots.

#2005-196 – Approving Acquisition of Tracts of Right-of-Way and Permanent Easements along Capital Avenue between the Moores Creek Drain and Webb Road for Street Widening Project.

#2005-197 – Approving Agreement with Natural Resources Conservation Service (NRCS) for Flood Damage Repair Work, Ditch Repair East of North Road and Coffey Dam Repair along Capital Avenue.

#2005-198 – Approving Bid Award for One Dome Salt Storage Building with Bulk Storage Inc. of Beecher, Illinois in an Amount of \$108,300.00.

#2005-199 – Approving Amendment to the City's Full Time Equivalent (FTE) Employee Table for the Solid Waste Division of the Public Works Department.

#2005-200 – Approving Bid Award for Fuel Oil Facility Paying Contract 2005-PGS-P-1 at the Platte Generating Station with The Diamond Engineering Company of Grand Island, Nebraska in an Amount of \$96,461.82.

#2005-201 – Approving Agreement for Warranty Deed with Melvin & Jo Ann Meyer and J.J. Lake, L.L.C for Property Located at 244 and 304 Stuhr Road in an Amount of \$583,900.00.

#2005-202 – Approving Acquisition of Long Term Lease Agreement with Robert Ramold for Property located at 1212 West Second Street in an Amount of \$84,500.00.

#2005-203 – Approving Paul Briseno as Authorized Representative for Federal/State Financial Assistance under the President's Disaster Relief Fund.

REQUESTS AND REFERRALS:

Approving the Appointment of Lela Lowry as Emergency Management Director. Brenda Sutherland, Human Resources Director reported that 18 applicants were interested in the position of Emergency Management Director with five being interviewed by the selection committee. The two finalists (Lela Lowry and Andrew Hills) were present at a meet & greet session that was open to the public as part of the selection process.

The Mayor was recommending the appointment of Lela Lowry. She had been offered the position pending Council approval and had accepted pay grade step 4 in the amount of

\$56,086.19. She would be able to start August 1, 2005. Ms. Lowry was present and stated she looked forward to working in Grand Island as the Emergency Management Director.

Motion by Whitesides, second by Pielstick to approve the appointment of Lola Lowry as Emergency Management Director. Upon roll call vote, all voted aye. Motion adopted.

PAYMENT OF CLAIMS:

Motion by Cornelius, second by Hornady to approve the Claims for the period of June 29, 2005 through July 12, 2005, for a total amount of \$1,564,457.32. Motion adopted unanimously. Councilmember Pielstick abstained from claim #102811.

ADJOURNMENT: The meeting was adjourned at 8:05 p.m.

RaNae Edwards

RaNae Edwards
City Clerk

Entered on numerical Index and recorded on	
<u>July 13</u> , 20 <u>05</u>	
at	<u>1:58 P</u> M. as instrument
No.	<u>200506435</u>
<u>Kathy Baasch</u> Register of Deeds Hall County, Nebraska	

• This Space Reserved for Register of Deeds •

ORDINANCE NO. 8985

An ordinance to create Street Improvement District No. 1256; to define the boundaries of the district; to provide for the improvement of a street within the district by paving, curbing, guttering, storm drainage, sidewalks, and other incidental work in connection therewith; to provide for the filing of this ordinance with the Hall County Register of Deeds; and to provide the publication and effective date of this ordinance.

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

SECTION 1. Street Improvement District No. 1256 in the City of Grand Island, Nebraska, is hereby created.

SECTION 2. The boundaries of the district shall be as follows:

Beginning at the northeast corner of Section 12-11-10; thence south on the east line of Section 12-11-10 for a distance of Three Hundred Forty (340.0) feet; thence west on a line Three Hundred Forty (340.0) feet south of and parallel to the north line of Section 12-11-10 to a point Eighty (80.0) feet west of the west line of the Northeast Quarter of Section 12-11-10; thence north on a line Eighty (80.0) feet west of and parallel to the west line of the Northeast Quarter of Section 12-11-10 and the Southeast Quarter of Section 1-11-10 for a distance of Six Hundred Eighty (680.0) feet; thence east on a line Three Hundred Forty (340.0) north of

Approved as to Form	<input checked="" type="checkbox"/> <u>DRW</u>
July 7, 2005	<input checked="" type="checkbox"/> City Attorney

ORDINANCE NO. 8985 (Cont.)

and parallel to the south line of Section 1-11-10 to a point on the east line of Saint Patrick Avenue; thence south on the east line of Saint Patrick Avenue to a point Two Hundred Seventy Four and Twenty Three Hundredths (274.23) feet north of the north line of Capital Avenue; thence east on a line Two Hundred Seventy Four and Twenty Three Hundredths (274.23) feet north of and parallel to the north line of Capital Avenue to the east line of Lemke Subdivision; thence north on the east line of Lemke Subdivision to a point Three Hundred Forty (340.0) feet north of the south line of Section 1-11-10; thence east on a line Three Hundred Forty (340.0) feet north of and parallel to the south line of Section 1-11-10 to the east line of Section 1-11-10; thence south on the east line of Section 1-11-10 for a distance of Three Hundred Forty (340.0) feet to the point of beginning, as shown on the plat dated June 27, 2005, marked Exhibit 'A', attached hereto and incorporated herein by reference.

SECTION 3. The following street in the district shall be improved by paving and other incidental work in connection therewith:

Capital Avenue, from the Moore's Creek Drainway east to Webb Road in the City of Grand Island, Hall County, Nebraska.

Said improvements shall be made in accordance with plans and specifications approved by the Engineer for the City of Grand Island.

SECTION 4. All improvements shall be made at public cost, but the cost thereof shall be assessed upon the lots and lands in the district specially benefited thereby as provided by law.

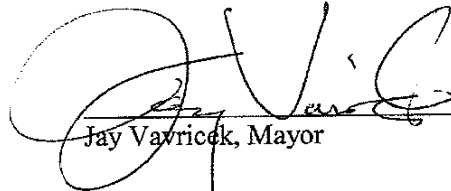
SECTION 5. This ordinance, with the plat, is hereby directed to be filed in the office of the Register of Deeds, Hall County, Nebraska.

SECTION 6. This ordinance shall be in force and take effect from and after its passage and publication, without the plat, as provided by law.

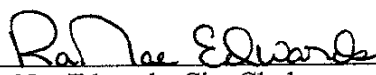
SECTION 7. After passage, approval and publication of this ordinance, without the plat, notice of the creation of said district shall be published in the Grand Island Independent, a legal newspaper published and of general circulation in said City, as provided by law.

ORDINANCE NO. 8985 (Cont.)

Enacted: July 12, 2005.


Jay Vavricek, Mayor

Attest:

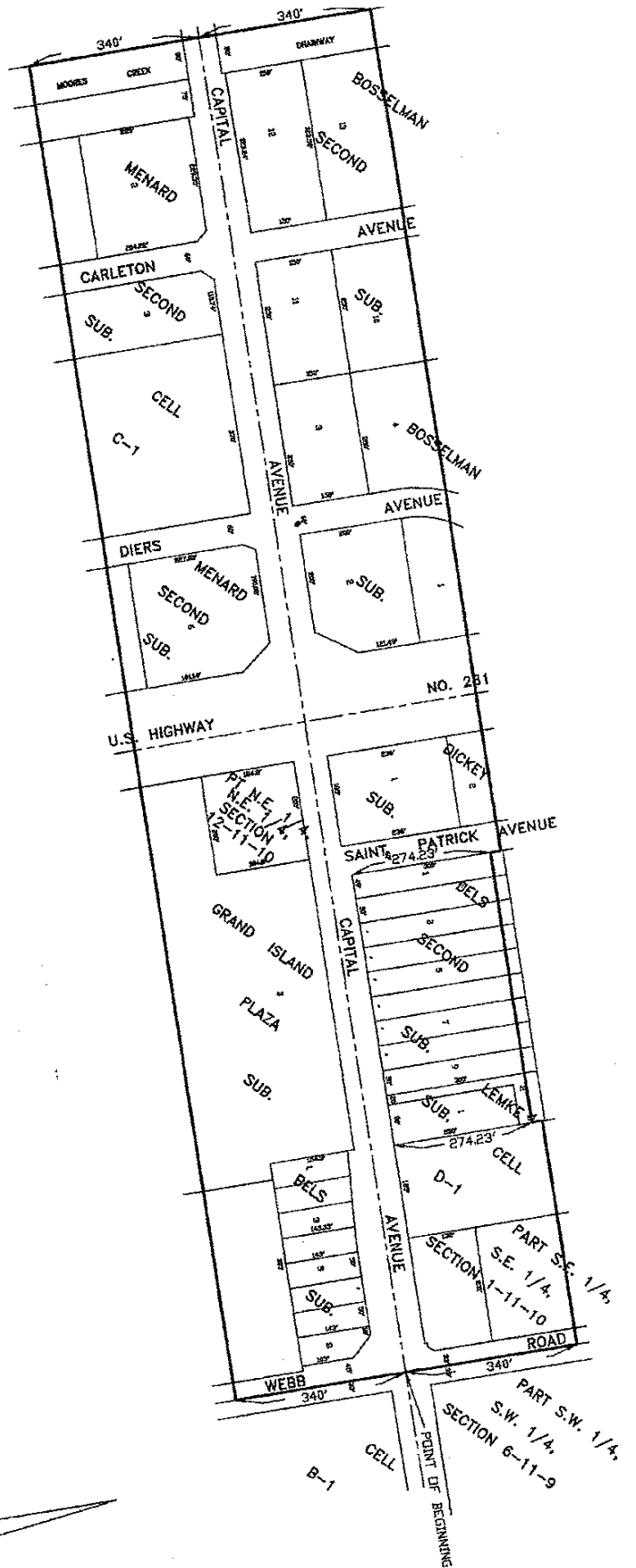
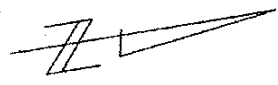

RaNae Edwards, City Clerk



STREET IMPROVEMENT DISTRICT 1256

EXHIBIT "A"

SEAL OF THE DISTRICT OF COLUMBIA
 PUBLIC WORKS DEPARTMENT
 PLAT TO ACCOMPANY ORDINANCE
 NO. 8985
 SCALE 1" = 200' L.D.C. 6/27/05



OFFICIAL PROCEEDINGS

CITY OF GRAND ISLAND, NEBRASKA

MINUTES OF CITY COUNCIL REGULAR MEETING

August 8, 2006

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 August 8, 2006. Notice of the meeting was given in *The Grand Island Independent* on August 2, 2006.

Mayor Jay Vavricek called the meeting to order at 7:00 p.m. The following members were present: Councilmember's Meyer, Whitesides, Pielstick, Gilbert, Nickerson, Cornelius, Pauly, Hornady, Walker, and Haase. The following City Officials were present: City Administrator Gary Groer, City Clerk RaNae Edwards, Finance Director David Springer, Public Works Director Steve Riehle, and Interim City Attorney Dale Shotkoski.

INVOCATION was given by Pastor George Oxford, First Church of the Nazarene, 1022 West 6th Street followed by the PLEDGE OF ALLEGIANCE.

MAYOR COMMUNICATION: Mayor Vavricek recognized Community Youth Council Member Paul Hansen. Mentioned was the upcoming Hall County Fair and events that would take place at the Heartland Events Center for the first time. Also mentioned was the events scheduled for the Heartland Shooting Park this month.

PRESENTATIONS AND PROCLAMATIONS:

Presentation of the Community Redevelopment Authority (CRA) Budget: Chad Nabity, Regional Planning Director presented the 2006-2007 Community Redevelopment Authority (CRA) budget. CRA requested property tax revenues of \$492,540.00. Mr. Nabity explained there were five designated Blighted and Substandard Areas within the Grand Island City Limits and they were currently studying a sixth area including Five Points, Eddy Street, Broadwell Avenue and 2nd Street West.

ADJOURN TO BOARD OF EQUALIZATION: Motion by Pielstick, second by Hornady, carried unanimously to adjourn to the Board of Equalization.

#2006-BE-5 - Consideration of Determining Benefits for water Main District No. 450 (Circle Drive Area): Gary Mader, Utilities Director reported that Water Main District No. 450 was created at the request of the property owner on the east side of Circle Drive, and along Sunny Brooke Road and Stewart Drive. The cost to be assessed was \$114,849.54.

Motion by Hornady, second by Whitesides to approve Resolution #2006-BE-5. Upon roll call vote, all voted aye. Motion adopted.

#2006-BE-6 -- Consideration of Determining Benefits for Water Main District No. 451 (Circle Drive Area). Gary Mader, Utilities Director reported that Water Main District No. 451 was created at the request of the property owner on the east side of Circle Drive, and along Sunny Brooke Road and Stewart Drive. The cost to be assessed was \$99,945.50. Cindy Larson, 2811 Circle Drive requested the assessment on her property compared to her neighbors. Gary Mader explained the process of assessing the property for this district.

Motion by Hornady, second by Whitesides to approve Resolution #2006-BE-6. Upon roll call, all voted aye. Motion adopted.

RETURN TO REGULAR SESSION: Motion by Pielstick, second by Whitesides, carried unanimously to return to Regular Session.

PUBLIC HEARINGS:

Public Hearing on Request of CXT/LB Foster for Conditional Use Permit to Extend the Temporary Use of Office Trailers Located at 710 East US Highway 30 Craig Lewis, Building Department Director reported that the CXT/LB Foster Company had requested an extension to their Conditional Use Permit for an additional 12 month period of time to allow for the continued use of two temporary buildings located at 710 East US Highway 30. Mr. Lewis stated the first approval was granted on July 24, 2000 for two years with additional approvals granted every two years thereafter. Staff recommended approval for a 12 month period of time. No public testimony was heard.

Public Hearing on Acquisition of Public Utilities Easement Located Along 1149 South Stuhr Road. (Amy Anderson) Steve Riehle, Public Works Director reported that acquisition of a public utility easement located along 1149 South Stuhr Road was needed in order to allow for the connection to a manhole on the sanitary sewer interceptor. Tom Conlon, 819 S. Stuhr Road spoke in support. No further public testimony was heard.

Public Hearing on Acquisition of Hike/Bike Easement Located at 3645 South Locust Street. (Judith K. Poland) Steve Paustian, Parks and Recreation Director reported that a utility easement was in place at 3645 South Locust Street and this request would allow for the additional use of construction and maintenance of a hike/bike trail from Hall County Park to 3645 South Locust Street. No public testimony was heard.

Public Hearing on Request of Delfino Vargas-Bernal dba Las Vegas Bar and Grill, 316 East 2nd Street for a Class "C" Liquor License. RaNae Edwards, City Clerk reported that an application had been received from Delfino Vargas-Bernal dba Las Vegas Bar and Grill, 316 West 2nd Street for a Class "C" Liquor License. Ms. Edwards presented the following exhibits for the record: application submitted to the Liquor Control Commission and received by the City on July 10, 2006; notice to the general public of date, time, and place of hearing published on July 29, 2006; notice to the applicant of date, time, and place of hearing mailed on July 10, 2006; along with Chapter 4 of the City Code. Ms. Edwards stated Mr. Vargas-Bernal had completed a server/training course on July 20, 2006. Staff recommended approval contingent upon final

inspections. Jerry Janulewicz, Attorney for Delfino Vargas-Bernal spoke in support. No further public testimony was heard.

Public Hearing on Proposed FY 2006-2007 City Single Budget. David Springer, Finance Director reported that Council needed to conduct a public hearing to take information from the citizens of Grand Island on the proposed FY 2006-2007 City Single Budget. A Special Budget meeting would be held on August 15, 2006 followed by adoption of the budget and bid limit increase on August 22, 2006. No public testimony was heard.

ORDINANCES:

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

- #9058 - Consideration of Vacating a 10' Easement on Lots One (1) and Two (2) of Summerfield Estates 6th Subdivision (Little B's Corporation)
- #9059 - Consideration of Assessments for Water Main District No. 450 (Circle Drive Area)
- #9060 - Consideration of Assessments for Water Main District No. 451 (Circle Drive Area)
- #9061 - Consideration of Approving Salary Ordinance

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 Nickerson seconded the motion. Upon roll call vote, all voted aye. Motion adopted.

Steve Riehle, Public Works Director stated Ordinance #9058 would vacate a 10' easement on Lots One (1) and Two (2) of Summerfield Estates 6th Subdivision which was not needed.

Gary Mader, Utilities Director explained that Ordinances #9059 and #9060 would assess the properties for Water Main District No. 450 and 451.

Motion by Pielstick, second by Gilbert to approve Ordinances #9058, #9059, and #9060.

City Clerk: Ordinances #9058, #9059, and #9060 on first reading. All those in favor of the passage of these ordinances on first reading, answer roll call vote. Upon roll call vote, all voted aye. Motion adopted.

City Clerk: Ordinances #9058, #9059, and #9060 on final passage. All those in favor of the passage of these ordinances on final passage, answer roll call vote. Upon roll call vote, all voted aye. Motion adopted.

Mayor Vavricek: By reason of the roll call votes on first reading and then upon final passage, Ordinances #9058, #9059, and #9060 are declared to be lawfully adopted upon publication as required by law.

#9061 -- Consideration of Approving Salary Ordinance

Brenda Sutherland, Human Resources Director reported that the City conducts salary surveys on various employee groups to stay within acceptable standards should the City be challenged at the Commission of Industrial Relations (C.I.R.). The non-union workforce had been surveyed every three years and was a part of this ordinance. Included in this Ordinance was an administration change to the pay out of sick leave to non-union employees at retirement which would be paid to an employee's Voluntary Employees' Beneficiary Association (VEBA) fund.

Discussion was held regarding comparability of wages and the survey process. Ms. Sutherland explained that State laws required a comparability study for employee's wages. Discussion was held regarding past Commission on Industrial Relations (CIR) rulings and procedures relating to comparability. Paul Essman, CEO of Capital City Concepts conducted the non-union survey and explained the process.

A brief discussion was held regarding the Emergency Management wages and the funding from Hall County. Ms. Sutherland explained that the increases in employee's salaries would be done in step increments. Also explained was the new evaluation system.

Questions were answered regarding the publishing of salaries for all employees. State statutes require that all ranges be published once a year. Councilmember Pielstick requested publishing the salaries after the increases were approved. It was explained that the law requires salaries to be published between July 15th and August 15th of each year.

John Gericke, 2628 O'Flanagan Street asked if those employees who were frozen would receive a raise over the next three years. Ms. Sutherland stated they would not be frozen for three years and it would depend on the comparability study. Mr. Gericke recommended a flat increase across the board as being a fair increase.

Motion by Whitesides, second by Hornady to approve Ordinance #9061.

City Clerk: Ordinance #9061 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 Whitesides, Pielstick, Gilbert, Nickerson, Cornelius, Pauly, Hornady, and Walker voted aye. Councilmember's Meyer and Haase voted no. Motion adopted.

City Clerk: Ordinance #9061 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 Whitesides, Pielstick, Gilbert, Nickerson, Cornelius, Pauly, Hornady, and Walker voted aye. Councilmember's Meyer and Haase voted no. Motion adopted.

Mayor Vavricek: By reason of the roll call votes on first reading and then upon final passage, Ordinance #9061 is declared to be lawfully adopted upon publication as required by law.

CONSENT AGENDA: Consent Agenda items G-7 and G-8 were pulled for further discussion. Motion by Hornady, second by Gilbert to approve the Consent Agenda excluding items G-7 and G-8. Upon roll call vote, all voted aye. Motion adopted.

Approving Minutes of July 25, 2006 City Council Regular Meeting. Councilmember Pauly abstained.

Approving Minutes of July 31, 2006 City Council Special Meeting. Councilmember Pauly abstained.

Approving Request of Fanner Park Exposition and Events Center, Inc. for Ratification of Election for Brian Hamilton, George Wanitschke, Vince Dowding, Jim Cannon, and Scott Zana to the Board of Directors.

Approving Request of Susan McAfee, 1863 7th Avenue, Dannebrog, Nebraska for Liquor Manager Designation for Pump & Pantry #3, 2511 Diers Avenue contingent upon completing an Alcohol Server Training Course.

#2006-212 - Approving Request for Subordination Agreement for 715 North White Avenue (Ronald Aguilar).

#2006-217 - Approving Request for Subordination Agreement for 1115 East 9th Street (Victor M. & Gina A. Henriquez).

#2006-220 - Approving Certificate of Final Completion for Street Improvement District No. 1257; Shanna Street in Western Heights 4th Subdivision with The Diamond Engineering Company of Grand Island, Nebraska.

#2006-221 - Approving Change Order No. 2 with Chief Construction of Grand Island, Nebraska for Law Enforcement Center for an Increase of \$2,526.30 and an Construction Contingency Amount of \$155,078.70.

#2006-222 - Approving a Time Extension to the Contract of September 15, 2006 with The Diamond Engineering Company of Grand Island, Nebraska for Construction of Street Improvement District No. 1258; Faidley Avenue Extending West for Six Hundred Fifty Feet (650 Feet).

#2006-223 - Approving Certificate of Final Completion for Water Main District No. 452 - Knott Subdivision Area and Setting September 12, 2006 for the Board of Equalization.

#2006-224 - Approving Contract for the Sale of Fly Ash from Platte Generating Station with Flatwater Materials, Inc. of Grand Island, Nebraska in an Amount of \$.76 per equivalent dry ton.

#2006-225 - Approving Acquisition of Hike/Bike Easement Located at 3645 South Locust Street (Judith K. Poland).

#2006-218 - Approving Acquisition of a Public Utilities Easement Located Along 1149 South Spahr Road (Amy Anderson). Discussion was held regarding immanent domain and what the city could do to help get this easement for the Conlon's. Dale Shotkoski, Assistant City Attorney explained immanent domain was used for public property and this easement was between two neighbors.

Motion by Pielstick, second by Gilbert to approve Resolution #2006-218. Upon roll call vote, all voted aye. Motion adopted.

#2006-219 - Approving Continuation of Street Improvement District No. 1256; Widening of Capital Avenue from the Moores Creek Drain to Webb Road. Councilmember Haase questioned whether there would be a right and left turn lane on St. Patrick Avenue. Steve Riehl, Public Works Director stated there would be.

Motion by Haase, second by Cornelius to approve Resolution #2006-219. Upon roll call vote, all voted aye. Motion adopted.

REQUESTS AND REFERRALS:

Consideration of Request from CXT/LB Foster for Conditional Use Permit to Extend the Temporary Use of Office Trailers Located at 710 East US Highway 30. Craig Lewis, Building Department Director reported this item related to the aforementioned Public Hearing. Discussion was held regarding the length and number of permits issued to CXT/LB Foster. Marlan Ferguson, Economic Development Corp. commented on working with CXT through the LB-840 Funding and stated he would visit with them letting them know that the Council did not want to extend this permit past the 12 month period.

Motion by Hornady, second by Walker to approve the request of CXT/LB Foster for an Extension of their Conditional Use Permit located at 710 East US Highway 30 for 12 months. Upon roll call vote, Councilmember's Whitesides, Pielstick, Gilbert, Nickerson, Cornelius, Pauly, Hornady, Walker, and Haase voted aye. Councilmember Meyer voted no. Motion adopted.

RESOLUTIONS:

#2006-226 - Consideration of Request from Delfino Vargas-Bernal dba Las Vegas Bar and Grill, 316 West 2nd Street for a Class "C" Liquor License. RaNae Edwards, City Clerk reported this item related to the aforementioned Public Hearing.

Motion by Hornady, second by Walker to approve Resolution #2006-226 contingent upon final inspections. Upon roll call vote, all voted aye. Motion adopted.

#2006-227 - Consideration of Economic Development Incentive Agreement with J.C. Doyle, Ltd. Marlan Ferguson, President of Economic Development Corporation reported that J.C. Doyle, Ltd. had submitted an application for Economic Development Corporation LB-840 funding in the amount of a \$20,000 forgivable loan to assist with the production of computer software. Jerry Wissing representing J.C. Doyle, Ltd. spoke in support of the application.

Motion by Nickerson, second by Walker to approve Resolution 2006-227. Upon roll call vote, all voted aye. Motion adopted.

#2006-228 - Consideration of Statement of EPA Proposed Action Concerning the Parkview Superfund Site. Gary Mader, Utilities Director reported that the Environmental Protection Agency (EPA) had conducted extensive analyses of the ground water contamination by Volatile Organic Compounds in the southern and Southwestern areas of the City. The extension of City water lines was not a part of the EPA's proposed plan. A Proposed Alternative for the long term clean-up of contaminated ground water was presented at the July 27, 2006 Public Meeting by the EPA.

Mr. Mader stated approval of Resolution #2006-228 would allow the Mayor to provide comments to the EPA expressing the City's position.

Motion by Nickerson, second by Gilbert to approve Resolution #2006-228. Upon roll call vote, all voted aye. Motion adopted.

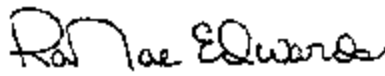
PAYMENT OF CLAIMS:

Motion by Cornelius, second by Nickerson to approve the Claims for the period of July 26, 2006 through August 8, 2006, for a total amount of \$2,391,075.13. Motion adopted unanimously. Councilmember Pauly abstained from Claim #133483.

Motion by Cornelius, second by Nickerson to approve the following Claims for the Library Expansion for the Period of July 12, 2006 through August 8, 2006:

#32 \$239,102.86
#33 \$ 429.19

ADJOURNMENT: The meeting was adjourned at 9:05 p.m.


RaNae Edwards
City Clerk

RESOLUTION 2006-219

WHEREAS, Street Improvement District No. 1256 (widening of Capital Avenue from the Moore's Creek Drainway to Webb Road), was created by Ordinance No. 8985 on July 12, 2005; and

WHEREAS, notice of the creation of such street improvement district was published in the Grand Island Independent in accordance with the provisions of Section 16-619, R.R.S. 1943; and

WHEREAS, Section 16-620, R.R.S. 1943, provides that if the owners of record title representing more than 50% of the front footage of the property abutting upon the streets, avenues, or alleys, or parts thereof which are within such proposed district shall file with the City Clerk within twenty days from the first publication of said notice written objections to such street improvement district, said work shall not be done and the ordinance shall be repealed; and

WHEREAS, an informational meeting was held on May 5, 2005 to further explain said project; and

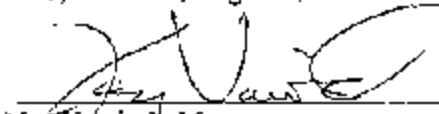
WHEREAS, on July 22, 2005, letters were sent to abutting property owners advising them of the creation of such improvement district; and

WHEREAS, the protest period ended on August 8, 2005, and no protests were filed with the City Clerk against the creation of Street Improvement District No. 1256;

WHEREAS, a mandated noise study has been completed, and the Nebraska Department of Roads and the Federal Highway Administration have now authorized the City to proceed with right-of-way acquisitions and the construction such project; and

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that insufficient protests having been filed with the City Clerk against the creation of Street Improvement District No. 1256, such district shall be continued and constructed according to law.

Adopted by the City Council of the City of Grand Island, Nebraska, August 8, 2006.


Jay Vavrick, Mayor

Attest:


RaNae Edwards, City Clerk

Approved as to Form
August 11, 2016
City Attorney

CITY OF GRAND ISLAND, NEBRASKA

MINUTES OF CITY COUNCIL REGULAR MEETING

May 13, 2008

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 May 13, 2008. Notice of the meeting was given in *The Grand Island Independent* on May 7, 2008.

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

INVOCATION was given by Pastor Scott Friesen, Berean Bible Church, 4116 West Capital Avenue followed by the PLEDGE OF ALLEGIANCE.

MAYOR COMMUNICATION: Mayor Hornady introduced Community Youth Council Members Jeff Seim and Allen Buck. Mayor Hornady commented on the number of Letters to the Editor concerning the privatization of the Waste Water Treatment Plant. She clarified that the City was exploring possibilities and options, but no decision had been made yet about privatization.

PRESENTATIONS AND PROCLAMATIONS:

Proclamation "Employee Health and Fitness Week", May 19-23, 2008. Mayor Hornady proclaimed the week of May 19-23, 2008 as "Employee Health and Fitness Week". Jenny Roush, Wellness Education Coordinator was present to receive the proclamation.

PUBLIC HEARINGS:

Public Hearing on Request from Black Chip Entertainment & Hospitality dba Johnny Casinos, 3421 Conestoga Drive for a Class "C" Liquor License. RaNae Edwards, City Clerk reported that an application had been received from Black Chip Entertainment & Hospitality dba Johnny Casinos, 3421 Conestoga Drive for a Class "C" Liquor License. Ms. Edwards presented the following exhibits for the record: application submitted to the Liquor Control Commission and received by the City on April 16, 2008; notice to the general public of date, time, and place of hearing published on May 3, 2008; notice to the applicant of date, time, and place of hearing mailed on April 16, 2008; along with Chapter 4 of the City Code. Staff recommended approval contingent upon final inspections. Dan Stormer, 400 Winters Avenue, Glenvil, Nebraska spoke in support. No further public testimony was heard.

Public Hearing on Request from White Horse Tavern, Inc. dba White Horse Tavern, 1803 West North Front Street for an Addition to Class "C-04161" Liquor License. RaNae Edwards, City Clerk reported that an application had been received from White Horse Tavern, Inc. dba White Horse Tavern, 1803 West North Front Street for an addition to Class "C-04161" Liquor License. Ms. Edwards presented the following exhibits for the record: application submitted to the Liquor

Control Commission and received by the City on April 23, 2008; notice to the general public of date, time, and place of hearing published on May 3, 2008; notice to the applicant of date, time, and place of hearing mailed on April 23, 2008; along with Chapter 4 of the City Code. Staff recommended approval contingent upon final inspections. No public testimony was heard.

ORDINANCES:

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

#9168 – Consideration of Vacation of a Portion of East 6th Street (East of 1003 East 6th Street)

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 this ordinance on first reading and then upon final passage and call for a roll call vote on each reading and then upon final passage." Councilmember Zapata second the motion. Upon roll call vote, all voted aye. Motion adopted.

Steve Richle, Public Works Director reported that Ordinance #9168 would vacate a portion of East 6th Street, east of 1003 East 6th Street in Evans Addition Subdivision for better utilization of land for a new residential subdivision..

Motion by Brown, second by Haase to approve Ordinance #9168.

City Clerk: Ordinance #9168 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. Councilmember Gericke was absent. Motion adopted.

City Clerk: Ordinance #9168 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. Councilmember Gericke was absent. Motion adopted.

Mayor Hornady: By reason of the roll call votes on first reading and then upon final passage, Ordinance #9168 is declared to be lawfully adopted upon publication as required by law.

CONSENT AGENDA: Motion by Zapata, second by Nickerson to approve the Consent Agenda. Upon roll call vote, all voted aye. Councilmember Gericke was absent. Motion adopted.

Approving Minutes of April 17, 2008 Special Study Session/Goals and Budget Retreat.

Approving Minutes of April 22, 2008 City Council Regular Meeting.

Approving Minutes of May 6, 2008 City Council Study Session.

Approving Re-Appointments of Dianne Miller, Karen Bredthauer and Scott Erickson to the Interjurisdictional Planning Commission Board.

Approving Re-Appointments of Bill Martin, Buzz Douthett, Mike Toukan and Scott Zana to the Business Improvement District #4 Board.

Approving Request from Shirley Ginn, 251 Courtland Street, Trumbull, Nebraska for Liquor Manager Designation for Holiday Station Store #114 Located at 1404 West 2nd Street Contingent upon Ms. Ginn Completing a State Approved Alcohol Server/Seller Training Program.

#2008-122 – Approving Bid Award for Street Improvement District No. 1256: Widening of Capital Avenue from the Moores Creek drain to Webb Road with The Diamond Engineering Company of Grand Island, Nebraska in an Amount of \$3,365,842.25.

#2008-123 Approving Designating the North Side of Old Potash Highway from the Armory Driveway East for Approximately 350 Feet as No Parking.

#2008-124 – Approving Rescinding Resolution #2008-96 Regarding Asphalt Hot-Mix 2008 and Approving Corrected Resolution #2008-124 Bid Award to Gary Smith Construction Company of Grand Island, Nebraska in an Amount of \$34.80 per ton for Type “A”, \$28.40 per ton for Type “B” Asphalt Hot-Mix and \$33.65 per ton for Type “C” Asphaltic Concrete Hot-Mix.

#2008-125 – Approving Setting the Board of Equalization Date of June 10, 2008 for Annual Mowing Assessments.

#2008-126 – Approving Keno Satellite Location and Agreement for the KPf, Inc. dba Ole Cow Palace, 3602 West 2nd Street.

#2008-127 – Approving Change Order #19 with Chief Construction of Grand Island, Nebraska for Law Enforcement Center in an Amount of \$1,107.09 and an Increase in Contingency Fund Balance of \$25,943.54.

#2008-128 – Approving Change Order #1 with Island Plumbing Company of Grand Island, Nebraska for Campground Potable Water System at the Heartland Public Shooting Park for a Decrease of \$4,121.00 and a Revised Contract Amount of \$25,000.00. Councilmember Meyer abstained.

#2008-129 – Approving Certificate of Final Completion for Master Control and Council Chamber Projects.

#2008-130 – Approving Grant Award from Grand Island Community Foundation for Family Day in the Park in the Amount of \$2,500.00.

#2008-131 – Approving Bid Award for Electric Underground Shop Roof Covering Replacement at 1219 West North Front Street with Tri-Cities Group, Inc. of Grand Island, Nebraska in an Amount of \$64,856.00.

#2008-132 – Approving Award of Proposal for Engineering Services Related to Quiet Zone Improvements with Felsburg, Holt & Ulevig Consulting Engineers of Omaha, Nebraska with JEO Consulting Group of Grand Island, Nebraska as a Sub-Consultant in an Amount not to exceed \$28,600.00.

RESOLUTIONS:

#2008-120 – Consideration of Request from Black Chip Entertainment & Hospitality dba Johnny Casinos, 3421 Conestoga Drive for a Class “C” Liquor License and Liquor Manager Designation for Daniel Stormer, 400 Winters Avenue, Glenvil, Nebraska. RaNac Edwards, City Clerk reported this item related to the aforementioned Public Hearing.

Motion by Haase, second by Brown to approve Resolution #2008-133 contingent upon final inspections and Mr. Stormer completing a state approved alcohol server/seller training program. Upon roll call vote, all voted aye. Motion adopted.

#2008-134 – Consideration of Request from White Horse Tavern, Inc. dba White Horse Tavern, 1803 West North Front Street for an Addition to Class “C-04161” Liquor License. RaNac Edwards, City Clerk reported this item related to the aforementioned Public Hearing.

Motion by Brown, second by Gilbert to approve Resolution #2008-134 contingent upon final inspections. Upon roll call vote, all voted aye. Motion adopted.

#2008-135 – Consideration of Intent to Offer Support of the Relocation of the Nebraska State Fair. City Attorney Dale Shottkoski reported that in order to move forward with the relocation of the Nebraska State Fair project, the City needed to have representatives negotiate with the Nebraska State Fair Board, the Hall County Livestock Improvement Association, and the County of Hall. It was recommended that the Mayor designate a negotiating team to pursue agreements between the parties necessary for the relocation of the Nebraska State Fair and bring the appropriate agreements to Council for review and ratification. It was also recommended that additional revenue would be needed and further study on bonding and an occupation tax on Food and Beverage Service businesses was necessary.

The following people spoke:

- Dean Pegg owner of The Chicken Coop, 120 East 3rd Street – opposed Food & Beverage Tax
- Lewis Kent, 624 E. Meves Avenue – opposed
- Curtis Cellar, 4258 Nevada Avenue – opposed Food & Beverage Tax
- Rick Milton, 109 East Ashton – support
- Andrew Meier, 4039 Craig Drive – opposed Food & Beverage Tax

Discussion was held by the council on the merits of a Food and Beverage Tax. Mayor Hornady commented on the negotiating team and participation of the City in looking into the options of moving forward with the State Fair relocation and financing issues.

Motion by Ramsey, second by Nickerson to approve Resolution #2008-135. Upon roll call vote, all voted aye. Motion adopted.

PAYMENT OF CLAIMS:

Motion by Brown, second by Haase to approve the Claims for the period of April 23, 2008 through May 13, 2008, for a total amount of \$3,342,792.39. Motion adopted unanimously.

ADJOURNMENT: The meeting was adjourned at 8:05 p.m.

RaNae Edwards
City Clerk

RESOLUTION 2008-122

WHEREAS, the City of Grand Island invited sealed bids for Street Improvement District No. 1256, Widening of Capital Avenue from the Moores Creek Drain to Webb Road, according to plans and specifications on file with the Engineering Division of the Public Works Department; and

WHEREAS, on March 27, 2008 bids were received, opened, and reviewed; and

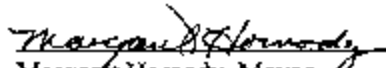
WHEREAS, The Diamond Engineering Company of Grand Island, Nebraska submitted a bid in accordance with the terms of the advertisement of bids and plans and specifications and all other statutory requirements contained therein, such bid being in the amount of \$3,365,842.25; and

WHEREAS, The Nebraska Department of Roads concurs with the bid award; and

WHEREAS, the bid of The Diamond Engineering Company is less than the estimate for the construction of Street Improvement District No. 1256.


NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the bid of The Diamond Engineering Company of Grand Island, Nebraska in the amount of \$3,365,842.25 for construction of Street Improvement District No. 1256, Widening of Capital Avenue from the Moores Creek Drain to Webb Road.

Adopted by the City Council of the City of Grand Island, Nebraska, May 13, 2008.


Margaret Hornady, Mayor

Attest:


RaNae Edwards, City Clerk

Approved as to Form ☒ 
May 9, 2008 ☒ City Attorney

CITY OF GRAND ISLAND, NEBRASKA

MINUTES OF CITY COUNCIL REGULAR MEETING

August 26, 2008

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 August 26, 2008. Notice of the meeting was given in *The Grand Island Independent* on August 20, 2008.

Mayor Hornady called the meeting to order at 7:00 p.m. The following City Council members were present: Councilmember's Brown, Haase, Zapata, Gericke, Carney, Gilbert, Ramsey, Niemann, and Meyer. Councilmember Nickerson was absent. The following City Officials were present: City Administrator Jeff Pederson, City Clerk RaNae Edwards, Finance Director David Springer, City Attorney Dale Shofkoski, and Public Works Director Steve Richle.

INVOCATION was given by Pastor Steve Warriner, Abundant Life Christian Center, 3409 West Fairley Avenue followed by the PLEDGE OF ALLEGIANCE.

COMMUNICATION: Mayor Hornady introduced Community Youth Council members Paige Liess and Claire Mackey.

PUBLIC HEARINGS:

Public Hearing on Request from Hooker Brothers Construction Co. for a Conditional Use Permit to Stockpile Recyclable Concrete and Asphalt Located at 3016 North Webb Road, Craig Lewis, Building Department Director reported Hooker Brothers Construction Co. had applied for a Conditional Use Permit to stockpile concrete and asphalt materials at 3016 North Webb Road It was recommended council approve the conditional use permit with the following conditions:

- (a). The permit shall be granted for a two year period with the possibility of a renewal at the end of the initial period.
- (b). Pumping of material for sale shall not be allowed. Pumping and dredging to reshape and create an adequate depth of the proposed lake is permissible.
- (c). The finished width of developable property adjacent to the public right of way shall be 300 feet at the time of completion. A setback of 100 feet from any adjacent property line shall be maintained between any reshaping of the lake or any recycling operation.
- (d). Development activities (including lighting) at the site shall be limited to daylight hours (15) minutes before sunrise and (15) minutes after sunset Mondays through Saturday. No development activities shall be permitted on Sundays or from fifteen minutes after sunset or fifteen minutes before sunrise.
- (e). Materials and equipment shall not be stored on the property within any easements or the regulated floodway as determined by the Federal Emergency Management Agency or it's successor and the entity with jurisdiction and authority to enforce floodplain regulations. No product, material or equipment shall be stored within any easement or in such a manor that it would violate any safety provisions of the National Electric Safety code.
- (f). All dead trees, rubbish, and debris, if any must be cleared from the real estate as soon as practical and such real estate must, at all times be kept in a clean and neat condition.

- (g). No trash, rubbish, debris, dead trees, lumber, bricks, refuse or junk material of any nature whatsoever shall be dumped, placed, or located upon such real estate.
- (h). Applicant shall not use the real estate in any way so as to create or result in an unreasonable hazard or nuisance to adjacent land owners or to the general public.
- (i). Applicant shall maintain any and all drainage ditches that may be located upon the real estate.
- (j). Applicant shall not permit the hauling of any material from the premises over and across any public highway or road unless said material is completely dry and free from water or is hauled in trucks which are designed and equipped so as to prevent water from leaking onto the traveled portion of the roadbed.
- (k). All water accumulated upon the premises by virtue of such operations shall be retained upon the premises and shall not flow upon or encroach upon any adjacent land. Only surface waters that have historically flowed from the premises shall be permitted to leave the same historical natural drainage ways.
- (l). If at any time during the life of the permit the operation shall cease for a continuous 12 months the permit shall become void and a renewal shall be obtained before becoming once again operational.

The following people spoke:

- Theresa Marble, 3004 N. Webb Road – support with conditions as presented by the Building Department
- Golda Bockbrader, 3005 N. Webb Road -- spoke of concerns with depth of lake and water problems
- Jim Washington, 3012 N. Webb Road - opposed
- Kelley Sok, 3120 N. Webb Road – support with conditions as presented by the Building Department
- Rod Hooker, Hooker Brothers Construction Company - support

No further public testimony was heard.

Public Hearing and Approval of Revolving Loan Funds for Environmental Review Update at Cornhusker Army Ammunition Plant/Industrial Park. Joni Kuzma, Community Development Administrator reported the Reuse Committee met on August 12, 2008 and voted to recommend the City Council approve use of \$43,750 of Reuse funds for the Cornhusker Industrial Park environmental review. No public testimony was heard.

Public Hearing on Creation of Business Improvement District #8, Downtown. Wes Nespor, Attorney reported the Mayor and Council set preliminary boundaries and appointed an initial Board of Director for Business Improvement District #8. The next step in the process was to hold a public hearing to hear all protests and receive evidence for or against the District and to adopt the Ordinance formally creating the District.

The following people spoke:

- Galea Lambrecht, 1112 East Street, Wood River – opposed
- Terry Taylor, 222 South Eddy Street – opposed
- Bill Francis, Attorney for five property owners spoke in opposition and submitted a Protest Petition signed by James S. Reed, Arlene M. Baasch, Richard H. Baasch, Ronald

E. Trumpe, and Larry C. Gerdes. Also commented on a mistake in Resolution #2008-211 setting the boundaries for BID #8.

- Bruce Eberle, 3219 Hiawatha – supported
- Larry Royle, 112 West Charles – opposed

No further public testimony was heard. City Clerk RaNae Edwards read the names of those owners protesting the district.

Mr. Nespor explained the process of what needed to happen before the Public Hearing was closed and the opportunity for those present to sign a protest. This matter was delayed to the end of the meeting.

CONSENT AGENDA: Consent agenda item G-11 was pulled for further discussion. Motion by Meyer, second by Zapata to approve the Consent Agenda excluding item G-11. Upon roll call vote, all voted aye. Motion adopted.

Receipt of Official Documents – Tort Claim Filed by Jeff Raitt.

Approving Minutes of August 12, 2008 City Council Regular Meeting.

Approving Minutes of August 19 and 20, 2008 City Council Budget Meetings.

#2008-218 – Approving Interlocal Agreement for the Central Nebraska Environmental Complex.

#2008-219 – Approving Grant Application with the Nebraska Environmental Trust for the Central Nebraska Environmental Complex.

#2008-220 – Approving Resolution of Intent to Create Business Improvement District #6, Second Street.

#2008-221 – Approving Resolution of Intent to Create Business Improvement District #7, South Locust Street from Hwy 34 to Stolley Park Road.

#2008-222 – Approving FY 2008-2009 Annual Budget for Business Improvement District #4, South Locust Street from Stolley Park Road to Fonner Park Road and Setting September 23, 2008 for Board of Equalization.

#2008-223 – Approving FY 2008-2009 Annual Budget for Business Improvement District #6, 2nd Street from Garfield Avenue to Eddy Street and Setting September 23, 2008 for Board of Equalization.

#2008-224 – Approving FY 2008-2009 Annual Budget for Business Improvement District #7, South Locust Street from Stolley Park Road to Highway 34 and Setting September 23, 2008 for Board of Equalization.

#2008-226 -- Approving Revolving Loan Funds for Environmental Review Update at Cornhusker Army Ammunition Plant/Industrial Park.

#2008-227 – Approving Bid Award for Skid Steer Loader for the Streets Division with Central Nebraska Bobcat of Grand Island, Nebraska in an Amount of \$24,430.00.

#2008-228 -- Approving Contract for Anaerobic Digestion System for the Wastewater Division of the Public Works Department with Black and Veatch of Kansas City, Missouri in an Amount not to exceed \$900,000.00.

#2008-229 Approving Change Order No. 1 for the 2008 Asphalt Resurfacing Project No. 2008-AC-1 with Gary Smith Construction Company, Inc. of Grand Island Nebraska for an Increase of \$29,216.24 and a Revised Contract Amount of \$747,592.92.

#2008-230 Approving Certificate of Final Completion for the 2008 Asphalt Resurfacing Project No. 2008-AC-1 with Gary Smith Construction Company, Inc. of Grand Island, Nebraska.

#2008-231 – Approving Contract Amount Correction to Resolution 2008-122; Bid Award to The Diamond Engineering Company of Grand Island, Nebraska for the Construction of Street Improvement District No. 1256; Correct Amount of \$3,379,328.25.

#2008-232 – Approving Annual Agreement for Operating System and Database Administration Support with MUNIS, Inc. for September 14, 2008 to September 13, 2009 for Operating System Support \$22,755.32; Munis Licensing and Support \$78,977.30; Data Base Service Support \$4,583.25; and User Interface Support \$3,000.00.

#2008-233 – Approving Renewal of Boiler and Machinery Insurance for Utilities Department with Factory Mutual Insurance Company of St. Louis, Missouri in an Amount of \$393,651.00.

#2008-234 Approving Agreement with Plate Valley Weed Management Area for Invasive Plant Control and River Restoration at no cost to the City.

#2008-235 – Approving One (1) 500W Analog UHF Television Transmitter with Installation with LARCAN USA of Lafayette, Colorado in an Amount of \$36,550.00.

REQUESTS AND REFERRALS:

Consideration of Request from Hooker Brothers Construction Co. for a Conditional Use Permit to Stockpile Recyclable Concrete and Asphalt Located at 3016 North Webb Road. Craig Lewis, Building Department Director reported this item related to the aforementioned Public Hearing.

Discussion was held concerning the crushed asphalt and the depth of the lake.

Motion by Gilbert, second by Carney to approve the request with conditions as presented at the Public Hearing.

Motion by Gericke, second by Haase to amend the motion for a two year permit only.

Discussion was held whether Hooker Brothers could come back to Council to continue the permit after the two years expired. Craig Lewis, Building Department Director stated they could.

Motion by Gilbert, second by Carney to call the question. Upon roll call vote, all voted aye. Motion adopted.

Upon roll call vote on the amendment to limit the permit to two years, Councilmember's Gericke, Zapata, Haase, and Brown voted aye. Councilmember's Meyer, Niemann, Ramsey, Gilbert, and Carney voted no. Motion failed.

Upon roll call vote of the main motion, Councilmember's Brown, Haase, Zapata, Carney, Gilbert, Ramsey, Niemann and Meyer voted aye. Councilmember Gericke voted no. Motion adopted.

Consideration of Adding Storm Management System along Stolley Park Road to the FY 2008/2009 Budget. Steve Richle, Public Works Director reported this item was postponed from the August 20, 2008 City Council meeting. A PowerPoint presentation was presented on the Stolley Park and Southwest Drainage system.

Steve Milnitz, 3004 Brentwood Court spoke in support of using City dollars to address this problem. Pam Waechter, 3011 Brentwood Blvd. spoke in support and presented a petition for study to create a dewatering district.

A lengthy discussion was held concerning the problems with water drainage in the Brentwood and Stolley Park Road areas, cleaning out ditches, gate to be added to the Blaine Street storm drain pipe, concerns with putting water downstream on someone else, costs and time frame for short term and long term solutions.

City Administrator Jeff Pederson recommended the council create an appropriation in the amount of \$250,000 this year for this area with additional funding to following. Mayor Hornady commented on the complexity of water issues in the City.

Motion by Gilbert, second by Brown to approve adding the storm management system along Stolley Park Road to the FY 2008-2009 Budget in the amount of \$250,000. Upon roll call vote, Councilmember's Nieman, Gilbert, Carney, Gericke, Zapata, Haase and Brown voted aye. Councilmember's Meyer and Ramsey voted no. Motion adopted.

Conclusion of Public Hearing on Creation of Business Improvement District #8, Downtown.

Motion by Carney, second by Ramsey that 12 protests for District #8 are valid but constitute less than 50% of the assessable units in the District. Upon roll call vote, all voted ayes. Motion adopted.

ORDINANCES:

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

49180 Consideration of Creating Business Improvement District #8, Downtown

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 this ordinance on first reading and then upon final passage and call for a roll call vote on each reading and then upon final passage." Councilmember Zapata second the motion. Upon roll call vote, all voted aye. Motion adopted.

Motion by Meyer, second by Gericke to approve Ordinance #9180.

City Clerk: Ordinance #9180 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 #9180 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 #9180 is declared to be lawfully adopted upon publication as required by law.

#2008-225 – Approving FY 2008-2009 Annual Budget for Business Improvement District #8, Downtown and Setting September 23, 2008 for Board of Equalization.

Motion by Meyer, second by Ramsey to approve Resolution #2008-225. Upon roll call vote, all voted aye. Motion adopted.

PAYMENT OF CLAIMS:

Motion by Brown, second by Haase to approve the Claims for the period of August 13, 2008 through August 26, 2008, for a total amount of \$5,524,652.81. Motion adopted unanimously.

ADJOURNMENT: The meeting was adjourned at 9:50 p.m.

RaNa Edwards
City Clerk

RESOLUTION 2008-231

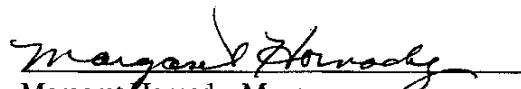
WHEREAS, on May 13, 2008, by Resolution 2008-122, the City Council of the City of Grand Island awarded the bid of The Diamond Engineering Company of Grand Island, Nebraska for the construction of Street Improvement District No. 1256, Widening of Capital Avenue from the Mores Creek Drain to Webb Road; and

WHEREAS, Resolution 2008-122 incorrectly stated the bid award to be \$3,365,842.25; and


WHEREAS, it is necessary to amend Resolution 2008-122 to award the bid in the correct amount of \$3,379,328.25 to The Diamond Engineering Company for the construction of Street Improvement District No. 1256; and

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that Resolution 2008-122 is hereby amended to correct the bid award amount to \$3,379,328.25 to The Diamond Engineering Company of Grand Island, Nebraska for the construction of Street Improvement District No. 1256.

Adopted by the City Council of the City of Grand Island, Nebraska, August 26, 2008.


Margaret Hornady, Mayor

Attest:


RaNae Edwards, City Clerk

CITY OF GRAND ISLAND, NEBRASKA

MINUTES OF CITY COUNCIL REGULAR MEETING

November 8, 2011

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 November 8, 2011. Notice of the meeting was given in *The Grand Island Independent* on November 2, 2011.

Mayor Jay Vavricek called the meeting to order at 7:00 p.m. The following City Council members were present: Chuck Haase, Larry Carney, Bob Niemann, Kirk Ramsey, Peg Gilbert, Linna Dee Donaldson, Scott Dugan, Randy Gard, and John Gericke. Councilmember Mitch Nickerson was absent. The following City Officials were present: City Administrator Mary Lou Brown, City Clerk RaNae Edwards, City Attorney Robert Sivick, Public Works Director John Collins and Interim Finance Director Jaye Monter.

INVOCATION was given by Pastor Scott Jones, Third City Christian Church, 4100 West 13th Street followed by the PLEDGE OF ALLEGIANCE.

MAYOR COMMUNICATION: Mayor Vavricek introduced Community Youth Council members Ashley Bykerk and Jackson Buck. City Administrator Mary Lou Brown commented on technical difficulties with the internet in the Council Chambers and gave an update on the Quiet Zone project.

PRESENTATIONS AND PROCLAMATIONS:

Recognition of Dr. Rebecca Stenke, 2011 Physician Volunteer of the Year and Dr. Jama Obermiller, 2011 Dentist Volunteer of the Year. Susan Aguilar representing Third City Community Clinic commented on the services of the clinic. Mayor Vavricek and the City Council recognized Dr. Rebecca Steinke and Dr. Jama Obermiller for 2011 Physician and Dentist Volunteer of the Year. Dr. Steinke and Dr. Obermiller were present for the recognition.

Recognition of the Nebraska National Guard. Mayor Vavricek and the City Council recognized those men and women serving in the Nebraska National Guard. Also recognized were men and women who are currently serving in the armed forces and those who had served in the past. Captain Mike Wieneke with the Nebraska National Guard was present for the recognition and commented on the service of the troops from this area in Kosovo and Afghanistan.

BOARD OF EQUALIZATION: Motion by Gilbert, second by Ramsey, carried unanimously to adjourn to the Board of Equalization.

#2011-BE-6 – Consideration of Determining Benefits for Water Main District 456T – Engleman Road from 13th Street to Old Potash Highway and Old Potash Highway East of Engleman Road for 600’. Utilities Director Tim Luchsinger reported that the City Council in its capacity as the Board of Equalization was required to determine the benefits for Water Main District 456T. Special assessments were for the amount of \$537,854.24.

Motion by Gilbert, second by Dugan to approve Resolutions #2011-BE-6. Upon roll call vote, all voted aye. Motion adopted.

RETURN TO REGULAR SESSION: Motion by Gilbert, second by Gard carried unanimously to return to Regular Session.

PUBLIC HEARINGS:

Public Hearing on Request from Bosselman Pump & Pantry, Inc. dba Pump & Pantry #43, 1222 South Locust Street for a Class "D" Liquor License. RaNae Edwards, City Clerk reported that an application for a Class "D" Liquor License had been received from Bosselman Pump & Pantry, Inc. dba Pump & Pantry #43, 1222 South Locust Street. Ms. Edwards presented the following exhibits for the record: application submitted to the Liquor Control Commission and received by the City on October 11, 2011; notice to the general public of date, time, and place of hearing published on October 29, 2011; notice to the applicant of date, time, and place of hearing mailed on October 11, 2011; along with Chapter 4 of the City Code. Staff recommended approval contingent upon final inspections. No public testimony was heard.

Public Hearing on Request from Bosselman Pump & Pantry, Inc. dba Pump & Pantry #44, 1309 Diers Avenue for a Class "D" Liquor License. RaNae Edwards, City Clerk reported that an application for a Class "D" Liquor License had been received from Bosselman Pump & Pantry, Inc. dba Pump & Pantry #44, 1309 Diers Avenue. Ms. Edwards presented the following exhibits for the record: application submitted to the Liquor Control Commission and received by the City on October 11, 2011; notice to the general public of date, time, and place of hearing published on October 29, 2011; notice to the applicant of date, time, and place of hearing mailed on October 11, 2011; along with Chapter 4 of the City Code. Staff recommended approval contingent upon final inspections. No public testimony was heard.

Public Hearing on Request from Pamela D. Hall dba BT's Lounge, 2320 South Locust Street for a 12' x 26' Addition – Beer Garden to Liquor License "C-24627". RaNae Edwards, City Clerk reported that an application for a 12' x 26' Beer Garden addition to Class "C-24627" Liquor License had been received from Pamela D. Hall dba BT's Lounge, 2320 South Locust Street. Ms. Edwards presented the following exhibits for the record: application submitted to the Liquor Control Commission and received by the City on October 13, 2011; notice to the general public of date, time, and place of hearing published on October 29, 2011; notice to the applicant of date, time, and place of hearing mailed on October 13, 2011; along with Chapter 4 of the City Code. Staff recommended approval contingent upon final inspections. No public testimony was heard.

ORDINANCES:

Regional Planning Director Chad Nabity gave an update on the annexation process and reported this was the second of three readings for the annexation of properties known as Area 3a, 6, 7, 12, and 13. City Administrator Mary Lou Brown commented on no cost to the City to annex these areas.

Virgil Harden representing the Grand Island Public Schools spoke in support of all five annexations.

#9339 – Consideration of Annexation for Property Located South of Airport Road/US Highway 281 and the West Side of Broadwell Avenue North of the Burlington Northern Santa Fe Tracks Including Eagle Scout Park and the Veterans Field (Annexation Area 3a) (Second Reading)

Motion by Ramsey, second by Niemann to approve Ordinance #9339 on second reading. Upon roll call vote all voted aye. Motion adopted.

#9340 – Consideration of Annexation of Property located North of Bismark Road on the East Side of Stahr Road (Annexation Area 6) (Second Reading)

Motion by Donaldson, second by Gard to approve Ordinance #9340 on second reading. Upon roll call vote all voted aye. Motion adopted.

#9341 – Consideration of Annexation of Property Located North of US Highway 34 on the East Side of South Locust Street (Annexation Area 7) (Second Reading)

Motion by Gard, second by Gericke to approve Ordinance #9341 on second reading. Upon roll call vote all voted aye. Motion adopted.

#9342 – Consideration of Annexation of Property Located North of Husker Highway to the West Side of US Highway 281 and Prairieview Street (Annexation Area 12) (Second Reading)

Discussion was held regarding the timing and need of this annexation. Comments were made by Council regarding the reasons to annex this area. Investment of the City for infrastructure in this area, emergency response, to equitably apply ordinances to property with regards to firearms, fireworks, animals and open burning was mentioned.

Motion by Ramsey, second by Niemann to approve Ordinance #9342 on second reading. Upon roll call vote Councilmember's Carney, Niemann, Ramsey, Gilbert, Donaldson, Dugan, Gard, and Gericke voted aye. Councilmember Haase voted no. Motion adopted.

#9343 – Consideration of Annexation of Property Located South of Old Potash Highway on the West Side of North Road (Annexation Area 13) (Second Reading)

Motion by Gilbert, second by Niemann to approve Ordinance #9343 on second 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 are suspended and that ordinance numbered:

#9345 – Consideration of Proposed Modifications to City Council Ward Boundaries Resulting from Redistricting

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 this ordinance on second 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.

Regional Planning Director Chad Nabity reported that every ten years after the census the Council needed to redistrict the Council wards to allow for equal-population representation.

Motion by Donaldson, second by Niemann to approve Ordinance #9345.

City Clerk: Ordinance #9345 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 #9345 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 Vavricek: By reason of the roll call votes on first reading and then upon final passage, Ordinance #9345 is declared to be lawfully adopted upon publication as required by law.

CONSENT AGENDA: Consent Agenda item G-3 was pulled for further discussion. Motion by Ramsey, second by Dugan to approve the Consent Agenda excluding item G-3. Upon roll call vote, all voted aye. Motion adopted.

Approving Minutes of October 25, 2011 City Council Regular Meeting.

Approving Minutes of November 1, 2011 City Council Study Session.

#2011-323 – Approving Bid Award for (19) Transmission Distance Relays with Power Delivery Services, Inc. of Omaha, Nebraska in an Amount of \$132,145.00.

#2011-324 – Approving Certificate of Final Completion for Water Main Project 2011-W-3 – Broadwell Avenue at the Union Pacific Railroad Tracks, and Vine Street at the Union Pacific Railroad Tracks with Diamond Engineering Company of Grand Island, Nebraska.

#2011-325 – Approving Benefits for Water Main District 456T – Engleman Road from 13th Street to Old Potash Highway and Old Potash Highway East of Engleman Road for 600’.

#2011-326 – Approving Change Order No. 2 for Grand Island Quiet Zone Project No. 2012-QZ-1 with Diamond Engineering Company of Grand Island, Nebraska for no Change in Contract Amount.

#2011-327 – Approving Continuation of Sanitary Sewer District No. 529, Westwood Park Subdivision.

#2011-328 – Approving the Wireline Crossing Agreement between the Union Pacific Railroad Company and the City of Grand Island.

#2011-329 – Approving Change Order No. 1 for Concrete Ditch Liner and Headwall East of Harrison Street with Diamond Engineering Company of Grand Island, Nebraska for an Increase of \$1,725.00 and a Revised Contract Amount of \$24,986.00.

#2011-330 – Approving Change Order No. 1 for Sugar Beet Ditch Piping at Suck's Lake; Drainage Project No. 2011-D-3 with Diamond Engineering Company of Grand Island, Nebraska for an Increase of \$12,550.00 and a Revised Contract Amount of \$82,214.40.

#2011-331 – Approving Change Order No. 1 for Building Reconstruction – Lift Station No. 4; Project NO. WWTP-2011-S-4 with Diamond Engineering Company of Grand Island, Nebraska for an Increase of \$1,840.00 and a Revised Contract Amount of \$40,212.80.

#2011-332 – Approving Certificate of Final Completion for the 2011 Asphalt Resurfacing Project No. 2011-AC-1 with J.L.L. Asphalt Paving Company of Grand Island, Nebraska.

#2011-333 – Approving Certificate of Final Completion for Concrete Ditch Liner and Headwall East of Harrison Street with Diamond Engineering Company of Grand Island, Nebraska.

#2011-334 – Approving Amending the 2011/2012 Fee Schedule.

#2011-335 – Approving Update to the Emergency Management/Communication Center Interlocal Cooperation Agreement with Hall County.

#2011-336 – Approving Certificate of Final Completion with Diamond Engineering Company of Grand Island, Nebraska and Scheduling December 20, 2011 for the Board of Equalization for Street Improvement District No. 1256; Capital Avenue from the Moors Creek Drain to Webb Road.

#2011-337 – Approving Certificate of Final Completion with Diamond Engineering Company of Grand Island, Nebraska and Scheduling December 20, 2011 for the Board of Equalization for Sanitary Sewer District No. 526; Lot 3 of Grand Island Plaza Subdivision.

#2011-316 – Approving Amending the City of Grand Island Police Officers' Retirement System Plan and Trust for Changes in the Applicable Tax Laws.

#2011-317 – Amending the City of Grand Island Firefighters' Retirement System Plan and Trust for Changes in the Applicable Tax Laws.

#2011-322 – Approving Greater Nebraska Cities Membership. City Administrator Mary Lou Brown reported that the Quad Cities of Grand Island, Hastings, North Platte and Kearney had met for the past twelve years to discuss legislative impact to the respective communities. Requested was to add Lexington to the group and change the name to Greater Nebraska Cities (GNC). There were no dues associated with belonging to this group.

Mike Gloor, 3115 Brentwood Circle spoke in support.

Motion by Haase, second by Carney to refer Resolution #2011-322 to the next Study Session for discussion. Upon roll call vote, Councilmember's Haase, Carney, Niemann, Dugan, and Gericke voted aye. Councilmember's Ramsey, Gilbert, Donaldson, and Gard voted no. Motion failed.

Motion by Ramsey, second by Gilbert to approve Resolution #2011-322.

Discussion was held regarding how this organization would work and how Council would be represented.

Motion by Haase, second by Gericke to amend Resolution #2011-322 to include the Council President or Council designee to attend the meetings. Upon roll call vote, all voted aye. Motion adopted.

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

RESOLUTIONS:

#2011-338 Consideration of Request from Pump & Pantry, Inc. dba Pump & Pantry #43, 1222 South Locust Street for a Class "D" Liquor License and Liquor Manager Designation for Susan McAfee, 1863 7th Avenue, Dannebrog, Nebraska. This item related to the aforementioned Public Hearing.

Motion by Donaldson, second by Gericke to approve Resolution #2011-338 contingent upon final inspections. Upon roll call vote, all voted aye. Councilmember Gard abstained. Motion adopted.

#2011-339 – Consideration of Request from Pump & Pantry, Inc. dba Pump & Pantry #44, 1309 Diers Avenue for a Class "D" Liquor License and Liquor Manager Designation for Susan McAfee, 1863 7th Avenue, Dannebrog, Nebraska. This item related to the aforementioned Public Hearing.

Motion by Donaldson, second by Gericke to approve Resolution #2011-339 contingent upon final inspections. Upon roll call vote, all voted aye. Councilmember Gard abstained. Motion adopted.

#2011-340 – Consideration of Request from Pamela D. Hall dba BT's Lounge, 2320 South Locust Street for a 12' x 26' Addition – Beer Garden to Liquor License "C-24627". This item related to the aforementioned Public Hearing.

Motion by Ramsey, second by Niemann to approve Resolution #2011-340 contingent upon final inspections. Upon roll call vote, all voted aye. Motion adopted.

#2011-341 – Approving Confidentiality Agreement with Municipal Energy Agency of Nebraska (MEAN) to Provide Southwest Power Pool Marketing Service Agreement Proposal. Utilities Director Tim Lauchsinger reported that electric generation plants are connected to a national electric transmission grid for the distribution of electricity to users. Grand Island is located in the Southwest Power Pool (SPP) and is not a member of SPP. Grand Island Utilities had contacted MEAN and NPPD to submit proposals to become our broker to transfer power. In order for MEAN to submit a proposal a Confidentiality Agreement was needed.

Motion by Gilbert, second by Dugan to approve Resolution #2011-341. Upon roll call vote, all voted aye. Motion adopted.

#2011-342 – Consideration of Designating No Parking on 2nd Street, Between Walnut Street and Cedar Street. Public Works Director John Collins reported that at the October 25, 2011 City Council meeting a request from St. Steven's Episcopal Church was received to remove parking between Walnut Street and Cedar Street, on the north side of 2nd Street. This item was referred to the November 8, 2011 meeting by City Council.

It was noted that the Public Works Department had the approval from the Nebraska Department of Roads but there were still some items that needed to be looked into.

Motion by Gericke, second by Dugan to refer this item to the November 22, 2011 City Council meeting. Upon roll call vote, all voted aye. Motion adopted.

#2011-343 – Consideration of Declaration of Intent to Issue Bonds for Uranium Removal System. Utilities Director Tim Luchsinger reported that the estimated capital cost of this project was \$3,000,000 and Council proposed this would be funded by bonding, with an annual operating cost of approximately \$800,000 which was to be funded by a rate adjustment. Ameritas, bond underwriter for the City, advised that Council should declare their intention to use bond revenue to fund the capital improvements which would allow bond proceeds to be used for costs of the uranium removal system prior to the bonds being issued and the funds received.

Motion by Gard, second by Haase to approve Resolution #2011-343. Upon roll call vote, all voted aye. Motion adopted.

PAYMENT OF CLAIMS:

Motion by Dugan, second by Gericke to approve the Claims for the period of October 26, 2011 through November 8, 2011, for a total amount of \$3,803,152.42. Unanimously approved.

ADJOURNMENT: The meeting was adjourned at 8:35 p.m.

RaNae Edwards

RaNae Edwards
City Clerk

RESOLUTION 2011-336

WHEREAS, the City Engineer/Public Works Director for the City of Grand Island has issued a Certificate of Final Completion for Street Improvement District No. 1256 located in Capital Avenue, from Moores Creek Drain to Webb Road, certifying that The Diamond Engineering Company of Grand Island, Nebraska under contract date May 20, 2008, has completed such project according to the terms, conditions, and stipulations for such improvements; and

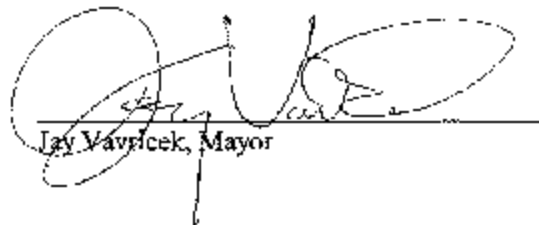
WHEREAS, the City Engineer/Public Works Director recommends the acceptance of the district; and

WHEREAS, the Mayor concurs with the City Engineer/Public Works Director's recommendations.

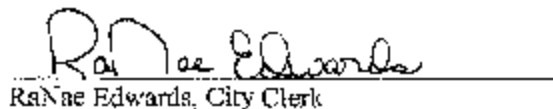
NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that:

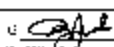
1. The City Engineer/Public Works Director's Certificate of Final Completion for Street Improvement District No. 1256 is hereby confirmed.
2. The City Council will sit as a Board of Equalization on December 20, 2011 to determine benefits and set assessments for Street Improvement District No. 1256.

Adopted by the City Council of the City of Grand Island, Nebraska, November 8, 2011.


Jay Vavricek, Mayor

Attest:


RaNae Edwards, City Clerk

Approved as in Form	by 
November 4, 2011	City Attorney

Nebraska**Chapter 16. Cities of the First Class****Article 6. Public Improvements****(b). Streets**

Current through the 2011 legislative session

§ 16-609. Improvements; power of city

The council shall have power to open, control, name, rename, extend, widen, narrow, vacate, grade, curb, gutter, park, and pave or otherwise to improve and control and keep in good repair and condition, in any manner it may deem proper, any street, avenue, or alley, or public park or square, or part of either, within or without the limits of the city, and it may grade partially or to the established grade, or park or otherwise improve any width or part of any such street, avenue, or alley. When the city vacates all or any portion of a street, avenue, or alley, or public park or square, or part of either, the city shall, within thirty days after the effective date of the vacation, file a certified copy of the vacating ordinance with the register of deeds for the county in which the vacated property is located to be indexed against all affected lots.

Source:

Laws 1901, c. 18, § 48, LV, p. 259; Laws 1901, c. 19, § 4, p. 307; Laws 1907, c. 13, § 1, p. 111; R.S.1913, § 4908; C.S.1922, § 4076; C.S.1929, § 16-605; R.S.1943, § 16-609; Laws 2001, LB 483, § 4.

Note:

Authority is conferred on cities of the first class to regulate parking of vehicles on the street. Vap v. City of McCook, 178 Neb. 844">178 Neb. 844, 136 N.W.2d 220">136 N.W.2d 220 (1965).

Grant of power to city to curb and pave street was a delegation of police power. Hillerege v. City of Scottsbluff, 164 Neb. 560">164 Neb. 560, 83 N.W.2d 76 (1957).

While authority is conferred upon the municipality to control its streets, yet the discretion must be exercised in a reasonable and not in an arbitrary and discriminatory manner. State ex rel. Andruss v. Mayor and Council of City of North Platte, 120 Neb. 413">120 Neb. 413, 233 N.W. 4 (1930).

The mere establishment of grade, without alteration, creates no damage and the statute of limitations does not commence to run against property owners' right by reason thereof, until there is actual alteration. Hilger v. City of Nebraska City, 97 Neb. 268, 149 N.W. 807 (1914).

The mere filing of petitions sufficient upon their face, without proof of such allegations, is not sufficient to confer jurisdiction upon the city to make the improvements and to assess the costs upon the abutting property, where the jurisdictional facts are put in issue, and injunction will restrain the taxes therefor. City of South Omaha v. Tighe, 67 Neb. 572, 93 N.W. 946 (1903).

The duty devolves on cities and towns to keep streets and sidewalks reasonably safe and fit for travel, and such duty applies to defects in construction, as well as neglect of repair. Village of Plainview v. Mendelson, 65 Neb. 85, 90 N.W. 956 (1902).

§ 16-609.01. Land abutting street; industrial tract or school site; improvement; agreement

Whenever any street of any city of the first class is partly inside the city and partly outside the city, and the land outside the city abutting on such street is an industrial tract or a school site, or the property of the state or any political

subdivision thereof, such street may be included in any street improvement project of the city upon the written agreement thereto of the owner or owners of such land outside the city, which agreement shall subject such land to the assessment of costs of the benefits resulting from the improvement. Except as provided in this section, any such improvement shall be subject to the provisions of sections 16-609 to 16-655.

Source:

Laws 1965, c. 46, § 1, p. 246.

§ 16-610. Public ways; maintenance and repair

The mayor and city council shall have the care, supervision and control of all public highways, bridges, streets, alleys, public squares and commons, and shall cause the same to be kept open and in repair and free from nuisances.

Source:

Laws 1901, c. 18, § 35, p. 239; Laws 1909, c. 19, § 1, p. 183; R.S.1913, § 4909; C.S.1922, § 4077; C.S.1929, § 16-606; R.S.1943, § 16-610.

Note:

Contract between city and state prohibiting parking on designated street was upheld. Vap v. City of McCook, 178 Neb. 844">178 Neb. 844, 136 N.W.2d 220">136 N.W.2d 220 (1965).

Duty devolving on cities and villages to keep streets and sidewalks reasonably safe and fit for travel applies to defects in construction as well as neglect to repair, and the safety required extends to travel by night as well as by day. Village of Plainview v. Mendelson, 65 Neb. 85, 90 N.W. 956 (1902).

It is the duty of a city to keep all its streets and bridges in a reasonably safe condition for travel and such care and diligence is not controlled or affected by the fact that they are not as frequently used as some others in the city. City of South Omaha v. Powell, 50 Neb. 798, 70 N.W. 391 (1897).

§ 16-611. Vacation of street or alley; abutting property; how treated

(1) Upon the vacation of any street or alley by the city, the title to such property shall vest in the owners of the abutting property and become a part of such property, one-half on each side thereof, unless the city reserves title in the ordinance vacating such street or alley. If title is retained by the city, such property may be sold, conveyed, exchanged, or leased upon such terms and conditions as shall be deemed in the best interests of the city.

(2) When a portion of a street or alley is vacated only on one side of the center thereof, the title to such property shall vest in the owner of the abutting property and become part of such property unless the city reserves title in the ordinance vacating a portion of such street or alley. If title is retained by the city, such property may be sold, conveyed, exchanged, or leased upon such terms and conditions as shall be deemed in the best interests of the city.

(3) When the city vacates all or any portion of a street or alley, the city shall, within thirty days after the effective date of the vacation, file a certified copy of the vacating ordinance with the register of deeds for the county in which the vacated property is located to be indexed against all affected lots.

(4) The title to property vacated pursuant to this section shall be subject to the following:

(a) There is reserved to the city the right to maintain, operate, repair, and renew public utilities existing at the time title to the property is vacated there; and

(b) There is reserved to the city, any public utilities, and any cable television systems the right to maintain, repair, renew, and operate water mains, gas mains, pole lines, conduits, electrical transmission lines, sound and signal transmission lines, and other similar services and equipment and appurtenances, including lateral connections or branch lines, above, on, or below the surface of the ground that are existing as valid easements at the time title to the property is vacated for the purposes of serving the general public or the abutting properties and to enter upon the premises to accomplish such purposes at any and all reasonable times.

Source:

Laws 1901, c. 18, § 48, IV, p. 145; Laws 1903, c. 19, § 7, p. 237; R.S.1913, § 4910; C.S.1922, § 4078; C.S.1929, § 16-607; R.S.1943, § 16-611; Laws 1969, c. 58, § 2, p. 363; Laws 2001, LB 483, § 5; Laws 2005, LB 161, § 3.

Note:

Where conveyance describes lot by block and number, contains no reservation of rights in alley, conveyance transfers fee to center line of abutting portion of vacated alley even though conveyance also describes lots by metes and bounds which did not include any part of alley and used edge of alley as boundary. Seefus v. Briley, 185 Neb. 202"">185 Neb. 202, 174 N.W.2d 339"">174 N.W.2d 339 (1970).

This section is not applicable to vacation of a nominal street of a platted addition. Trahan v. Council Bluffs Steel Erection Co., 183 Neb. 170, 159 N.W.2d 207"">159 N.W.2d 207 (1968).

This section has no relation to streets which have been platted and dedicated. Dell v. City of Lincoln, 170 Neb. 176"">170 Neb. 176, 102 N.W.2d 62"">102 N.W.2d 62 (1960).

Cities own in fee simple, the streets, alleys, etc., and may maintain ejectment, may vacate them, or even sell and dispose of them. Krueger v. Jenkins, 59 Neb. 641, 81 N.W. 844 (1900).

There is no constitutional restraint of the Legislature's plenary power, to vacate or discontinue the public easement on streets. City of Columbus v. Union Pacific R. R. Co., 137 F. 869"">137 F. 869 (8th Cir. 1905).

§ 16-612. Repealed

History. Laws 1980, LB 660,§1.

§ 16-613. Bridges; repair; duty of county; aid by city, when

All public bridges within such city, exceeding sixty feet in length, and the approaches thereto, over any stream crossing a county highway, shall be constructed and kept in repair by the county. When any city has constructed or repaired a bridge over sixty-foot span with approaches thereto, on any county highway within its corporate limits, and has incurred a debt for the same, then the treasurer of the county in which said bridge is located shall pay to the treasurer of the city seventy-five percent of all bridge taxes collected in said city until said debt and interest upon the same are fully paid. The city council may appropriate a sum not exceeding five dollars per linear foot to aid in the construction of any county bridge within the limits of such city, or may appropriate a like sum to aid in the construction of any bridge contiguous to said city on a highway leading to the same.

Source:

Laws 1909, c. 19, § 1, p. 183; R.S.1913, § 4912; C.S.1922, § 4080; C.S.1929, § 16-609; R.S.1943, § 16-613; Laws 1955, c. 31, § 1, p. 137.

Note:

City is required to exercise reasonable care and diligence in keeping streets and bridges in a safe condition for travel, even though they may not be frequently used by the public. City of South Omaha v. Powell, 50 Neb. 798, 70 N.W. 391 (1897).

§ 16-614. House numbers

The mayor and city council may provide for regulating and requiring the numbering of houses along public streets or avenues.

Source:

Laws 1901, c. 18, § 50, p. 268; R.S.1913, § 4913; C.S.1922, § 4081; C.S.1929, § 16-610; R.S.1943, § 16-614.

§ 16-615. Grade or change of grade; procedure; damages; how ascertained; assessments

The mayor and council shall have power by ordinance to establish the grade of any street, avenue, or alley in the city or within a county industrial area as defined in section 13-1111 contiguous to such city. When the grade of any street, avenue, or alley has been established, the grade of all or any part shall not be changed unless the city clerk has sent notice of the proposed change in grade to the owners of the lots or land abutting upon the street, avenue, or alley or part of a street, avenue, or alley where such change of grade is to be made. The notice shall be sent to the addresses of the owners as they shall appear in the office of the register of deeds upon the date of the mailing of the notice. The notice shall be sent by regular United States mail, postage prepaid, postmarked at least twenty-one days before the date upon which the city council takes final action on approval of the ordinance authorizing the change in grade. The notice shall inform the owner of the nature of the proposed change, that final action by the city council is pending, and of the location where additional information on the project may be obtained. Following the adoption of an ordinance changing the grade of all or any part of a street, avenue, or alley, no change in grade shall be made until the damages to property owners which may be caused by such change of grade are determined as provided in sections 76-704 to 76-724.

For the purpose of paying the damages, if any, so awarded, the mayor and council shall have power to borrow money from any available fund in the amount necessary, which amount, upon the collection of the same by special assessment, shall be transferred from such special fund to the fund from which it has been borrowed. No street, avenue, or alley shall be worked to such grade or change of grade until the damages so assessed shall be tendered to such property owners or their agents. Before the mayor and council enter into any contract to grade any such street, avenue, or alley, the damages, if any, sustained by the property owners, shall be ascertained by condemnation proceedings. For the purpose of paying the damages awarded and the costs of the condemnation proceedings, the mayor and city council shall have power to levy a special tax upon the lots and lands abutting upon such street, avenue, or alley, or part thereof, so graded, as adjudged by the mayor and council to be especially benefited in proportion to such benefits. Such special tax or taxes shall be collected as other special taxes.

Source:

Laws 1901, c. 18, § 48, LV, p. 259; Laws 1901, c. 19, § 4, p. 307; Laws 1907, c. 13, § 1, p. 111; R.S.1913, § 4914; C.S.1922, § 4082; C.S.1929, § 16-611; R.S.1943, § 16-615; Laws 1951, c. 101, § 51, p. 470; Laws 1969, c. 81, § 1, p. 412; Laws 1995, LB 196, § 1.

Note:

Claim for injunctive relief on ground of violation of this section was abandoned in Supreme Court. Danielson v. City of Bellevue, 167 Neb. 809, 95 N.W.2d 57 (1959).

Recovery could not be had for change in grade of street where only damage resulted from destruction of shade trees. Weibel v. City of Beatrice, 163 Neb. 183, 79 N.W.2d 67 (1956).

Where a taxpayer was one of the petitioners for the creation of paving district, and stood by while such improvement was in progress, such taxpayer cannot enjoin the collections of special taxes to pay for such improvement. Kister v. City of Hastings, 108 Neb. 476, 187 N.W. 909 (1922).

Provision for filing of petitions, the assessment and payment of damages, to lot owners, refers to new construction in the creation, opening and improvements of streets, and not to ordinary repairs of streets or alleys. Payment of such repairs, may be made without the levy of special taxes. Hilger v. City of Nebraska City, 97 Neb. 268, 149 N.W. 807 (1914).

Where a husband had created improvements on his wife's lot he was not entitled to recover damages sustained thereto by city's change in the grade. City of Nebraska City v. Northcutt, 45 Neb. 456, 63 N.W. 807 (1895).

Where land owner joins in petition to grade and pave a street, she is not estopped from claiming damages to her property. City of Beatrice v. Leary, 45 Neb. 149, 63 N.W. 370 (1895).

Church property used exclusively for religious purposes is not exempt from special assessments for local improvements. City of Beatrice v. Brethren Church of Beatrice, 41 Neb. 358, 59 N.W. 932 (1894); Von Steen v. City of Beatrice, 36 Neb. 421, 54 N.W. 677 (1893).

§ 16-616. Repealed

History. Laws 1951, c. 101, §127.

§ 16-617. Improvement districts; power to establish

The mayor and council shall have power to make improvements of any street, streets, alley, alleys, or any part of any street, streets, alley or alleys, in said city, a street which divides the city corporate area and the area adjoining the city, or within a county industrial area as defined in section 13-1111 contiguous to such city, and for that purpose to create suitable improvement districts, which shall be consecutively numbered; and such work shall be done under contract. Such districts may include properties within the corporate limits, adjoining the corporate limits, and within county industrial areas as defined in section 13-1111 contiguous to such cities.

Source:

Laws 1901, c. 18, § 48, p. 259; Laws 1901, c. 19, § 4, p. 307; Laws 1907, c. 13, § 1, p. 114; R.S.1913, § 4916; Laws 1915, c. 86, § 1, p. 225; Laws 1917, c. 95, § 1, p. 254; C.S.1922, § 4084; Laws 1925, c. 50, § 1, p. 191; C.S.1929, § 16-613; Laws 1933, c. 27, § 1, p. 202; C.S.Supp.,1941, § 16-613; R.S.1943, § 16-617; Laws 1967, c. 67, § 3, p. 219; Laws 1969, c. 81, § 2, p. 413; Laws 1979, LB 136, § 1.

Note:

City acted within its authority when it made improvements to a street located along the city's corporate limits. Iverson v. City of North Platte, 243 Neb. 506, 500 N.W.2d 574 (1993).

Ordinance is required to state the kind of improvement that is proposed to be made. Danielson v. City of Bellevue, 167 Neb. 809, 95 N.W.2d 57 (1959).

Where city council found property owner failed to file sufficient objection within twenty days of creation of district, it acted judicially, and unless appealed from such finding was final. Hiddleson v. City of Grand Island, 115 Neb. 287, 212 N.W. 619 (1927).

Under prior act, a petition of the property owners was not necessary for the creation of a paving district. Broghamer v. City of Chadron, 107 Neb. 532, 186 N.W. 362 (1922).

Description in paving ordinance was sufficient. Chittenden v. Kibler, 100 Neb. 756, 161 N.W. 272 (1917).

In absence of a limitation in the act granting it authority to issue bonds, the city had power to levy sufficient taxes to pay the same. United States ex rel. Masslich v. Saunders, 124 F. 124">124 F. 124 (8th Cir. 1903).

§ 16-617.01. Improvement, defined

As used in sections 16-617 to 16-649, improvement shall include but shall not be limited to paving, repaving, graveling, grading, curbing, guttering, and the construction and replacement of pedestrian walks, plazas, malls, landscaping, lighting systems and permanent facilities used in connection therewith.

Source:

Laws 1967, c. 67, § 2, p. 219.

§ 16-618. Improvement districts; property included

Any paving district or other improvement district shall include only portions of different streets, or portions of town alleys, or portions of each, which abut or adjoin so that such district, when created, makes up one continuous or extended street or more, except that the district may include a cul de sac, any street, alley, or portion thereof which is closed at one end or which connects with only one other existing street, alley, or portion thereof. Any paving or other improvement district may include portions of different streets, or portions of different alleys, or portions of each, provided they abut or connect with each other, or provided the several portions abut on pavement or gravel already laid, or any other of aforesaid improvements already laid.

Source:

Laws 1917, c. 95, § 1, p. 254; C.S.1922, § 4084; Laws 1925, c. 50, § 1, p. 192; C.S.1929, § 16-613; Laws 1933, c. 27, § 1, p. 202; C.S.Supp.,1941, § 16-613; R.S.1943, § 16-618; Laws 1980, LB 654, § 1.

§ 16-619. Improvement districts; creation; notice

The mayor and council shall first, by ordinance, create a paving, graveling or other improvement district or districts. The mayor and clerk shall, after the passage, approval, and publication of such ordinance, publish notice of the creation of any such district or districts one time each week for not less than twenty days in a daily or weekly newspaper of general circulation published in the city.

Source:

Laws 1915, c. 86, § 1, p. 225; Laws 1917, c. 95, § 1, p. 254; C.S.1922, § 4084; Laws 1925, c. 50, § 1, p. 192; C.S.1929, § 16-613; Laws 1933, c. 27, § 1, p. 202; C.S.Supp.,1941, § 16-613; R.S.1943, § 16-619.

Note:

Attack on sufficiency of paving petition could be made by error proceedings. Elliott v. City of Auburn, 172 Neb. 1">172 Neb. 1, 108 N.W.2d 328">108 N.W.2d 328 (1961).

Publication of notice is a mandatory and jurisdictional step. Danielson v. City of Bellevue, 167 Neb. 809">167 Neb. 809, 95 N.W.2d 57">95 N.W.2d 57 (1959).

§ 16-620. Improvements; objections of property owners; effect

If the owners of the record title representing more than fifty percent of the front footage of the property abutting or adjoining any continuous or extended street, cul de sac, or alley of the district, or portion thereof which is closed at one end, and who were such owners at the time the ordinance creating the district was published, shall file with the city clerk, within twenty days from the first publication of said notice, written objections to the improvement of a district, said work shall not be done in said district under said ordinance, but said ordinance shall be repealed. If objections are not filed against any district in the time and manner aforesaid, the mayor and council shall forthwith proceed to construct such improvement.

Source:

Laws 1917, c. 95, § 1, p. 254; C.S.1922, § 4084; Laws 1925, c. 50, § 1, p. 192; C.S.1929, § 16-613; Laws 1933, c. 27, § 1, p. 202; C.S.Supp.,1941, § 16-613; R.S.1943, § 16-620; Laws 1949, c. 20, § 1, p. 90; Laws 1967, c. 67, § 4, p. 219; Laws 1980, LB 654, § 2.

Note:

In passing on sufficiency of paving petition, city council exercises a judicial function. Elliott v. City of Auburn, 172 Neb. 1">172 Neb. 1, 108 N.W.2d 328">108 N.W.2d 328 (1961).

Property owners are given right to object to kind of materials used in improving street. Danielson v. City of Bellevue, 167 Neb. 809">167 Neb. 809, 95 N.W.2d 57">95 N.W.2d 57 (1959).

Ordinance creating special improvement district may be repealed before additional steps have been taken. Brasier v. City of Lincoln, 159 Neb. 12">159 Neb. 12, 65 N.W.2d 213">65 N.W.2d 213 (1954).

§ 16-621. Improvements; materials; kind; petition of landowners; bids; advertisement

In advertising for bids for paving, repaving, graveling or macadamizing, the mayor and council may provide for bids on different materials and types of construction, and shall in addition provide for asking bids on any material or materials that may be suggested by petition of owners of the record title representing twenty-five percent of the abutting property owners in a district, if such petition is filed with the city clerk before advertisement for bids is ordered. On opening of bids for paving or repaving in any such district, the mayor and council shall postpone action thereon for a period of not less than ten days. During said period of postponement, the owners of the record title representing a majority of the abutting property owners in a district may file with the city clerk a petition for the use of a particular material for paving for which a bid has been received, in which event a bid on that material shall be accepted and the work shall be done with that material; *Provided*, the above regulations as to advertising for bids and opening of bids and postponing of action thereon and the right of selection of materials shall not apply in case of graveling. In case such owners fail to designate the material they desire used in such paving or repaving, or macadamizing, in the manner and within the time above provided, the mayor and council shall determine upon the material to be used; *Provided*, the mayor and council may in any event, at their option, reject all bids and readvertise if, in their judgment, the public interest requires.

Source:

Laws 1917, c. 95, § 1, p. 254; C.S.1922, § 4034; Laws 1925, c. 50, § 1, p. 192; C.S.1929, § 16-613; Laws 1933, c. 27, § 1, p. 202; C.S.Supp.,1941, § 16-613; R.S.1943, § 16-621; Laws 1965, c. 54, § 1, p. 259.

§ 16-621.01. Improvements of streets and alleys; use of salt stabilized base or armor coating, when

A city of the first class may improve its streets and alleys by the use of salt stabilized base or armor coating in the same manner, to the same extent, and with the same limitations as provided by law for paving or repaving such streets or alleys. All provisions of law respecting paving or repaving by a city of the first class shall apply to any improvements made under the authority of this section.

Source:

Laws 1961, c. 45, § 1, p. 177.

§ 16-622. Improvements; assessments; how levied; when delinquent; interest; collection; procedure

The cost of making such improvements of the streets and alleys within any street improvement district shall be assessed upon the lots and lands in such districts specially benefited thereby in proportion to such benefits. The amounts thereof shall, except as provided in sections 19-2428 to 19-2431, be determined by the mayor and council under the provisions of section 16-615. The assessment of the special tax for the cost of such improvements, except as provided in this section, shall be levied at one time and shall become delinquent in equal annual installments over such period of years, not to exceed twenty, as the mayor and city council may determine at the time of making the levy, the first such installment to become delinquent in fifty days after the date of such levy. Each of said installments, including those for graveling and the construction and replacement of pedestrian walks, plazas, malls, landscaping, lighting systems, and permanent facilities used in connection therewith as hereinafter provided, except the first, shall draw interest at a rate established by the mayor and council not exceeding the rate of interest specified in section 45-104.01, as such rate may from time to time be adjusted by the Legislature, from the time of levy until the same shall become delinquent. After the same shall become delinquent, interest at the rate specified in section 45-104.01, as such rate may from time to time be adjusted by the Legislature, shall be paid thereon. Should there be three or more of said installments delinquent and unpaid on the same property the mayor and city council may by resolution declare all future installments on such delinquent property to be due on a future fixed date. The resolution shall set forth the description of the property and the names of its record title owners and shall provide that all future installments shall become delinquent upon the date fixed. A copy of such resolution shall be published one time each week for not less than twenty days in a legal newspaper of general circulation published in the city and after the fixed date such future installments shall be deemed to be delinquent and the city may proceed to enforce and collect the total amount due and all future installments. As to assessments for graveling alone and without guttering or curbing, one-third of the total amount assessed against each lot or parcel of land shall become delinquent in fifty days after the date of the levy of the same, one-third in one year, and one-third in two years.

Source:

Laws 1901, c. 18, § 48, LV, p. 259; Laws 1901, c. 19, § 4, p. 307; Laws 1907, c. 13, § 1, p. 111; R.S.1913, § 4917; C.S.1922, § 4085; Laws 1925, c. 50, § 2, p. 193; C.S.1929, § 16-614; Laws 1933, c. 136, § 18, p. 527; C.S.Supp.,1941, § 16-614; R.S.1943, § 16-622; Laws 1953, c. 28, § 1, p. 115; Laws 1955, c. 32, § 1, p. 139; Laws 1959, c. 64, § 1, p. 285; Laws 1959, c. 47, § 1, p. 233; Laws 1967, c. 67, § 5, p. 220; Laws 1972, LB 1213, § 1; Laws 1973, LB 541, § 1; Laws 1980, LB 933, § 10; Laws 1981, LB 167, § 11; Laws 1983, LB 94, § 1.

Note:

This section and section 16-669 require that three payments be delinquent before the city may foreclose, and the city is required to pass and publish an acceleration resolution declaring the entire amount due and owing. City of Kearney v. Johnson, 222 Neb. 541"222 Neb. 541, 385 N.W.2d 427"385 N.W.2d 427 (1986).

Rate of interest on paving assessment was governed by home rule charter and not by this section. State ex rel. Martin v. Cunningham, 158 Neb. 708, 64 N.W.2d 465">64 N.W.2d 465 (1954).

An unplatted and nonsubdivided tract of land in a city of the first class may be subjected to assessment for special benefits. City of Scottsbluff v. Kennedy, 141 Neb. 728">141 Neb. 728, 4 N.W.2d 878">4 N.W.2d 878 (1942).

Cities of the first class that adopt a "home rule" charter possess no power to remit or cancel interest or penalties on special taxes. Falldorf v. City of Grand Island, 138 Neb. 212">138 Neb. 212, 292 N.W. 598 (1940).

In absence of a limitation in the act granting it authority to issue bonds, the city had power to levy sufficient taxes to pay the same. United States ex rel. Masslich v. Saunders, 124 F. 124">124 F. 124 (8th Cir. 1903).

§ 16-623. District paving bonds; interest

For the purpose of paying the cost of improving the streets, avenues or alleys in any such district, exclusive of intersections of streets or avenues, or spaces opposite alleys therein, the mayor and council shall have power and may, by ordinance, cause to be issued bonds of the city, to be called Street Improvement Bonds of District No., payable in not exceeding twenty years from date, and bearing interest, payable either annually or semiannually, with interest coupons attached. In such cases they shall also provide that said special taxes and assessments shall constitute a sinking fund for the payment of said bonds; *Provided*, the entire cost of improving any such street, avenue or alley, properly chargeable to any lot or land within any such improvement district according to the front footage thereof, may be paid by the owners of such lots or lands within fifty days from the levying of such special taxes, and thereupon such lot or lands shall be exempt from any lien or charge therefor.

Source:

Laws 1901, c. 18, § 48, LV, p. 259; Laws 1901, c. 19, § 4, p. 307; Laws 1907, c. 13, § 1, p. 111; R.S.1913, § 4918; C.S.1922, § 4086; Laws 1925, c. 50, § 3, p. 194; C.S.1929, § 16-615; Laws 1931, c. 32, § 1, p. 123; C.S.Supp.,1941, § 16-615; R.S.1943, § 16-623; Laws 1967, c. 67, § 6, p. 221; Laws 1969, c. 51, § 27, p. 288.

§ 16-624. Improvement districts; creation upon petition; denial; assessments; bonds

Whenever the owners of lots or lands abutting upon any street, avenue, or alley within the city, representing three-fourths of the front footage thereon, so that such district when created will make up one continuous or extended thoroughfare or more, shall petition the mayor and council to make improvement of such street, avenue, or alley without cost to the city, and to assess the entire cost of any such improvements in any such street, avenue, or alley, including intersections of streets or avenues and spaces opposite alleys, against the private property within such improvement district or districts, it shall be the duty of the mayor and council to create the proper improvement district or districts, which shall be consecutively numbered, and to improve the same and to proceed in the same manner and form as hereinbefore provided for in other paving and improvement districts; *Provided*, the mayor and council shall have power to levy the entire cost of such improvements of any such street, avenue, or alley, including intersections of streets or avenues and spaces opposite alleys, against the private property within such district, and to issue Street Improvement Bonds of District No. to pay for such improvements in the same manner and form as hereinbefore provided for in other improvement bonds. Such bonds shall be issued to cover the entire cost of so improving such streets or avenues, intersections of the same, and spaces opposite alleys. If the assessments hereinbefore provided for, or any part thereof, shall fail, or for any reason shall be invalid, the mayor and council may make other and further assessments upon such lots or lands as may be required to collect from the same the cost of any improvements properly chargeable thereto, as herein provided. The mayor and city council shall have the discretion to deny the formation of the proposed district when the area to be improved has not previously been improved with a water system, sewer system, and grading of streets. If the mayor and city council should deny a requested improvement district formation, they shall state their grounds for such

denial in a written letter to interested parties.

Source:

Laws 1901, c. 18, § 48, LV, p. 259; Laws 1901, c. 19, § 4, p. 307; Laws 1907, c. 13, § 1, p. 111; R.S.1913, § 4919; C.S.1922, § 4087; Laws 1925, c. 50, § 4, p. 194; C.S.1929, § 16-616; Laws 1933, c. 27, § 2, p. 203; C.S.Supp.,1941, § 16-616; R.S.1943, § 16-624; Laws 1967, c. 67, § 7, p. 222; Laws 1983, LB 125, § 1.

§ 16-625. Intersections; improvements; railways; duty to pave right-of-way

The cost of improving the intersections of streets or avenues and spaces opposite alleys in such district, except as hereinbefore specially provided, shall be paid by the city as hereinafter provided; but nothing herein contained shall be construed to exempt any street or other railway company from improving with such material as the mayor and council may order, its whole right-of-way including all space between and one foot beyond the outer rails, at its own cost, whenever any street or avenue shall be ordered improved by the mayor and council of the city as provided by law; *Provided*, no street or other railway company shall enter upon or occupy any paved street or avenue, within five years after such paving shall have been completed, until it shall pay into the city treasury the original cost of paving between and one foot beyond the outer rails, which sum shall be credited on the special assessment upon the abutted lots; and if the special assessment shall have been paid, then the money shall be paid, by warrant, to the party who has already paid such special assessment.

Source:

Laws 1901, c. 18, § 48, LV, p. 259; Laws 1901, c. 19, § 4, p. 307; Laws 1907, c. 13, § 1, p. 111; R.S.1913, § 4920; C.S.1922, § 4088; Laws 1925, c. 50, § 5, p. 195; C.S.1929, § 16-617; R.S.1943, § 16-625; Laws 1967, c. 67, § 8, p. 223.

§ 16-626. Intersection improvement bonds; amount; interest; warrants; partial payments; final payment; interest; restrictions on work

For all improvements of the intersections and areas formed by the crossing of streets, avenues or alleys, and one-half of the streets adjacent to real estate owned by the United States, the State of Nebraska, or the city, the assessment shall be made upon all the taxable property of the city; and for the payment of such improvements, the mayor and council or the city commissioners are hereby authorized to issue improvement bonds of the city in such denominations as they deem proper, to be called Intersection Improvement Bonds, payable in not to exceed twenty years from date of said bonds and to bear interest payable annually or semiannually. Such bonds shall not be issued in excess of the cost of said improvements. For the purpose of making partial payments as the work progresses in making the improvements of streets, avenues, alleys or intersections and areas formed by the crossing of streets, avenues, or alleys, or one-half of the streets adjacent to real estate owned by the United States, the State of Nebraska, or the city, warrants may be issued by the mayor and council upon certificates of the engineer in charge showing the amount of the work completed and materials necessarily purchased and delivered for the orderly and proper continuation of the project, in a sum not exceeding ninety-five percent of the cost thereof, and upon completion and acceptance of the work issue a final warrant for the balance of the amount due the contractor, which warrants shall be redeemed and paid upon the sale of bonds authorized by law. The city shall pay to the contractor interest at the rate of eight percent per annum on the amounts due on partial and final payments beginning forty-five days after the certification of the amounts due by the engineer in charge and approval by the governing body, and running until the date that the warrant is tendered to the contractor. Nothing herein shall be construed as authorizing the mayor and council to make improvements of any intersections or areas formed by the crossing of streets, avenues or alleys, unless in connection with one or more blocks of any of aforesaid kinds or forms of street improvement of which the improvement of such intersection or areas shall form a part.

Source:

Laws 1901, c. 18, § 48, LV, p. 259; Laws 1901, c. 19, § 4, p. 307; Laws 1907, c. 13, § 1, p. 111; R.S.1913, § 4921; Laws 1917, c. 96, § 1, p. 259; C.S.1922, § 4089; Laws 1923, c. 146, § 1, p. 360; Laws 1925, c. 50, § 14, p. 201; C.S.1929, § 16-618; R.S.1943, § 16-626; Laws 1965, c. 55, § 1, p. 261; Laws 1967, c. 67, § 9, p. 223; Laws 1969, c. 51, § 28, p. 289; Laws 1974, LB 636, § 1.

§ 16-627. Intersections; improvement; cost; tax levy

The cost and expense of improving, constructing, or repairing streets, avenues, alleys and sidewalks, at their intersections, may be included in the special tax levied for the construction or improvement of any one street, avenue, alley or sidewalk, as may be deemed best by the council.

Source:

Laws 1901, c. 18, § 75, p. 288; R.S.1913, § 4922; C.S.1922, § 4090; C.S.1929, § 16-619; R.S.1943, § 16-627; Laws 1967, c. 67, § 10, p. 224.

§ 16-628. Improvements; tax; when due

Such special taxes shall be due and may be collected as the improvements are completed in front of or along or upon any block or piece of ground, or at the time the improvement is entirely completed or otherwise, as shall be provided in the ordinance levying the tax.

Source:

Laws 1901, c. 18, § 76, p. 288; R.S.1913, § 4923; C.S.1922, § 4091; C.S.1929, § 16-620; R.S.1943, § 16-628.

§ 16-629. Curbs and gutters; authorized; petition; formation of district; bonds

Curbing and guttering shall not be required or ordered to be laid on any street, avenue or alley not ordered to be paved, repaved, graveled or macadamized, except on a petition of the owners of two-thirds of the front footage of property abutting along the line of that portion of the street, avenue or alley which is to be curbed or guttered.

When such petition is presented, a curbing and guttering district shall be formed, which district shall be governed by the provisions of section 16-630. Any bonds issued on account of such district shall be known as Bonds of Curbing and Guttering District No.

Source:

Laws 1901, c. 18, § 48, LV, p. 259; Laws 1901, c. 19, § 4, p. 307; Laws 1907, c. 13, § 1, p. 111; R.S.1913, § 4924; C.S.1922, § 4092; Laws 1925, c. 50, § 6, p. 196; C.S.1929, § 16-621; R.S.1943, § 16-629; Laws 1965, c. 56, § 1, p. 263.

§ 16-630. Curbing and guttering bonds; interest rate; assessments; how levied

Whenever curbing, or curbing and guttering, is done upon any street, avenue or alley in any paving, repaving, graveling or macadamizing district in which paving or other such improvement aforesaid has been ordered, and the

mayor and council shall deem it expedient to do so, they shall have the power and authority, for the purpose of paying the cost of such curbing, or curbing and guttering, to cause to be issued bonds of the city, to be called Curbing and Guttering Bonds of Paving District No., payable in not exceeding ten years from date, bearing interest, payable annually or semiannually, with interest coupons attached. In all cases they shall assess at one time the total cost of such curbing and guttering, or curbing, as the case may be, upon the property abutting or adjacent to the portion of the street, avenue or alley so improved, according to the special benefits. Such assessments shall become delinquent the same as the assessments of special taxes for paving, repaving, graveling or macadamizing purposes, draw the same rate of interest, be subject to the same penalties, and may be paid in the same manner, as special taxes for said purpose. The special tax so assessed shall constitute a sinking fund for the payment of such bonds and interest, and the bonds shall not be sold for less than their par value.

Source:

Laws 1901, c. 18, § 48, LV, p. 267; Laws 1901, c. 19, § 4, p. 315; Laws 1907, c. 13, § 1, p. 119; R.S.1913, § 4925; Laws 1915, c. 87, § 1, p. 226; C.S.1922, § 4093; Laws 1925, c. 50, § 7, p. 196; C.S.1929, § 16-622; R.S.1943, § 16-630; Laws 1945, c. 21, § 1, p. 128; Laws 1969, c. 51, § 29, p. 290.

Note:

Under prior act, where street had been reduced to grade, and only limited expense was necessary to complete the work, engineer's estimate, advertisement, etc., for bids was not necessary, and city was permitted to pay for such work out of proper city funds. Hilger v. City of Nebraska City, 97 Neb. 268, 149 N.W. 807 (1914).

§ 16-631. Curbing and guttering; cost; paving bonds may include

Where an improvement district has been established, an improvement thereon constructed, and curbing or curbing and guttering is therewith constructed, and it becomes necessary to issue and sell street improvement bonds to pay for the cost of construction of same, and also for the cost of construction of the curbing, or curbing and guttering, the mayor and city council may, at their discretion, if they deem the same advisable, include the cost of curbing, or curbing and guttering, with the cost of the other improvement in said paving or other improvement district, and issue bonds for the combined cost of the improvement and curbing, or curbing and guttering, in any of said districts, naming the bonds Street Improvement Bonds of District No. The amount of money necessary for the payment of said bonds shall be levied upon and collected from abutting and adjacent property, and property specially benefited, the same as is provided for collection of a special tax for the payment of street improvement bonds.

Source:

Laws 1915, c. 87, § 1, p. 227; C.S.1922, § 4093; Laws 1925, c. 50, § 7, p. 197; C.S.1929, § 16-622; R.S.1943, § 16-631; Laws 1967, c. 67, § 11, p. 224.

§ 16-632. Improvements; assessments; when authorized; ordinary repairs excepted

In order to defray the costs and expenses of such improvements or any of them, the mayor and council shall have power and authority to levy and collect special taxes and assessments upon the lots and pieces of ground adjacent to or abutting upon the street, avenue, alley or sidewalk, thus in whole or in part improved or repaired or which may be specially benefited by such improvements; *Provided*, the above provisions shall not apply to ordinary repairs of streets or alleys, and the cost of such repair shall be paid out of the road fund; and the mayor and council are authorized to draw warrants against said fund not to exceed eighty-five percent of the amount levied as soon as levy shall be made by the county board.

Source:

Laws 1901, c. 18, § 48, LV, p. 259; Laws 1901, c. 19, § 4, p. 307; Laws 1907, c. 13, § 1, p. 111; R.S.1913, § 4926; C.S.1922, § 4094; Laws 1925, c. 50, § 8, p. 198; C.S.1929, § 16-623; R.S.1943, § 16-632; Laws 1967, c. 67, § 12, p. 225.

Note:

An unplatted and nonsubdivided tract of land in a city of the first class may be subjected to assessment for special benefits. City of Scottsbluff v. Kennedy, 141 Neb. 728" >141 Neb. 728, 4 N.W.2d 878" >4 N.W.2d 878 (1942).

Section refers to proceedings for the creation, opening, and improvements of streets by new construction work, and not to ordinary repairs. Hilger v. City of Nebraska City, 97 Neb. 268, 149 N.W. 807 (1914).

§ 16-633. Improvements; assessments against public lands

If, in any city of the first class, there shall be any real estate belonging to any county, school district, city, municipal or other quasi-municipal corporation abutting upon the street, avenue or alley whereon paving or other special improvements have been ordered, it shall be the duty of the county board, board of education or other proper officers to pay such special taxes; and, in the event of the neglect or refusal of such board or other officers to pay such taxes, or to levy and collect the taxes necessary to pay for such improvements, the city may recover the amount of such special taxes in a proper action. The judgment thus obtained may be enforced in the usual manner, and the signatures of such corporations to all petitions shall have like force and effect as that of other owners.

Source:

Laws 1901, c. 18, § 48, LV, p. 259; Laws 1901, c. 19, § 4, p. 307; Laws 1907, c. 13, § 1, p. 111; R.S.1913, § 4927; C.S.1922, § 4095; C.S.1929, § 16-624; R.S.1943, § 16-633.

Note:

Though church property, used exclusively for church purposes, is exempt from general taxation under the Constitution, such property is not exempt from special assessments for local improvements. City of Beatrice v. Brethren Church of Beatrice, 41 Neb. 358, 59 N.W. 932 (1894).

Officers representing state, county, or school districts, may not sign petition for paving on behalf of the property of the district they represent. Von Steen v. City of Beatrice, 36 Neb. 421, 54 N.W. 677 (1893).

§ 16-634. Improvements; real estate owned by minor or protected person; petition; guardian may sign

If, in any city of the first class, there shall be any real estate of any minor or protected person, the guardian or conservator of such minor or protected person may sign any petition herein referred to, and such signature shall have like force and effect as that of other owners.

Source:

Laws 1907, c. 13, § 1, p. 111; R.S.1913, § 4928; C.S.1922, § 4096; C.S.1929, § 16-625; R.S.1943, § 16-634; Laws 1975, LB 481, § 3.

§ 16-635. Improvements; terms, defined; depth to which assessable

The word lot as used herein shall be taken to mean lot as described and designated upon the record plat of any such city, or within a county industrial area as defined in section 13-1111 contiguous to such city; and in case there is no recorded plat of any such city or county industrial area, it shall mean a lot as described and designated upon any generally recognized map of any such city or county industrial area. The word land shall mean any subdivided or unplatted real estate in such city or county industrial area; *Provided*, if the lots and real estate abutting upon that part of the street ordered improved, as shown upon any recorded plat or map, are not of uniform depth, or, if for any reason, it shall appear just and proper to the mayor and council, they are authorized and empowered to determine and establish the depth to which such real estate shall be charged and assessed with the costs of the improvement, which shall be determined and established according to the benefits accruing to the property by reason of such improvements. Real estate may be so charged and assessed to a greater depth than lots as shown on any such plat or map.

Source:

Laws 1901, c. 18, § 48, LV, p. 259; Laws 1901, c. 19, § 4, p. 307; Laws 1907, c. 13, § 1, p. 111; R.S.1913, § 4929; C.S.1922, § 4097; Laws 1925, c. 50, § 9, p. 198; C.S.1929, § 16-626; R.S.1943, § 16-635; Laws 1967, c. 67, § 13, p. 225; Laws 1969, c. 81, § 3, p. 414.

Note:

An unplatted and nonsubdivided tract of land in a city of the first class may be subjected to assessment for special benefits. City of Scottsbluff v. Kennedy, 141 Neb. 728"141 Neb. 728, 4 N.W.2d 878"4 N.W.2d 878 (1942).

§ 16-636. Improvement districts; land which council may include

The mayor and council may, in their discretion, include all the real estate to be charged and assessed with the cost of such improvements in the improvement districts hereinbefore provided for, but are not required to do so; and the mayor and council may, in their discretion, in determining whether the requisite majority of owners who are hereinbefore authorized to petition for improvements, and to object to the improvements and to determine the kind of material to be used therefor, have joined in such petition, determination or objections, consider and take into account all the owners of real estate to be charged and assessed with the cost of any of said improvements, or only such as own lots, parts of lots, and real estate which, in fact, abut upon the part of the street, avenue or alley proposed to be so improved. The provisions of this section, in regard to the depth to which real estate may be charged and assessed, shall apply to all special taxes that may be levied by the mayor and council in any such city in proportion to the front footage.

Source:

Laws 1901, c. 18, § 48, LV, p. 259; Laws 1901, c. 19, § 4, p. 307; Laws 1907, c. 13, § 1, p. 111; R.S.1913, § 4930; Laws 1917, c. 95, § 1, p. 255; C.S.1922, § 4098; Laws 1925, c. 50, § 10, p. 199; C.S.1929, § 16-627; R.S.1943, § 16-636; Laws 1967, c. 67, § 14, p. 226.

§ 16-637. Improvements; assessments; action to recover

Any party feeling aggrieved by any special tax or assessment, or proceeding for improvements, may pay the said special taxes assessed and levied upon his, her or its property, or such installments thereof as may be due at any time before the same shall become delinquent, under protest, and with notice in writing to the city treasurer that he, she or it intends to sue to recover the same, which notice shall particularly state the alleged grievance and the ground thereof. Such party shall have the right to bring a civil action within sixty days thereafter, and not later, to recover so much of the special tax paid as he, she or it shows to be illegal, inequitable and unjust, the costs to follow the judgment or to be apportioned by the court, as may seem proper, which remedy shall be exclusive. The city treasurer shall promptly report all such notices to the city council for such action as may be proper. No court shall entertain any complaint that the party was authorized to make and did not make to the city council, sitting as a board of equalization, nor any complaint not specified in said notice fully enough to advise the city of the exact nature thereof, nor any complaint that does not go to

the groundwork, equity, and justness of such tax. The burden of proof to show such tax or part thereof invalid, inequitable and unjust shall rest upon the party who brings the suit.

Source:

Laws 1901, c. 18, § 48, LV, p. 259; Laws 1901, c. 19, § 4, p. 307; Laws 1907; c. 13, § 1, p. 111; R.S.1913, § 4931; C.S.1922, § 4099; Laws 1925, c. 50, § 11, p. 199; C.S.1929, § 16-628; R.S.1943, § 16-637; Laws 1967, c. 67, § 15, p. 226.

Note:

A special tax assessment which violates the federal Constitution is illegal, and thus a claim that a special tax assessment violates the federal Constitution can be raised and adjudicated in claims made under this section. Francis v. City of Columbus, 267 Neb. 553">267 Neb. 553, 676 N.W.2d 346">676 N.W.2d 346 (2004).

As a prerequisite to bringing suit for a refund under this section, a party must pay the tax under protest before it becomes delinquent. Francis v. City of Columbus, 267 Neb. 553">267 Neb. 553, 676 N.W.2d 346">676 N.W.2d 346 (2004).

This section provides an adequate remedy for adjudicating a claim that a special tax assessment violates the federal Constitution. Francis v. City of Columbus, 267 Neb. 553">267 Neb. 553, 676 N.W.2d 346">676 N.W.2d 346 (2004).

City may not take property for street improvement by eminent domain, and then nullify the value of the property taken by levying local assessment for the improvement in excess of the special benefits conferred. Hayman v. City of Grand Island, 135 Neb. 873">135 Neb. 873, 284 N.W. 737 (1939).

Where there is a variation between the established gradeline and the permanent street improvement, failure of property owner, who knows such fact while the work is progressing, to file timely objections to the assessment because of such defect, will estop him from raising the question under this section by injunction. Kister v. City of Hastings, 108 Neb. 476, 187 N.W. 909 (1922).

§ 16-638. Repealed

History. Laws 1963, c. 339,§1.

§ 16-639. Repealed

History. Laws 1963, c. 339,§1.

§ 16-640. Repealed

History. Laws 1963, c. 339,§1.

§ 16-641. Repealed

History. Laws 1963, c. 339, §1.

§ 16-642. Repealed

History. Laws 1963, c. 339, §1.

§ 16-643. Repealed

History. Laws 1963, c. 339, §1.

§ 16-644. Repealed

History. Laws 1963, c. 339, §1.

§ 16-645. Damages caused by construction; procedure

In all cases of damages arising from the creation or widening of new streets, avenues, or alleys, from the appropriation of property for sewers, parks, parkways, public squares, public heating plants, power plants, gas works, electric light plants, waterworks, or market places, and from change of grade in streets, avenues, or alleys, the damages sustained shall be ascertained and determined as provided in sections 76-704 to 76-724, except as to property specifically excluded by section 76-703 and as to which sections 19-701 to 19-707 or the Municipal Natural Gas System Condemnation Act is applicable.

Source:

Laws 1901, c. 18, § 53, p. 271; Laws 1903, c. 19, § 12, p. 243; R.S.1913, § 4937; C.S.1922, § 4105; C.S.1929, § 16-634; R.S.1943, § 16-645; Laws 1951, c. 101, § 52, p. 471; Laws 2002, LB 384, § 23.

Note:

Objections as to lack of notice were waived by appeal from award of appraisers. Webber v. City of Scottsbluff, 155 Neb. 48">155 Neb. 48, 50 N.W.2d 533">50 N.W.2d 533 (1951).

Damage for opening of street was separate cause of action from annexation of territory. City of Alliance v. Cover-Jones Motor Co., 154 Neb. 900, 50 N.W.2d 349">50 N.W.2d 349 (1951).

The owner has right of appeal from board's decision to the district court. Stuhr v. City of Grand Island, 123 Neb. 369">123 Neb. 369, 243 N.W. 80 (1932), vacated on rehearing, 124 Neb. 285">124 Neb. 285, 246 N.W. 461 (1933).

Property owner is entitled to a jury trial to determine his damages. Grantham v. City of Chadron, 20 F.2d 40">20 F.2d 40 (8th Cir. 1927).

Cross References:

Municipal Natural Gas System Condemnation Act, see section 19-4624.

§ 16-646. Special taxes; lien upon property; collection

In every case of the levy of special taxes, the same shall be a lien on the property on which levied from date of levy and shall be due and payable to the city treasurer thirty days after such levy when not otherwise provided; and, at the time of the next certification for general revenue purposes to the county clerk, if not previously paid, the special taxes, except paving, repaving, graveling, macadamizing, and curbing or curbing and guttering shall be certified to the county clerk and by him be placed upon the tax list and be collected as other real estate taxes are collected, and be paid over to the city treasurer; and paving, repaving, graveling, macadamizing and curbing, or curbing and guttering taxes may be so certified and collected by the county treasurer at the option of said city.

Source:

Laws 1901, c. 18, § 77, p. 288; Laws 1903, c. 19, § 14, p. 245; R.S.1913, § 4938; Laws 1917, c. 95, § 1, p. 255; C.S.1922, § 4106; Laws 1925, c. 50, § 12, p. 200; C.S.1929, § 16-635; R.S.1943, § 16-646.

Note:

Special assessment was a lien at time of foreclosure, and could have been included in tax foreclosure proceeding. Dent v. City of North Platte, 148 Neb. 718">148 Neb. 718, 28 N.W.2d 562">28 N.W.2d 562 (1947).

§ 16-647. Special taxes; payment by part owner

It shall be sufficient in any case to describe the lot or piece of ground as the same is platted and recorded although the same belongs to several persons; but, in case any lot or piece of ground belongs to different persons, the owner of any part thereof may pay his portion of the tax on such lot or piece of ground, and his proper share may be determined by the city treasurer.

Source:

Laws 1901, c. 18, § 78, p. 289; R.S.1913, § 4939; C.S.1922, § 4107; C.S.1929, § 16-636; R.S.1943, § 16-647.

§ 16-648. Money from special assessments; how used

All money received from special assessments may be applied to pay for the improvement for which assessed, or applied to reimburse the fund of the city from which the cost of the improvement may have been made.

Source:

Laws 1901, c. 18, § 79, p. 289; Laws 1903, c. 19, § 15, p. 245; R.S.1913, § 4940; C.S.1922, § 4108; C.S.1929, § 16-637; R.S.1943, § 16-648.

§ 16-649. Improvements; contracts; bids; requirement

All improvements of any streets, avenues or alleys in the city for which, or any part thereof, a special tax shall be levied, shall be done by contract with the lowest responsible bidder to be determined by the council.

Source:

Laws 1901, c. 18, § 74, p. 288; R.S.1913, § 4941; C.S.1922, § 4109; Laws 1925, c. 50, § 13, p. 201; C.S.1929, § 16-638; R.S.1943, § 16-649; Laws 1967, c. 67, § 16, p. 227.

Note:

Engineer may estimate total work and need not do so by item, and where bids are called for on four different kinds of material, and the contract is let for one of the kinds shown in the advertisement for bids, such estimate and advertisement for bids are sufficient. Wurdeman v. City of Columbus, 100 Neb. 134, 158 N.W. 924 (1916).

§ 16-650. Public improvements; acceptance by city engineer; approval or rejection by council

When any improvement is completed according to contract, it shall be the duty of the city engineer to carefully inspect the same; and, if the improvement is found to be properly done, such engineer shall accept the same, and forthwith report his acceptance thereof to the board of public works or mayor, who shall report the same to the council with recommendation that the same be approved or disapproved; and the city council may confirm or reject such acceptance. When the ordinance levying the tax makes the same due as the improvement is completed in front of or along any block or piece of ground, the engineer may accept the same in sections from time to time, if found to be done according to the contract, reporting his acceptance as in other cases.

Source:

Laws 1901, c. 18, § 66, p. 278; R.S.1913, § 4942; C.S.1922, § 4110; C.S.1929, § 16-639; R.S.1943, § 16-650.

§ 16-651. Grading and grading districts

Whenever the owners of lots and lands abutting upon any street or alley, or part thereof, within the city, representing two-thirds of the feet front abutting upon such part of street or alley desired to be graded, shall petition the council to grade such street or alley, or part thereof, without cost to the city, the mayor and council shall order the grading done and assess the costs thereof against the property abutting upon such street or alley or such part thereof so graded. For this purpose the mayor and council shall create suitable grading districts, which shall be consecutively numbered.

Source:

Laws 1901, c. 18, § 73, p. 285; R.S.1913, § 4943; C.S.1922, § 4111; C.S.1929, § 16-640; R.S.1943, § 16-651.

Note:

Petition signed as required is necessary prerequisite. City of South Omaha v. Tighe, 67 Neb. 572, 93 N.W. 946 (1903).

§ 16-652. Grading; assessments; when delinquent

The cost of grading the streets and alleys within any such grading district shall be assessed upon the lots and lands specially benefited thereby in such district in proportion to such benefits, to be determined by the mayor and council under the provisions of section 16-615. The assessment of special taxes for grading purposes herein provided for shall

be levied at one time and shall become delinquent as follows: One-fifth of the total amount shall become delinquent in fifty days after such levy; one-fifth in one year; one-fifth in two years; one-fifth in three years; one-fifth in four years. Each of said installments, except the first, shall draw interest at a rate not to exceed the rate of interest specified in section 45-104.01, as such rate may from time to time be adjusted by the Legislature, from the time of the levy aforesaid until the same shall become delinquent; and, after the same shall become delinquent, interest at the rate specified in section 45-104.01, as such rate may from time to time be adjusted by the Legislature, shall be paid thereon, as in the case of other special taxes. The cost of grading the intersections of streets and spaces opposite alleys in any such district shall be paid by the city out of the general fund of such city.

Source:

Laws 1901, c. 18, § 73, p. 286; R.S.1913, § 4943; C.S.1922, § 4111; C.S.1929, § 16-640; R.S.1943, § 16-652; Laws 1980, LB 933, § 11; Laws 1981, LB 167, § 12.

§ 16-653. Grading bonds; interest rate

For the purpose of paying the costs of grading the streets and alleys in such district, exclusive of the intersection of streets and spaces opposite alleys therein, the mayor and council shall have power, and may, by ordinance, cause to be issued bonds of the city, to be called District Grading Bonds of District No., payable in not exceeding five years from date and to bear interest, payable annually or semiannually, with interest coupons attached, and that as nearly as possible an equal amount of the bonds shall be made to mature each year, and in such case shall also provide that such special taxes and assessments shall constitute a sinking fund for the payment of said bonds and interest; *Provided*, the entire cost of grading any such street or alley properly chargeable to any lots or lands within any such grading district, according to feet front thereof, may be paid by the owner of such lots or lands within fifty days from the levy of such special taxes; and thereupon such lot or land shall be exempt from any lien or charge therefor.

Source:

Laws 1901, c. 18, § 73, p. 285; R.S.1913, § 4943; C.S.1922, § 4111; C.S.1929, § 16-640; R.S.1943, § 16-653; Laws 1945, c. 21, § 2, p. 129; Laws 1969, c. 51, § 30, p. 290.

§ 16-654. Grading upon petition; assessments; bonds

Whenever the owner of lots and lands abutting upon any street or avenue, alley or lane, or part thereof, representing three-fourths of the feet front abutting upon any such street or avenue, alley or lane, or part thereof, shall petition the mayor and council to grade the same, including the intersections of streets, avenues, or lanes and spaces opposite alleys and lanes, without cost to the city, and to assess the entire cost of grading such street, avenue, alley or lane or part thereof, including the intersections of streets, avenues or lanes and spaces opposite alleys or lanes, against the lots and lands abutting upon such street, avenue, alley or lane, or part thereof, so graded, thereupon the mayor and council shall create grading districts, make assessments, issue bonds, and proceed in the same manner as in cases of grading hereinbefore provided; *Provided*, bonds shall be issued to cover the entire cost of grading both the streets, avenues or alleys, and the intersections of streets or avenues and spaces opposite alleys.

Source:

Laws 1901, c. 18, § 73, p. 287; R.S.1913, § 4943; C.S.1922, § 4111; C.S.1929, § 16-640; R.S.1943, § 16-654.

§ 16-655. Grading bonds; amount; sale; damages; how ascertained

The aggregate amount of such bonds issued in any one year shall not exceed fifty thousand dollars, and shall not

be sold for less than their par value. If any assessment or part thereof shall fail or for any reason be invalid, the mayor and council may make such further assessments upon said lots or lands, as may be required, and collect from the owners the cost of any grading properly chargeable thereto, as herein provided; *Provided*, no street, avenue, alley or lane shall be so graded until the damages to property owners, if any, shall be ascertained by three disinterested freeholders to be appointed by the mayor and council and the proceedings to be the same in all respects as provided in section 16-615 for cases of change of grade.

Source:

Laws 1901, c. 18, § 73, p. 287; R.S.1913, § 4943; C.S.1922, § 4111; C.S.1929, § 16-640; R.S.1943, § 16-655.

Note:

Council is without power to grade or change the grade of a street, including the sidewalk space, until damages are ascertained and paid. Shewell v. City of Nebraska City, 52 Neb. 138, 71 N.W. 952 (1897).

STATEMENT OF COSTS
CAPITAL AVENUE IMPROVEMENTS - SID 1256
STPAA-5436 (4) CN 42427
GRAND ISLAND, NEBRASKA - 2008

Construction Costs	
Sanitary Sewer Construction Costs	\$831,963.45
Roadway Construction Costs	\$3,114,493.90
Total Construction	\$3,946,457.35
Engineering Costs	
Engineering Design for Roadway	\$242,257.20
Engineering Design for Sanitary Sewer	\$36,680.28
Total Engineering Design Costs	\$278,937.48
Construction Engineering for Roadway	\$357,003.47
Construction Engineering for Sanitary Sewer	\$101,933.53
Total Construction Engineering Costs	\$458,937.00
Total Costs	\$4,684,331.83
Division of Costs	
Assessments	
Amount Assessable to Property Owners	
Amount Assessable to City	
Total Assessments	\$734,834.00
Federal Highway Transportation Funds for Construction Engineering Costs	
Roadway FHWA Reimbursements	\$264,269.19
Sanitary Sewer FHWA Reimbursements	\$13,876.36
Federal Highway Transportation Funds for Construction Engineering	\$283,145.55
Federal Highway Transportation Funds for Construction Costs	
Roadway FHWA Reimbursements	\$2,488,294.03
Sanitary Sewer FHWA Reimbursements	\$177,789.26
Total FHWA Reimbursements for Construction	\$2,666,083.29
Private Party Costs	\$29,356.05
City Sanitary Sewer Department Costs	725,070.31
City Streets Department Costs	\$247,844.66

Resolution #2011-BE-8 was referred to the January 10, 2012 City Council meeting by the City Council at their December 20, 2011 meeting.

RESOLUTION 2011-BE-8


BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, sitting as a Board of Equalization for Street Improvement District No. 1256, after due notice having been given thereof, that we find and adjudge:

That the benefits accruing to the real estate in such District No. 1256 to be the total sum of \$732,831.98; and

Such benefits are equal and uniform; and

According to the equivalent frontage of the respective lots, tracts, and real estate within such Street Improvement District No. 1256, such benefits are the sums set opposite the several descriptions as follows:

<u>Name</u>	<u>Description</u>	<u>Assessment</u>
<u>Street Improvement District No. 1256</u>		
The Pinnacle Agency LLC	Lot 10, Bosselman 2 nd Subdivision	\$6,047.96
The Pinnacle Agency LLC	Lot 11, Bosselman 2 nd Subdivision	\$34,271.79
Dale L & Shirley Skow	Lot 12, Bosselman 2 nd Subdivision	\$44,335.36
Mid Nebraska Foundation Inc.	Lot 13, Bosselman 2 nd Subdivision	\$7,831.63
Bosselman Inc.	S 100' Lot 1, Bosselman Subdivision	\$2,878.83
Bosselman Inc.	Lot 2, Bosselman Subdivision	\$34,606.93
Bluestem Properties LLC	Lot 3, Bosselman Subdivision	\$37,497.37
Bluestem Properties LLC	Lot 4, Bosselman Subdivision	\$3,289.69
Casey Retail Copmany	Lot 1, Block 1, Dickey Subdivision	\$28,792.34
Library Restaurant & Lounge Inc.	S 64' of S ½ Lot 2, Block 1, Dickey Subdivision	\$1,044.28
Robert D & Patricia J Hancock	Lot 1, Bels 2 nd Subdivision	\$7,815.74
Robert D & Patricia J Hancock	Lot 2, Bels 2 nd Subdivision	\$7,975.25
Robert D & Patricia J Hancock	Lot 3, Bels 2 nd Subdivision	\$7,975.25
Robert D & Patricia J Hancock	Lot 4, Bels 2 nd Subdivision	\$7,975.25
Janiece Jones Trustees	Lot 5, Bels 2 nd Subdivision	\$7,975.25
Janiece Jones Trustees	Lot 6, Bels 2 nd Subdivision	\$7,975.25
Buck's Rental Inc.	Lot 7, Bels 2 nd Subdivision	\$7,975.25
Buck's Rental Inc.	Lot 8, Bels 2 nd Subdivision	\$7,975.25
Buck's Rental Inc.	Lot 9, Bels 2 nd Subdivision	\$7,975.25
Thomas J Lemke	Lot 2, Lemke Subdivision	\$3,370.73
Jeff & Jamie A Vinson	Lot 1, Lemke Subdivision	\$12,579.76
City of Grand Island	Part of SE ¼, SE ¼ of Section 1-11-10	\$29,836.62
	Detention Cell D-1	
O'Connor Enterprises Inc.	Parcel 1: A part of the SE ¼ of Section 1-11-10	\$37,023.90
	West of the 6 th p.m., described as follows, to-wit:	
	Commencing at a point at the SE corner of Section	
	1-11-10, running N 165' parallel to the center of the	
	Road along the E section line; thence running in a	
	westerly direction 264' parallel to the center of the	
	road, along the S side of said Section; thence E 264'	
	to the place of beginning, except a certain tract	
	deeded to the City of Grand Island recorded as	
	Document No.83-003899, Hall County, Nebraska.	
	And part of the SE ¼ of Section 1-11-10 west of the	

Approved as to Form 
December 19, 2011 City Attorney

6th p.m., more particularly described as follows:
Beginning at a point on the E line of said SE ¼, which point is 165' N of the SE corner of said SE ¼ of said Section, running thence N along the E line of said SE ¼ 165', running thence W parallel to the S line of said SE ¼ of said Section 264', running thence S parallel to the E line of said SE ¼, 165', running thence E parallel to the S line of said SE ¼ 264' to the actual point of beginning.

Northwest Crossings LLC DBA Gateway Shopping Center	Lot 1, Bels Subdivision	\$6,899.52
Northwest Crossings LLC DBA Gateway Shopping Center	Lot 2, Bels Subdivision	\$6,851.13
Northwest Crossings LLC DBA Gateway Shopping Center	Lot 3, Bels Subdivision	\$6,794.69
Northwest Crossings LLC DBA Gateway Shopping Center	Lot 4, Bels Subdivision	\$6,753.56
Northwest Crossings LLC DBA Gateway Shopping Center	Lot 5, Bels Subdivision	\$6,733.40
Northwest Crossings LLC DBA Gateway Shopping Center	Lot 6, Bels Subdivision	\$6,733.40
Northwest Crossings LLC DBA Gateway Shopping Center	Lot 7, Bels Subdivision	\$6,733.40
Northwest Crossings LLC DBA Gateway Shopping Center	Lot 8, Bels Subdivision	\$6,167.84
Gordman Grand Island LLC	N 300' of Lot 4, Grand Island Plaza Subdivision	\$28,191.49
Gordman Grand Island LLC	Lot 3, Grand Island Plaza Subdivision	\$52,100.57
Gordman Grand Island LLC	Lot 2, Grand Island Plaza Subdivision	\$9,016.88
Gordman Grand Island LLC	A tract of land comprising of part of the E ½ of the NE ¼ of Section 12-11-10 west of the 6 th p.m., Hall County, Nebraska, more particularly described as follows: Commencing at a point 75' E of the NW corner of said E ½ NE ¼ on the N line of said E ½ NE ¼; thence continuing easterly along the N line of said E ½ NE ¼ a distance of 200'; thence southerly and parallel to the westerly line of said E ½ NE ¼ a distance of 217.8'; thence westerly and parallel to the N line of said E ½ NE ¼ a distance of 200' to a point on the easterly right of way of US Highway No. 281; thence northerly along and upon the E right of way line of US Highway No. 281 a distance of 217.8' to the point of beginning.	\$29,346.33
John R Menard	Lot 6, Menard 2 nd Subdivision	\$38,567.49
Southeast Crossing LLC	Lot 7, Menard 2 nd Subdivision	\$1,069.20
City of Grand Island	Pt NW ¼, NE ¼, Section 12-11-10 Detention Cell C-1	\$59,553.89
John R Menard	Lot 3, Menard 2 nd Subdivision	\$20,455.15
John R Menard	Lot 2, Menard 2 nd Subdivision	\$37,756.19
City of Grand Island Utilities Substation	Beginning at the N ¼ corner of Section 12-11-10 West of the 6 th p.m.; thence on an assumed bearing of S 89°20'09" E along the N line of the NW ¼ of the NE ¼ of said Section 12, a distance of 75'; thence S 00° 03' 30" E along a line parallel to the W line of the NW ¼ of the NE ¼ of said Section 12, a distance	\$13,895.80

of 33' to the S right of way line of Capital Avenue; thence continuing s 00° 03' 30" E , a distance of 237'; thence s 89° 20' 09" E, a distance of 248'; thence N 89° 20' 09" W along a line parallel to the N line of the NW ¼ of the NE ¼ of said Section 12 a distance of 323' to a point on the W line of the NW ¼ of the NE ¼ of said Section 12; thence N 00° 03' 30" W along the W line of the NW ¼ of the NE ¼ of said Section 12, a distance of 537' to the S right of way line of Capital Avenue; thence continuing N 00° 03' 30" W, a distance of 33' to the point of beginning, containing 2.68 acres, more or less, all as shown on the plat marked Exhibit "A", dated 7-18-95, attached hereto and incorporated herein by reference.

City of Grand Island	Part of NE ¼, NW 1/4 of Section 12-11-10, being 80'x307' (Moores Creek Drainway)	\$12,902.32
City of Grand Island	Part of SE ¼ of SW ¼, Section 1-11-10, being 80'x307' (Moores Creek Drainway)	\$12,902.32
WBP Partnership	Part of the E ½ of the NE ¼ of Section 12-11-10 West of the 6 th p.m., Hall County, Nebraska, more particularly described as follows: Beginning at a point on the Section line, said point being 200; S of the NE corner of said Section 12; running thence W and parallel to the N section line of said Section 12, a distance of 418'; running thence S parallel to the E section line of said Section 12, a distance of 228'; running thence E parallel to the N section line of said Section 12, a distance of 418'; running thence N on the section line of said Section 12, a distance of 228' to the point of beginning, except for parts deeded in Deeds recorded as Document No. 83-004647 and Document No. 84-001480 in the Register of Deeds Office, Hall County, Nebraska.	\$8,382.48

TOTAL

\$32,831.98

Adopted by the City Council of the City of Grand Island, Nebraska, December 20, 2011.

Jay Vavricek, Mayor

Attest:

RaNae Edwards, City Clerk

Ordinance No. 9351 was referred to the January 10, 2012 City Council meeting by the City Council at their December 20, 2011 meeting.

This Space Reserved for Register of Deeds

ORDINANCE NO. 9351

An ordinance assessing and levying a special tax to pay the cost of construction of Street Improvement District No. 1256 of the City of Grand Island, Nebraska; providing for the collection of such special tax; repealing any provisions of the Grand Island City Code, ordinances, and 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. There is hereby assessed upon the following described lots, tracts and parcels of land specially benefited, for the purpose of paying the cost of construction of said street improvements in said Street Improvement District No. 1256, as adjudged by the Mayor and Council of the City, to the extent of benefits thereto by reason of such improvement, after due notice having been given thereof as provided by law; and a special tax for such cost of construction is hereby levied at one time upon such lots, tracts and land as follows:

<u>Name</u>	<u>Description</u>	<u>Assessment</u>
<u>Street Improvement District No. 1256</u>		
The Pinnacle Agency LLC	Lot 10, Bosselman 2 nd Subdivision	\$6,047.96
The Pinnacle Agency LLC	Lot 11, Bosselman 2 nd Subdivision	\$34,271.79
Dale L & Shirley Skow	Lot 12, Bosselman 2 nd Subdivision	\$44,335.36

Approved as to Form ☒ *[Signature]*
December 19, 2011 ☒ City Attorney

ORDINANCE NO. 9351 (Cont.)

Mid Nebraska Foundation Inc.	Lot 13, Bosselman 2 nd Subdivision	\$7,831.63
Bosselman Inc.	S 100' Lot 1, Bosselman Subdivision	\$2,878.83
Bosselman Inc.	Lot 2, Bosselman Subdivision	\$34,606.93
Bluestem Properties LLC	Lot 3, Bosselman Subdivision	\$37,497.37
Bluestem Properties LLC	Lot 4, Bosselman Subdivision	\$3,289.69
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Robert D & Patricia J Hancock	Lot 2, Bels 2 nd Subdivision	\$7,975.25
Robert D & Patricia J Hancock	Lot 3, Bels 2 nd Subdivision	\$7,975.25
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Buck's Rental Inc.	Lot 8, Bels 2 nd Subdivision	\$7,975.25
Buck's Rental Inc.	Lot 9, Bels 2 nd Subdivision	\$7,975.25
Thomas J Lemke	Lot 2, Lemke Subdivision	\$3,370.73
Jeff & Jamie A Vinson	Lot 1, Lemke Subdivision	\$12,579.76
City of Grand Island	Part of SE ¼, SE ¼ of Section 1-11-10 Detention Cell D-1	\$29,836.62
O'Connor Enterprises Inc.	Parcel 1: A part of the SE ¼ of Section 1-11-10 West of the 6 th p.m., described as follows, to-wit: Commencing at a point at the SE corner of Section 1-11-10, running N 165' parallel to the center of the Road along the E section line; thence running in a westerly direction 264' parallel to the center of the road, along the S side of said Section; thence E 264' to the place of beginning, except a certain tract deeded to the City of Grand Island recorded as Document No.83-003899, Hall County, Nebraska. And part of the SE ¼ of Section 1-11-10 west of the 6 th p.m., more particularly described as follows: Beginning at a point on the E line of said SE ¼, which point is 165' N of the SE corner of said SE ¼ of said Section, running thence N along the E line of said SE ¼ 165', running thence W parallel to the S line of said SE ¼ of said Section 264', running thence S parallel to the E line of said Se ¼, 165', running thence E parallel to the S line of said Se ¼ 264' to the actual point of beginning.	\$37,023.90
Northwest Crossings LLC	Lot 1, Bels Subdivision	\$6,899.52
DBA Gateway Shopping Center	Lot 2, Bels Subdivision	\$6,851.13
Northwest Crossings LLC	Lot 3, Bels Subdivision	\$6,794.69
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Northwest Crossings LLC	Lot 5, Bels Subdivision	\$6,733.40
DBA Gateway Shopping Center	Lot 6, Bels Subdivision	\$6,733.40
Northwest Crossings LLC		

ORDINANCE NO. 9351 (Cont.)

Northwest Crossings LLC DBA Gateway Shopping Center	Lot 7, Bels Subdivision	\$6,733.40
Northwest Crossings LLC DBA Gateway Shopping Center	Lot 8, Bels Subdivision	\$6,167.84
Gordman Grand Island LLC	N 300' of Lot 4, Grand Island Plaza Subdivision	\$28,191.49
Gordman Grand Island LLC	Lot 3, Grand Island Plaza Subdivision	\$52,100.57
Gordman Grand Island LLC	Lot 2, Grand Island Plaza Subdivision	\$9,016.88
Gordman Grand Island LLC	A tract of land comprising of part of the E ½ of the NE ¼ of Section 12-11-10 west of the 6 th p.m., Hall County, Nebraska, more particularly described as follows: Commencing at a point 75' E of the NW corner of said E ½ NE ¼ on the N line of said E ½ NE ¼; thence continuing easterly along the N line of said E ½ NE ¼ a distance of 200'; thence southerly and parallel to the westerly line of said E ½ NE ¼ a distance of 217.8'; thence westerly and parallel to the N line of said E ½ NE ¼ a distance of 200' to a point on the easterly right of way of US Highway No. 281; thence northerly along and upon the E right of way line of US Highway No. 281 a distance of 217.8' to the point of beginning.	\$29,346.33
John R Menard	Lot 6, Menard 2 nd Subdivision	\$38,567.49
Southeast Crossing LLC	Lot 7, Menard 2 nd Subdivision	\$1,069.20
City of Grand Island	Pt NW ¼, NE ¼, Section 12-11-10 Detention Cell C-1	\$59,553.89
John R Menard	Lot 3, Menard 2 nd Subdivision	\$20,455.15
John R Menard	Lot 2, Menard 2 nd Subdivision	\$37,756.19
City of Grand Island Utilities Substation	Beginning at the N ¼ corner of Section 12-11-10 West of the 6 th p.m.; thence on an assumed bearing of S 89°20'09" E along the N line of the NW ¼ of the NE ¼ of said Section 12, a distance of 75'; thence S 00° 03' 30" E along a line parallel to the W line of the NW ¼ of the NE ¼ of said Section 12, a distance of 33' to the S right of way line of Capital Avenue; thence continuing S 00° 03' 30" E, a distance of 237'; thence S 89° 20' 09" E, a distance of 248'; thence N 89° 20' 09" W along a line parallel to the N line of the NW ¼ of the NE ¼ of said Section 12 a distance of 323' to a point on the W line of the NW ¼ of the NE ¼ of said Section 12; thence N 00° 03' 30" W along the W line of the NW ¼ of the NE ¼ of said Section 12, a distance of 537' to the S right of way line of Capital Avenue; thence continuing N 00° 03' 30" W, a distance of 33' to the point of beginning, containing 2.68 acres, more or less, all as shown on the plat marked Exhibit "A", dated 7-18-95, attached hereto and incorporated herein by reference.	\$13,895.80
City of Grand Island	Part of NE ¼, NW 1/4 of Section 12-11-10, being 80'x307' (Moores Creek Drainway)	\$12,902.32
City of Grand Island	Part of SE ¼ of SW ¼, Section 1-11-10, being 80'x307' (Moores Creek Drainway)	\$12,902.32
WBP Partnership	Part of the E ½ of the NE ¼ of Section 12-11-10 West of the 6 th p.m., Hall County, Nebraska, more particularly described as follows: Beginning at a point on the Section	\$8,382.48

ORDINANCE NO. 9351 (Cont.)

line, said point being 200; S of the NE corner of said Section 12; running thence W and parallel to the N section line of said Section 12, a distance of 418'; running thence S parallel to the E section line of said Section 12, a distance of 228'; running thence E parallel to the N section line of said Section 12, a distance of 418'; running thence N on the section line of said Section 12, a distance of 228' to the point of beginning, except for parts deeded in Deeds recorded as Document No. 83-004647 and Document No. 84-001480 in the Register of Deeds Office, Hall County, Nebraska.

TOTAL

\$732,831.98

SECTION 2. The special tax shall become delinquent as follows: One-tenth of the total amount shall become delinquent in fifty days; one-tenth in one year; one-tenth in two years; one-tenth in three years; one-tenth in four years; one-tenth in five years; one-tenth in six years; one-tenth in seven years; one-tenth in eight years; and one-tenth in nine years respectively, after the date of such levy; provided, however, the entire amount so assessed and levied against any lot, tract or parcel of land may be paid within fifty days from the date of this levy without interest, and the lien of special tax thereby satisfied and released. Each of said installments, except the first, shall draw interest at the rate of seven percent (7.0%) per annum from the time of such levy until they shall become delinquent. After the same become delinquent, interest at the rate of fourteen percent (14.0%) per annum shall be paid thereof, until the same is collected and paid.

SECTION 3. The treasurer of the City of Grand Island, Nebraska is hereby directed to collect the amount of said taxes herein set forth as provided by law.

SECTION 4. Such special assessments shall be paid into a fund to be designated as the "Street Improvement Fund" for Street Improvement District No. 1256.

ORDINANCE NO. 9351 (Cont.)

SECTION 5. Any provision of the Grand Island City Code, and any provision of any ordinance, or part of ordinance, in conflict herewith is hereby repealed.

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: December 20, 2011.

Jay Vavricek, Mayor

Attest:

RaNae Edwards, City Clerk



City of Grand Island

Tuesday, January 10, 2012

Council Session

Item E1

Public Hearing on Request from Fuji Steak House, Inc. dba Fuji Japanese Steak House, 1004 North Diers Avenue, Suite 200 for a Class "I" Liquor License

Staff Contact: RaNae Edwards

Council Agenda Memo

From: RaNae Edwards, City Clerk

Meeting: January 10, 2012

Subject: Public Hearing on Request from Fuji Steak House, Inc.
dba Fuji Japanese Steak House, 1004 North Diers
Avenue, Suite 200 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

Fuji Steak House, Inc. dba Fuji Japanese Steak House, 1004 North Diers Avenue, Suite 200 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 submitted with the application was a request from Qi Qin Huang, 1206 Cedar Ridge Court, Apt. 101 for a Liquor Manager designation.

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 Fuji Steak House, Inc. dba Fuji Japanese Steak House, 1004 North Diers Avenue, Suite 200 for a Class 'T' Liquor License and Liquor Manager designation for Qi Qin Huang, 206 Cedar Ridge Court, Apt. 101 contingent upon Mr. Huang completing a state approved alcohol server/seller training program.

01/05/12

Grand Island Police Department

450

10:48

LAW INCIDENT TABLE

Page:

City	: Grand Island
Occurred after	: 12:24:20 12/20/2011
Occurred before	: 12:24:20 12/20/2011
When reported	: 12:24:20 12/20/2011
Date disposition declared	: 12/20/2011
Incident number	: L11122728
Primary incident number	:
Incident nature Investigation	: Liquor Lic Inv Liquor License
Incident address	: 1004 Diers Ave N
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 : 19381
Long-term call ID :
Clearance Code : CL Case Closed
Judicial Status : NCI Non-criminal Incident

= = = = =

INVOLVEMENTS:

Px	Record #	Date	Description	Relationship

NM	172816	01/05/12	Huang, Jian He	Owner
NM	167270	12/21/11	Huang, Qi	Liquor Manager
NM	165488	12/20/11	Fuji Steak House,	Business
Involved				

LAW INCIDENT CIRCUMSTANCES:

Se Circu Circumstance code Miscellaneous

-- -----

1 LT21 Restaurant

LAW INCIDENT NARRATIVE:

I Received a Copy of a Liquor License Application from Fuji Steak House and a

Copy of a Liquor Manager Application from Qi Qin Huang.

LAW INCIDENT RESPONDERS DETAIL:

Se Responding offi Unit n Unit number

LAW SUPPLEMENTAL NARRATIVE:

Seq Name Date

1 Vitera D 14:24:10 12/21/2011

01/05/12 Grand Island Police Department 450

10:48 LAW INCIDENT TABLE Page:
318

Grand Island Police Department

Supplemental Report

Date, Time: Wed Dec 21 14:24:22 CST 2011

Reporting Officer: Vitera

Unit- CID

I completed a liquor license investigation for the Fuji Japanese Steakhouse six months ago.

They received a liquor license. Tu Gen Yang is now selling the

restaurant to Jian He Huang who is applying for a Class I (beer, wine, distilled

spirits on sale only) Corporate liquor license. Jian's spouse (Lan Jin Zhang)

signed a Spousal Affidavit of Non Participation form. Besides the liquor manager (Qi Qin Huang), no one else is listed on the application.

Jian submitted several copied forms of identification to include a Nebraska

driver's license, Social Security card, an immigration document, and a Chinese

passport. The passport was issued on 8/18/09. The immigration document

indicates that Jian has been a "Resident" since 1994. His Nebraska driver's

license was issued on 10/3/11. Qi submitted a U.S. passport, Social Security

card, Nebraska driver's license, and a U.S.A. Certificate of Naturalization

certificate. No identification documents were included for Lan.

One of the first things I noticed while reviewing the application, is that it

appears that Jian is not a "Citizen" of the United States. He is a "Resident."

If that's true, I initially thought he might be ineligible to receive a liquor

license according to Nebraska State Statute 53-125. I sent a request to HSI to

verify the immigration status of all three people listed on both applications.

I also checked local and State databases. I couldn't find Jian or Lan in Spillman. Qi's only entry in Spillman was the one I made during the first Fuji

liquor license investigation. I checked NCJIS and located a driver's license

entry for Jian and Qi. Nothing was found on Lan. I checked Jian and Qi through

TLO (law enforcement database) for bankruptcies and judgments but did not locate anything.

I was advised by our local HSI office that all three people are in the Country

legally. Jian and Lan are residents, and Qi is a citizen.

While further reviewing the application and examining 53-125, I read that lack

of citizenship isn't an automatic disqualifier against an applicant of a corporate license.

On 1/4/12, I met with Qi and Jian. Qi goes by "Jason" and speaks English. Jian

is Qi's father, and he does not speak English. Jason moved to the U.S. from

China when he was thirteen years old. Jason advised that he has been working

hard at the restaurant and reminded me that Tu Gen was assisting him with becoming a manager at the restaurant. Jason had told me this six months ago

during the initial liquor license investigation. Now that the restaurant has

been up and running for six months, Tu Gen is moving to Rapid City, South Dakota

where he is planning on opening another restaurant and settling down.

I went over the application with Jason. Jian set at a table next to us. Jason

advised that he did recall one traffic conviction in Florida back in '96 or '97.

Other than that, he said he has not been in any trouble. Jason said his father

has lived in the U.S. for a little over twenty years and has no criminal history

here or in China that he knows of. Since I can't run out of state criminal

history checks for liquor license investigations, the fingerprint submissions

to the State will have to be considered by the NLCC.

For the first six months since the business opened with a liquor license, I'm

not aware of any alcohol-related problems that required law enforcement

presence. Since Jason is continuing to work at the restaurant and applying to

be the liquor manager, I don't think the transition in ownership will be a

problem. Barring any problems at the State level, the GIPD has no objection to

Jian He Huang having a liquor license for Fuji Japanese Steakhouse or to Qi

"Jason" Qin Huang being the liquor manager.



City of Grand Island

Tuesday, January 10, 2012

Council Session

Item E2

**Public Hearing Concerning Acquisition of Utility Easement - 3323
West Airport Road - Olson**

Staff Contact: Tim Luchsinger

Council Agenda Memo

From: Robert H. Smith, Asst. Utilities Director

Meeting: January 10, 2012

Subject: Acquisition of Utility Easement – 3323 W. Airport Rd. - Olson

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

Presenter(s): Timothy Luchsinger, Utilities Director

Background

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 Luke A. Olson, located near the northeast corner of the new building located at 3323 West Airport Road, in Hall County, in order to have access to install, upgrade, maintain, and repair power appurtenances, including lines and transformers.

Discussion

This easement will be used to place underground conduit, high voltage cable and a pad-mounted transformer to provide electrical service to a new business.

Alternatives

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

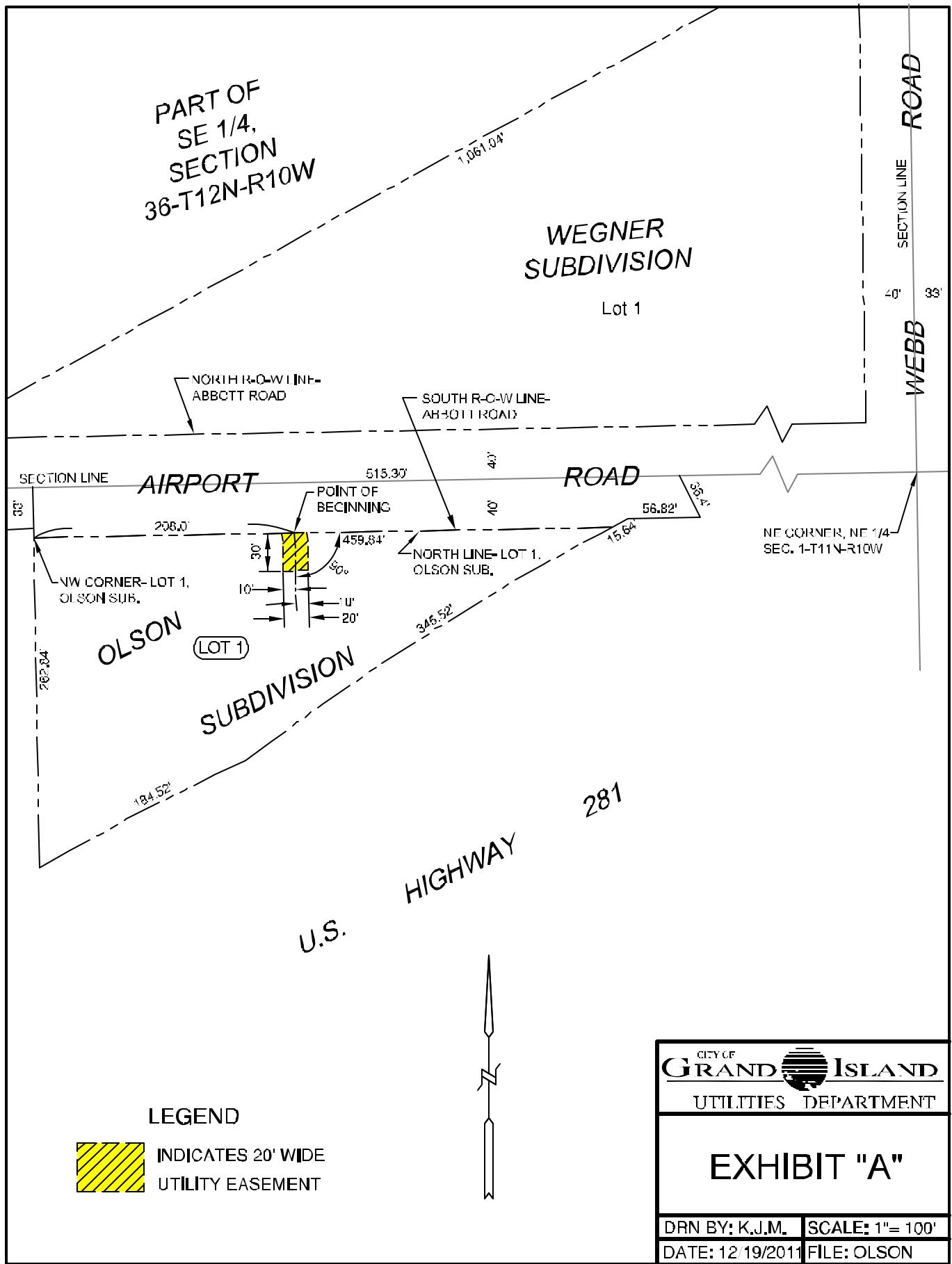
1. Make a motion to approve
2. Refer the issue to a Committee
3. Postpone the issue to future date
4. Take no action on the issue

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.





City of Grand Island

Tuesday, January 10, 2012

Council Session

Item E3

**Public Hearing Concerning Acquisition of Utility Easement - 1819
East 7th Street - Eihusen**

Staff Contact: Tim Luchsinger

Council Agenda Memo

From: Robert H. Smith, Asst. Utilities Director

Meeting: January 10, 2012

Subject: Acquisition of Utility Easement – 1819 East 7th Street - Eihusen

Item #'s: E-3 & G-5

Presenter(s): Timothy Luchsinger, Utilities Director

Background

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 G. Eihusen located along the east side of the building located at 1819 East 7th 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

This easement will be used to place underground conduit, high voltage power cable, and a pad-mounted transformer to provide electrical power to the new business opened by Global Industries.

Alternatives

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

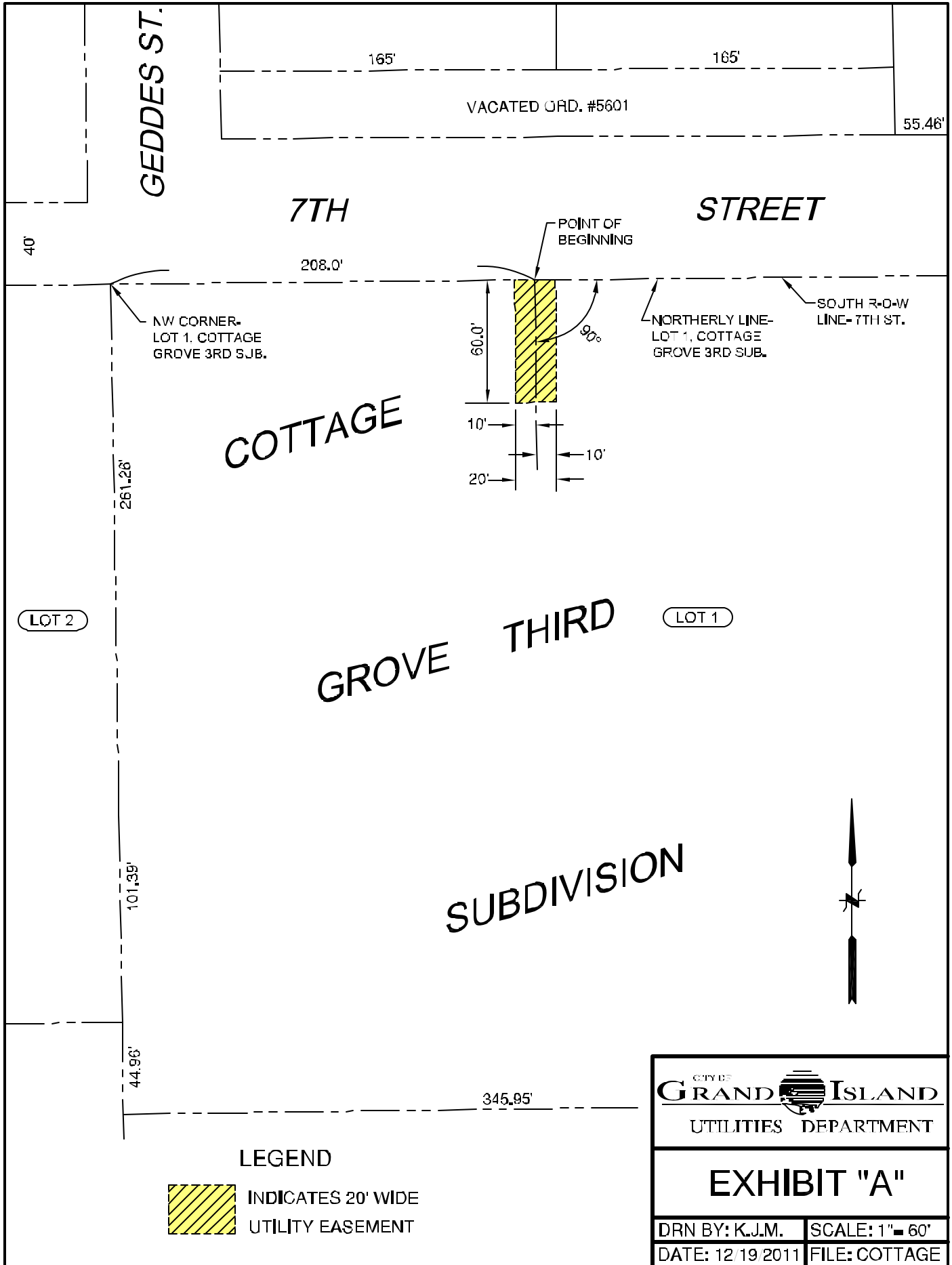
1. Make a motion to approve
2. Refer the issue to a Committee
3. Postpone the issue to future date
4. Take no action on the issue

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.





City of Grand Island

Tuesday, January 10, 2012

Council Session

Item F1

**#9349 - Consideration of Amending Previously Adopted Ordinance
No. 9349 Relating to Chapter 36-69 of the Grand Island City Code
Regarding Campgrounds**

Staff Contact: Chad Nabity

Council Agenda Memo

From: Chad Nabity, AICP

Meeting: January 10, 2012

Subject: Changes to Chapter 36 (Zoning)

Item #'s: F-1

Presenter(s): Chad Nabity, Regional Planning Director

Background

Concerning proposed amendments to Chapter 36 of the Grand Island City Code (Zoning) in the following area: §36-69 - (AC) Arterial Commercial Overlay Zone. (C-03-2012GI

Changes were made at the last City Council meeting on December 20, 2011 to the AC Arterial Commercial Overlay Zone regulations to allow the development of RV Parks and Campgrounds by conditional use permit. These changes established the following minimum requirements for an RV Park or Campground.

(2) Campgrounds including those serving recreational vehicles subject to following conditions:

a) Developer shall submit a diagram of the proposed camp ground including a plot plan of the pads, landscaping plan, utility plan and interior street plan with the application for a conditional use permit

b) A minimum of one toilet shall be provided for each sex up to the first 25 sites. For each additional 25 sites or fraction thereof not provided with sewer connections, an additional toilet for each sex shall be provided.

c) All RV pads shall be provided with a landscape buffer yard or street yard as identified in the landscaping section of this code.

d) Pads shall not be accessible from any public way.

During the discussions regarding these changes Council discussed if these were clear enough that anyone applying for the conditional use permit would know that they would be required to put in a toilet and a lavatory as the previous regulations required both a toilet and a lavatory. The discussion during the meeting was that the plumbing code requires both a lavatory and a toilet and that Council could add the additional language during the issuance of the conditional use permit. Staff upon reflection of the discussion is recommending that Council amend the ordinance passed on December 20, 2011 to specify that a toilet and lavatory are required for each sex for the first 25 sites and every 25 sites or fraction thereof not provided with sewer connections. We feel that this clarification now will avoid confusion

later and are recommending that Council pass an amended ordinance with the following language

(2) Campgrounds including those serving recreational vehicles subject to following conditions:

a) Developer shall submit a diagram of the proposed camp ground including a plot plan of the pads, landscaping plan, utility plan and interior street plan with the application for a conditional use permit

b) A minimum of one toilet and one lavatory shall be provided for each sex up to the first 25 sites. An additional toilet and lavatory for each sex shall be provided for each additional 25 sites or fraction thereof not provided with sewer connections

c) All RV pads shall be provided with a landscape buffer yard or street yard as identified in the landscaping section of this code.

d) Pads shall not be accessible from any public way.

Discussion

The Planning Commission held a public hearing on the proposed changes at their meeting on December 7, 2011. No members of the public spoke in favor or against the proposed changes. A motion was made by Haskins and seconded by Bredthauer to approve the amendments to Chapter 36 of the Grand Island City Code. The motion carried with 8 members present and all voting in favor (O'Neill, Ruge, McCarty, Bredthauer, Reynolds, Haskins, Hayes and Snodgrass) and no members abstaining.

Council made minor modifications to the regulations as recommended by the Planning Commission and Staff is recommending that Council make additional minor changes based on the discussion at the December 20, 2011 City Council meeting.

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 proposed changes as recommended.

Sample Motion

Move to approve the proposed changes to Chapter 36 as recommended and shown in Amended Ordinance Number 9349

ORDINANCE NO. 3949 Amended

An ordinance to amend for the purposes of clarifying the language and intent of the previously adopted Ordinance No. 3949 amending Chapter 36 of the Grand Island City Code specifically, to amend Section 36-69 pertaining to the AC Arterial Commercial Overlay Zone; to repeal Sections 36-69 as now existing, and 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 36-69 of the Grand Island City Code is hereby amended to read as follows:

§36-69. (AC) Arterial Commercial Overlay Zone

Intent: The intent of this zoning district is to provide an overlay of the (B-2) General Business Zoning District in order to require increased front setbacks, landscaping, and the limitation of some uses within areas along entrance corridors of the city. As the name implies, the overlay will be most commonly used along an arterial street corridor.

(A) Permitted Principal Uses: The following principal uses are permitted in the (AC) Arterial Commercial Overlay District

- (1) Agencies as found in the Zoning Matrix [Attachment A hereto]
- (2) Boarding and lodging houses, fraternity and sorority houses
- (3) Churches, synagogues, chapels, and similar places of religious worship and instruction of a quiet nature
- (4) Colleges offering courses of general instruction, including convents, monasteries, dormitories, and other related living structures when located on the same site as the college
- (5) Country clubs
- (6) Dwelling units
- (7) Elderly Home, Assisted Living
- (8) Group Care Home with less than eight (8) individuals
- (9) Hospitals, nursing homes, convalescent or rest homes
- (10) Manufacture, fabrication or assembly uses incidental to wholesale or retail sales wherein not more than 20% of the floor area is so used
- (11) Nonprofit community buildings and social welfare establishments
- (12) Office and office buildings for professional and personal service as found in the Zoning Matrix [Attachment A hereto]
- (13) Outdoor sales and rental lots for new or used automobiles, boats, motor vehicles, trailers, manufactured homes, farm and construction machinery, etc.
- (14) Preschools, nursery schools, day care centers, children's homes, and similar facilities
- (15) Public parks and recreational areas
- (16) Public, parochial and private schools having a curriculum equivalent to an elementary or higher educational level
- (17) Public and quasi-public buildings for cultural use
- (18) Radio and television stations (no antennae), private clubs and meeting halls
- (19) Railway right-of-way but not including railway yards or facilities
- (20) Specific uses such as: archery range, drive-in theatre, golf driving range
- (21) Stores and shops that conduct retail business, provided, all activities and display goods are carried on within an enclosed building except that green plants and shrubs may be displayed ~~in the open, as per the Zoning~~

Approved as to Form	<input checked="" type="checkbox"/>	_____
January 6, 2012	<input checked="" type="checkbox"/>	City Attorney

ORDINANCE NO. 9349 Amended (Cont.)

Matrix (Attachment A hereto)

(22) Stores and shops for the conduct of wholesale business, including sale of used merchandise.

(23) Truck, bush and tree farming, provided, there is no display or sale at retail of such products on the premises

(24) Utility substations necessary to the functioning of the utility, but not including general business offices, maintenance facilities and other general system facilities, when located according to the yard space rules set forth in this section for dwellings and having a landscaped or masonry barrier on all sides. Buildings shall be of such exterior design as to harmonize with nearby properties

(25) Vocational or trade schools, business colleges, art and music schools and conservatories, and other similar uses

(26) Other uses as indicated in the Zoning Matrix [Attachment A hereto]

(B) Conditional Uses: The following uses are subject to any conditions listed in this chapter and are subject to other conditions relating to the placement of said use on a specific tract of ground in the (AC) Arterial Commercial Overlay District as approved by City Council.

(1) Towers

(2) Campgrounds including those serving recreational vehicles subject to following conditions:

a) Developer shall submit a diagram of the proposed camp ground including a plot plan of the pads, landscaping plan, utility plan and interior street plan with the application for a conditional use permit

b) A minimum of one toilet and one lavatory shall be provided for each sex up to the first 25 sites. An additional toilet and lavatory for each sex shall be provided for each additional 25 sites or fraction thereof not provided with sewer connections

c) All RV pads shall be provided with a landscape buffer yard or street yard as identified in the landscaping section of this code.

d) Pads shall not be accessible from any public way.

(C) Permitted Accessory Uses:

(1) Buildings and uses accessory to the permitted principal uses

(2) Automotive body repair may be accessory to new or used automotive sales or rental, provided, no outside storage of parts shall be permitted.

(D) Space Limitations:

Uses			Minimum Setbacks					
		A	B	C	D	E		
	Minimum Parcel Area (feet)	Minimum Lot Width (feet)	Front Yard (feet)	Rear Yard (feet)	Side Yard (feet)	Street Side Yard (feet)	Maximum Ground Coverage	Maximum Building Height (feet)
Permitted Uses	5,000	50	20	0 ¹	0 ²	10	80%	55
Conditional Uses	5,000	50	20	0 ¹	0 ²	10	80%	55

¹ No rear yard setback is required if bounded by an alley, otherwise a setback of 10 feet is required.

² No side yard setback is required, but if provided, not less than 5 feet, or unless adjacent to a parcel whose zone requires a side yard setback, then 5 feet.

(E) Procedure:

(1) An application for an amendment to the arterial commercial zone on the Official Zoning Map shall follow all procedural requirements as set forth in this Section.

(F) Miscellaneous Provisions:

(1) Supplementary regulations shall be complied with as defined herein.

(2) Only one principal building shall be permitted on any one zoning lot except as otherwise provided herein.

(3) Landscaping shall be provided and maintained within the 20 foot front yard setback. Landscaping shall mean lawn areas and may also include trees, shrubs, and flowers. Crushed or lava rock, gravel, bark chips, etc. shall not substitute for lawn area.

ORDINANCE NO. 9349 Amended (Cont.)

(4) All improvements and uses shall be designed to direct primary vehicular and pedestrian traffic to arterial street access and reduce such traffic on adjacent non-arterial streets and alleys.

Amended by Ordinance No. 8947, effective 1-5-2005

Amended by Ordinance No. 9202, effective 02-15-09

SECTION 2. Section 36-69 as existing prior to this amendment, and any ordinances or parts of ordinances in conflict herewith, are repealed.

SECTION 3. 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 4. That this ordinance shall be in force and take effect February 1, 2012.

Enacted: January 10, 2012.

Jay Vavricek, Mayor

Attest:

RaNae Edwards, City Clerk



City of Grand Island

Tuesday, January 10, 2012

Council Session

Item F2

**#9356 - Consideration of Conveyance of City Property and
Temporary Construction Easements to Burlington Northern Santa
Fe Railroad for Double Track Project**

Staff Contact: Robert Sivick

Council Agenda Memo

From: Robert J. Sivick, City Attorney

Meeting: January 10, 2012

Subject: Conveyance of Real Estate and the Granting of Easements for the BNSF Second Track Project

Item #'s: F-2

Presenter(s): Timothy Luchsinger, Utilities Director

Background

In 1993, Burlington Northern Railroad completed an elevated rail overpass to eliminate traffic conflicts caused by an at-grade crossing with the Union Pacific Railroad. In April, 2011 the City of Grand Island (City) was advised by BNSF Railway (BNSF) it was proceeding with a project to widen this overpass to a double track to alleviate traffic congestion as a result of multiple tracks reducing to a single track through Grand Island. As a result of this, multiple electrical, water, and sewer utility crossings by the City across BNSF right-of-way will need to be modified to accommodate the track improvement project. These modifications include either relocating utilities or encasement of the utilities to current railroad crossing standards. To accomplish this, BNSF needs to acquire portions of Utilities Department properties adjoining BNSF property south of the JBS facility and at the Burdick Station.

On November 29, 2011 this project was the subject of a City Council Study Session. On December 6, 2011 the Grand Island City Council (Council) unanimously voted to approve the proposed Master Utility Relocation Agreement (Agreement) between the City and BNSF.

Discussion

Pursuant to paragraph 2f and Exhibit D of the Agreement, the City is obligated to convey six parcels of real estate it owns to BNSF. Because Neb. Rev. Stat. §16-202 grants the public the right to remonstrance within thirty days of the passage and publication of any sale of publicly owned real estate, BNSF will not take title to the real estate unless the Council approves and until the expiration of the remonstrance period. To allow BNSF to

begin work on the property in the meantime, the Agreement obligates the City to grant temporary construction easements for the parcels.

Alternatives

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

1. Move to approve.
2. Take no action on the issue.

Recommendation

City Administration recommends that the Council approve Ordinance No. 9356 and authorize the Mayor to execute the six Warranty Deeds and six Temporary Construction Easements

Sample Motion

Move to approve Ordinance No. 9356 and authorize the Mayor to execute the six Warranty Deeds and six Temporary Construction Easements.

WARRANTY DEED

The City of Grand Island, a(n) Nebraska Municipal Corporation ("**GRANTOR**"), for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) cash and other good and valuable consideration to it paid by BNSF RAILWAY COMPANY, a Delaware corporation ("**GRANTEE**"), whose mailing address is 2500 Lou Menk Drive, Fort Worth, Texas 76131, the receipt and sufficiency of which are hereby acknowledged and confessed, has GRANTED, BARGAINED, SOLD, and CONVEYED, and by these presents does GRANT, BARGAIN, SELL, and CONVEY unto the Grantee that certain tract of land ("**Land**") described on Exhibit "A" hereto, together with all improvements thereon and all rights and appurtenances appertaining thereto, and all of Seller's rights and interest, if any, in and to all easements and alleys, highways, or streets in, on, across or adjoining the Land (herein collectively called the "**Property**").

This Deed is executed by GRANTOR and accepted by GRANTEE subject to validly existing and enforceable rights, interests, and estates, if any do in fact exist, but only to the extent that the same do in fact exist, of third parties in connection with those items set out and listed on Exhibit "B" hereto (herein called the "**Permitted Encumbrances**"). GRANTOR covenants with GRANTEE that GRANTOR has legal power and lawful authority to convey the Land.

TO HAVE AND TO HOLD the Property together with all and singular the rights and appurtenances thereto in anywise belonging unto GRANTEE, its legal representatives, successors, and assigns forever; and GRANTOR does hereby bind itself, its legal representatives, successors, and assigns to WARRANT AND FOREVER DEFEND all and singular the Property, subject to the Permitted Encumbrances, unto GRANTEE, its legal representatives, successors, and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof.

WITNESS THE EXECUTION HEREOF as of the ____ day of _____, 20__.

GRANTOR:

The City of Grand Island

By: _____
Name: Jay Vavricek
Title: Mayor

STATE OF NEBRASKA)
)ss.
COUNTY OF HALL)

This instrument was acknowledged before me on the _____ day of _____, 20__, by Jay Vavricek, Mayor of The City of Grand Island a(n) Nebraska Municipal Corporation, on behalf of said Municipal Corporation..

WITNESS my hand and notarial seal on this _____ day of _____, 20__.

Notary Public

My Commission Expires: _____

Deed Exhibits:

Exhibit A: Legal Description
Exhibit B: Permitted Encumbrances

LEGAL DESCRIPTION – EXHIBIT A (Parcel 4)

A tract of land located in the Northeast Quarter of the Southeast Quarter (NE1/4, SE1/4) of Section One (1), Township Eleven (11) North, Range Ten (10) West of the 6th P.M., City of Grand Island, Hall County, Nebraska, more particularly described as follows:

Commencing at the East Quarter corner of said Section One (1); thence on an assumed bearing of South 88° 55' 30" West, a distance of thirty nine and eighty hundredths (39.80) feet to a point on the westerly Right-of-Way line of North Webb Road; thence South 01° 23' 00" East along said Right-of-Way line, a distance of eighty seven and thirty hundredths (87.30) feet to the Point of Beginning; thence South 01°23'00" East, a distance of fifty two and twenty five hundredths (52.25) feet to a point on the northerly Right-of-Way line of the BNSF Railroad; thence North 74°58'20" West along said BNSF Railroad Right-of-Way line, a distance of five hundred seven and seventy hundredths (507.70) feet; thence North 89°04'30" East, a distance of one hundred eighty two and eight hundredths (182.08) feet; thence South 74°59'10" East, a distance of three hundred seventeen and eighty eight hundredths (317.88) feet to the Point of Beginning.

Together with and subject to covenants, easement and restrictions of record.

Said tract of land contains 0.48 acres more or less.

EXCEPTIONS

Terms and conditions of Power and Line Lease granted to the Grand Island Electric Company, recorded June 11, 1915 in Book N, Page 138; assigned to the City of Grand Island by Assignment or Rights-of-Way, recorded August 19, 1970 in Book 20, Page 715, records of Hall County, Nebraska.

Reserving a right-of-way and easement for public streets and public utilities along Webb Road, being more particularly described as: the easterly fifty (50) feet of the Northeast Quarter of the Southeast Quarter (NE1/4, SE1/4), Section One (1), Township Eleven (11) North, Range Ten (10) West of the 6th P.M., in the City of Grand Island, Hall County, Nebraska.

TEMPORARY CONSTRUCTION EASEMENT

KNOW ALL MEN BY THESE PRESENTS, that the CITY OF GRAND ISLAND, NEBRASKA, referred to hereinafter as "**Grantor**", for Ten and No/100 Dollars (\$10.00) to it paid by **BNSF RAILWAY COMPANY**, a Delaware corporation, whose address for purposes of this instrument is 2650 Lou Menk Drive, Fort Worth, Texas 76131-2830, the "**Grantee**", and for the promises of the Grantee hereinafter specified, does hereby grant, bargain, sell, and convey unto the Grantee and its employees, officers, affiliates, contractors, agents and/or assigns (the "**BNSF Parties**"), subject to the terms and conditions hereinafter set forth, an exclusive **TEMPORARY CONSTRUCTION EASEMENT** (the "**Temporary Construction Easement**") for the construction and installation of that certain "double track" expansion of railroad tracks and related equipment and facilities (collectively, the "**Double Track Facilities**") in, on, over, under, and through those certain premises (the "**Easement Area**"), situated in Hall County, Nebraska, to-wit:

See **Exhibit "A"**, attached hereto and made a part hereof, for the description of the Easement Area.

The foregoing Temporary Construction Easement is made subject to and upon the following express conditions:

1. The Grantor on behalf of itself, its successors, and assigns hereby agrees that, as of the Commencement Date (defined below), Grantee and the BNSF Parties shall enjoy the Temporary Construction Easement in, on, over, under, and through the Easement Area and may use the Easement Area in any way they see fit in order to construct the Double Track Facilities and all related equipment, facilities, structures, and/or infrastructure deemed necessary or beneficial by Grantee and/or the BNSF Parties.
2. The Temporary Construction Easement shall be binding upon and inure to the benefit of the heirs, executors, administrators, assigns, and successors of Grantor, Grantee, and the BNSF Parties.
3. The Temporary Construction Easement shall be exclusive in favor of Grantee and the BNSF Parties. Grantor shall not occupy, undertake any work on, or interfere with Grantee's and/or the BNSF Parties' use of the Easement Area. Further, Grantor shall use its best reasonable efforts to ensure that third parties do not interfere with use of the Easement Area by Grantee and/or the BNSF Parties.
4. In connection with the Temporary Construction Easement, Grantee and/or the BNSF Parties shall have the right, but not the obligation, to remove all trees, brush, and other vegetation from the above-described Easement Area and to reconfigure the Easement Area in any way they deem necessary or beneficial.

The Temporary Construction Easement shall commence in favor of Grantee and the BNSF Parties on **January 10, 2012** (the "**Commencement Date**"), and shall continue in full effect until its termination upon the earlier of (i) July 1, 2014, (ii) completion of the Double Track Facilities by Grantee and/or the BNSF Parties (with completion of the Double Track Facilities to be signified by Grantee's delivery of written notification of completion to Grantor), or (iii) Grantee's acquisition of fee simple title to the Easement Area from Grantor.

TO HAVE AND TO HOLD THE SAME, together with all the hereditaments and appurtenances thereunto belonging to Grantee and the BNSF Parties for their use and enjoyment for the purposes aforesaid and for no other purpose whatsoever subject to the terms and conditions hereinbefore stated.

EXECUTED to be effective as of the 10th day of January, 2012.

GRANTOR:

CITY OF GRAND ISLAND, NEBRASKA

By: _____
Name: Jay Vavricek
Title: Mayor

THE STATE OF NEBRASKA §
 §
COUNTY OF HALL §

This instrument was acknowledged before me on the _____ day of _____, 2012, as the voluntary act of the person known by me to be Jay Vavricek, the Mayor of the City of Grand Island, Nebraska, on behalf of and with the full authority of the City of Grand Island, Nebraska.

Notary Public, State of Nebraska

Notary's Typed or Printed Name

My Commission Expires: _____

EXHIBIT "A"
TO THE TEMPORARY CONSTRUCTION EASEMENT INSTRUMENT FROM
THE CITY OF GRAND ISLAND, NEBRASKA, TO BNSF AND THE BNSF PARTIES

Legal Description of the Easement Area

(Parcel 4)

A tract of land located in the Northeast Quarter of the Southeast Quarter (NE1/4, SE1/4) of Section One (1), Township Eleven (11) North, Range Ten (10) West of the 6th P.M., City of Grand Island, Hall County, Nebraska, more particularly described as follows:

Commencing at the East Quarter corner of said Section One (1); thence on an assumed bearing of South 88° 55' 30" West, a distance of thirty nine and eighty hundredths (39.80) feet to a point on the westerly Right-of-Way line of North Webb Road; thence South 01° 23' 00" East along said Right-of-Way line, a distance of eighty seven and thirty hundredths (87.30) feet to the Point of Beginning; thence South 01°23'00" East, a distance of fifty two and twenty five hundredths (52.25) feet to a point on the northerly Right-of-Way line of the BNSF Railroad; thence North 74°58'20" West along said BNSF Railroad Right-of-Way line, a distance of five hundred seven and seventy hundredths (507.70) feet; thence North 89°04'30" East, a distance of one hundred eighty two and eight hundredths (182.08) feet; thence South 74°59'10" East, a distance of three hundred seventeen and eighty eight hundredths (317.88) feet to the Point of Beginning.

Together with and subject to covenants, easement and restrictions of record.

Said tract of land contains 0.48 acres more or less.



VICINITY MAP

LEGAL DESCRIPTION

Section 10, Township 11 North, Range 10 West, County of Hall, Nebraska, 2017. The area is located within the boundaries of the Grand Island, Nebraska, and is subject to the same laws and regulations as the other lands within the same boundaries. The area is located within the boundaries of the Grand Island, Nebraska, and is subject to the same laws and regulations as the other lands within the same boundaries. The area is located within the boundaries of the Grand Island, Nebraska, and is subject to the same laws and regulations as the other lands within the same boundaries.

ADDITIONAL NOTES

The survey was made by the undersigned, a duly qualified and licensed surveyor in the State of Nebraska, and the same was made in accordance with the laws and regulations of the State of Nebraska. The survey was made by the undersigned, a duly qualified and licensed surveyor in the State of Nebraska, and the same was made in accordance with the laws and regulations of the State of Nebraska. The survey was made by the undersigned, a duly qualified and licensed surveyor in the State of Nebraska, and the same was made in accordance with the laws and regulations of the State of Nebraska.

APPROVED
By: [Signature]
Date: 10/10/2017

GENERAL NOTES

1. The survey was made by the undersigned, a duly qualified and licensed surveyor in the State of Nebraska, and the same was made in accordance with the laws and regulations of the State of Nebraska. The survey was made by the undersigned, a duly qualified and licensed surveyor in the State of Nebraska, and the same was made in accordance with the laws and regulations of the State of Nebraska. The survey was made by the undersigned, a duly qualified and licensed surveyor in the State of Nebraska, and the same was made in accordance with the laws and regulations of the State of Nebraska.

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ALTA / ACSM SURVEY

10/10/2017

C1.0

ALTA / ACSM
SURVEY
PARCEL 4

BNSF Right of Way
Acquisition
Hall County, Nebraska

RW ENGINEERING
& SURVEYING

4001 N. 10th Street, Suite 100, Omaha, NE 68102
Tel: 402.441.1234 Fax: 402.441.1235

WARRANTY DEED

The City of Grand Island, a(n) Nebraska Municipal Corporation ("**GRANTOR**"), for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) cash and other good and valuable consideration to it paid by BNSF RAILWAY COMPANY, a Delaware corporation ("**GRANTEE**"), whose mailing address is 2500 Lou Menk Drive, Fort Worth, Texas 76131, the receipt and sufficiency of which are hereby acknowledged and confessed, has GRANTED, BARGAINED, SOLD, and CONVEYED, and by these presents does GRANT, BARGAIN, SELL, and CONVEY unto the Grantee that certain tract of land ("**Land**") described on Exhibit "A" hereto, together with all improvements thereon and all rights and appurtenances appertaining thereto, and all of Seller's rights and interest, if any, in and to all easements and alleys, highways, or streets in, on, across or adjoining the Land (herein collectively called the "**Property**").

This Deed is executed by GRANTOR and accepted by GRANTEE subject to validly existing and enforceable rights, interests, and estates, if any do in fact exist, but only to the extent that the same do in fact exist, of third parties in connection with those items set out and listed on Exhibit "B" hereto (herein called the "**Permitted Encumbrances**"). GRANTOR covenants with GRANTEE that GRANTOR has legal power and lawful authority to convey the Land.

TO HAVE AND TO HOLD the Property together with all and singular the rights and appurtenances thereto in anywise belonging unto GRANTEE, its legal representatives, successors, and assigns forever; and GRANTOR does hereby bind itself, its legal representatives, successors, and assigns to WARRANT AND FOREVER DEFEND all and singular the Property, subject to the Permitted Encumbrances, unto GRANTEE, its legal representatives, successors, and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof.

WITNESS THE EXECUTION HEREOF as of the ____ day of _____, 20__.

GRANTOR:

The City of Grand Island

By: _____

Name: Jay Vavricek

Title: Mayor

STATE OF NEBRASKA)
)ss.
COUNTY OF HALL)

This instrument was acknowledged before me on the _____ day of _____, 20____, by Jay Vavricek, Mayor of The City of Grand Island a(n) Nebraska Municipal Corporation, on behalf of said Municipal Corporation..

WITNESS my hand and notarial seal on this _____ day of _____, 20____.

Notary Public

My Commission Expires: _____

Deed Exhibits:

Exhibit A: Legal Description
Exhibit B: Permitted Encumbrances

LEGAL DESCRIPTION – EXHIBIT A (Parcel 6)

A tract of land located in Lots 76, 99, 100, and 101, Industrial Addition to the City of Grand Island, Section Fourteen (14), Township Eleven (11) North, Range Nine (9) West of the 6th P.M., Hall County, Nebraska, more particularly described as follows:

Commencing at the West Quarter corner of said Section Fourteen (14); thence on an assumed bearing of South 00° 58' 50" East along the West line of the Northwest Quarter of the Southwest Quarter (NW1/4, SW1/4), a distance of seven hundred eighty five and sixty five hundredths (785.65) feet to a point on the southerly Right-of-Way line of the BNSF Railroad also being the Point of Beginning; thence South 63° 06' 00" East along the existing southerly Right-of-Way line of the BNSF Railroad, a distance of thirty seven and thirty three hundredths (37.33) feet to the East Right-of-Way line of South Stuhr Road; thence South 63° 06' 00" East along the existing southerly Right-of-Way line of the BNSF Railroad, a distance of one thousand one hundred twenty three and fifty four hundredths (1,123.54) feet to a point on the South line of the Northwest Quarter of the Southwest Quarter (NW1/4, SW1/4) of said Section Fourteen (14); thence South 89° 31' 50" West continuing along said line a distance of fifty seven and sixty hundredths (57.60) feet; thence North 63° 06' 00" West, a distance of two hundred sixteen and sixty four hundredths (216.64) feet; thence North 26° 54' 00" East, a distance of three and fifty nine hundredths (3.59) feet; thence North 63° 06' 00" West, a distance of eight hundred forty three and sixty three hundredths (843.63) feet to a point on the easterly Right-of-Way line of South Stuhr Road; thence North 63° 06' 00" West a distance of thirty seven and thirty three hundredths (37.33) feet to a point on the West line of the Northwest Quarter of the Southwest Quarter (NW1/4, SW1/4) of said Section Fourteen (14); thence North 00° 58' 50" West along said section line, a distance of twenty five and ninety hundredths (25.90) feet to the Point of Beginning.

Together with and subject to covenants, easement and restrictions of record.

Said tract of land contains 0.61 acres more or less.

EXCEPTIONS

Terms and conditions of Ordinance No. 3934, approving the Plat of Industrial Addition, recorded January 21, 1963 in Book 11, Page 375; records of Hall County, Nebraska.

Easements and restrictions reserved and shown in the Plat and Dedication of Industrial Addition, recorded January 24, 1963 in Book 104, Page 545, records of Hall County, Nebraska.

Terms and conditions of Resolution No. 2000-347, recorded November 8, 2000 as Instrument No. 200009776; records of Hall County, Nebraska.

Reserving a right-of-way and easement for public streets and public utilities along Stuhr Road,

being more particularly described as: the westerly fifty (50) feet of the Northwest Quarter of the Southwest Quarter (NW1/4, SW1/4), Section Fourteen (14), Township Eleven (11) North, Range Nine (9) West of the 6th P.M., in the City of Grand Island, Hall County, Nebraska.

TEMPORARY CONSTRUCTION EASEMENT

KNOW ALL MEN BY THESE PRESENTS, that the CITY OF GRAND ISLAND, NEBRASKA, referred to hereinafter as "**Grantor**", for Ten and No/100 Dollars (\$10.00) to it paid by **BNSF RAILWAY COMPANY**, a Delaware corporation, whose address for purposes of this instrument is 2650 Lou Menk Drive, Fort Worth, Texas 76131-2830, the "**Grantee**", and for the promises of the Grantee hereinafter specified, does hereby grant, bargain, sell, and convey unto the Grantee and its employees, officers, affiliates, contractors, agents and/or assigns (the "**BNSF Parties**"), subject to the terms and conditions hereinafter set forth, an exclusive **TEMPORARY CONSTRUCTION EASEMENT** (the "**Temporary Construction Easement**") for the construction and installation of that certain "double track" expansion of railroad tracks and related equipment and facilities (collectively, the "**Double Track Facilities**") in, on, over, under, and through those certain premises (the "**Easement Area**"), situated in Hall County, Nebraska, to-wit:

See **Exhibit "A"**, attached hereto and made a part hereof, for the description of the Easement Area.

The foregoing Temporary Construction Easement is made subject to and upon the following express conditions:

1. The Grantor on behalf of itself, its successors, and assigns hereby agrees that, as of the Commencement Date (defined below), Grantee and the BNSF Parties shall enjoy the Temporary Construction Easement in, on, over, under, and through the Easement Area and may use the Easement Area in any way they see fit in order to construct the Double Track Facilities and all related equipment, facilities, structures, and/or infrastructure deemed necessary or beneficial by Grantee and/or the BNSF Parties.
2. The Temporary Construction Easement shall be binding upon and inure to the benefit of the heirs, executors, administrators, assigns, and successors of Grantor, Grantee, and the BNSF Parties.
3. The Temporary Construction Easement shall be exclusive in favor of Grantee and the BNSF Parties. Grantor shall not occupy, undertake any work on, or interfere with Grantee's and/or the BNSF Parties' use of the Easement Area. Further, Grantor shall use its best reasonable efforts to ensure that third parties do not interfere with use of the Easement Area by Grantee and/or the BNSF Parties.
4. In connection with the Temporary Construction Easement, Grantee and/or the BNSF Parties shall have the right, but not the obligation, to remove all trees, brush, and other vegetation from the above-described Easement Area and to reconfigure the Easement Area in any way they deem necessary or beneficial.

The Temporary Construction Easement shall commence in favor of Grantee and the BNSF Parties on **January 10, 2012** (the "**Commencement Date**"), and shall continue in full effect until its termination upon the earlier of (i) July 1, 2014, (ii) completion of the Double Track Facilities by Grantee and/or the BNSF Parties (with completion of the Double Track Facilities to be signified by Grantee's delivery of written notification of completion to Grantor), or (iii) Grantee's acquisition of fee simple title to the Easement Area from Grantor.

TO HAVE AND TO HOLD THE SAME, together with all the hereditaments and appurtenances thereunto belonging to Grantee and the BNSF Parties for their use and enjoyment for the purposes aforesaid and for no other purpose whatsoever subject to the terms and conditions hereinbefore stated.

EXECUTED to be effective as of the 10th day of January, 2012.

GRANTOR:

CITY OF GRAND ISLAND, NEBRASKA

By: _____
Name: Jay Vavricek
Title: Mayor

THE STATE OF NEBRASKA §
 §
COUNTY OF HALL §

This instrument was acknowledged before me on the _____ day of _____, 2012, as the voluntary act of the person known by me to be Jay Vavricek, the Mayor of the City of Grand Island, Nebraska, on behalf of and with the full authority of the City of Grand Island, Nebraska.

Notary Public, State of Nebraska

Notary's Typed or Printed Name

My Commission Expires: _____

EXHIBIT "A"
TO THE TEMPORARY CONSTRUCTION EASEMENT INSTRUMENT FROM
THE CITY OF GRAND ISLAND, NEBRASKA, TO BNSF AND THE BNSF PARTIES

Legal Description of the Easement Area

(Parcel 6)

A tract of land located in Lots 76, 99, 100, and 101, Industrial Addition to the City of Grand Island, Section Fourteen (14), Township Eleven (11) North, Range Nine (9) West of the 6th P.M., Hall County, Nebraska, more particularly described as follows:

Commencing at the West Quarter corner of said Section Fourteen (14); thence on an assumed bearing of South 00° 58' 50" East along the West line of the Northwest Quarter of the Southwest Quarter (NW1/4, SW1/4), a distance of seven hundred eighty five and sixty five hundredths (785.65) feet to a point on the southerly Right-of-Way line of the BNSF Railroad also being the Point of Beginning; thence South 63° 06' 00" East along the existing southerly Right-of-Way line of the BNSF Railroad, a distance of thirty seven and thirty three hundredths (37.33) feet to the East Right-of-Way line of South Stuhr Road; thence South 63° 06' 00" East along the existing southerly Right-of-Way line of the BNSF Railroad, a distance of one thousand one hundred twenty three and fifty four hundredths (1,123.54) feet to a point on the South line of the Northwest Quarter of the Southwest Quarter (NW1/4, SW1/4) of said Section Fourteen (14); thence South 89° 31' 50" West continuing along said line a distance of fifty seven and sixty hundredths (57.60) feet; thence North 63° 06' 00" West, a distance of two hundred sixteen and sixty four hundredths (216.64) feet; thence North 26° 54' 00" East, a distance of three and fifty nine hundredths (3.59) feet; thence North 63° 06' 00" West, a distance of eight hundred forty three and sixty three hundredths (843.63) feet to a point on the easterly Right-of-Way line of South Stuhr Road; thence North 63° 06' 00" West a distance of thirty seven and thirty three hundredths (37.33) feet to a point on the West line of the Northwest Quarter of the Southwest Quarter (NW1/4, SW1/4) of said Section Fourteen (14); thence North 00° 58' 50" West along said section line, a distance of twenty five and ninety hundredths (25.90) feet to the Point of Beginning.

Together with and subject to covenants, easement and restrictions of record.

Said tract of land contains 0.61 acres more or less.

WARRANTY DEED

The City of Grand Island, a(n) Nebraska Municipal Corporation ("**GRANTOR**"), for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) cash and other good and valuable consideration to it paid by BNSF RAILWAY COMPANY, a Delaware corporation ("**GRANTEE**"), whose mailing address is 2500 Lou Menk Drive, Fort Worth, Texas 76131, the receipt and sufficiency of which are hereby acknowledged and confessed, has GRANTED, BARGAINED, SOLD, and CONVEYED, and by these presents does GRANT, BARGAIN, SELL, and CONVEY unto the Grantee that certain tract of land ("**Land**") described on Exhibit "A" hereto, together with all improvements thereon and all rights and appurtenances appertaining thereto, and all of Seller's rights and interest, if any, in and to all easements and alleys, highways, or streets in, on, across or adjoining the Land (herein collectively called the "**Property**").

This Deed is executed by GRANTOR and accepted by GRANTEE subject to validly existing and enforceable rights, interests, and estates, if any do in fact exist, but only to the extent that the same do in fact exist, of third parties in connection with those items set out and listed on Exhibit "B" hereto (herein called the "**Permitted Encumbrances**"). GRANTOR covenants with GRANTEE that GRANTOR has legal power and lawful authority to convey the Land.

TO HAVE AND TO HOLD the Property together with all and singular the rights and appurtenances thereto in anywise belonging unto GRANTEE, its legal representatives, successors, and assigns forever; and GRANTOR does hereby bind itself, its legal representatives, successors, and assigns to WARRANT AND FOREVER DEFEND all and singular the Property, subject to the Permitted Encumbrances, unto GRANTEE, its legal representatives, successors, and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof.

WITNESS THE EXECUTION HEREOF as of the ____ day of _____, 20__.

GRANTOR:

The City of Grand Island

By: _____
Name: Jay Vavricek
Title: Mayor

STATE OF NEBRASKA)
)ss.
COUNTY OF HALL)

*This instrument was acknowledged before me on the _____ day of _____, 20__, by
Jay Vavricek, Mayor of The City of Grand Island a(n) Nebraska Municipal Corporation, on behalf of said
Municipal Corporation.,*

WITNESS my hand and notarial seal on this _____ day of _____, 20__.

Notary Public

My Commission Expires: _____

Deed Exhibits:

Exhibit A: Legal Description
Exhibit B: Permitted Encumbrances

LEGAL DESCRIPTION – EXHIBIT A (Parcel 7)

A tract of land located in Lot 99, Industrial Addition to the City of Grand Island, and the Southwest Quarter of the Southwest Quarter (SW1/4, SW1/4) of Section Fourteen (14), Township Eleven (11) North, Range Nine (9) West of the 6th P.M., City of Grand Island, Hall County, Nebraska, more particularly described as follows:

Commencing at the Southeast corner of the Southwest Quarter of the Southwest Quarter (SW1/4, SW1/4) of said Section Fourteen (14); thence on an assumed bearing of North 00°56'21" West along the East line of the Southwest Quarter of the Southwest Quarter (SW1/4, SW1/4), a distance of one thousand one hundred thirty eight and four hundredths (1,138.04) feet to the Point of Beginning; thence North 63°05'57" West, a distance of three hundred ninety eight and forty two hundredths (398.42) feet to a point on the North line of the Southwest Quarter of the Southwest Quarter (SW1/4, SW1/4) of said Section Fourteen (14); thence North 89°31'50" East along said line, a distance of fifty seven and sixty hundredths (57.60) feet to a point on the southerly Right-of-Way line of the BNSF Railroad; thence South 63°05'57" East along said Right-of-Way line, a distance of three hundred thirty three and twenty nine hundredths (333.29) feet to a point on the East line of the Southwest Quarter of the Southwest Quarter (SW1/4, SW1/4); thence South 00°56'21" East along said line, a distance of twenty nine and ninety four hundredths (29.94) feet to the Point of Beginning.

Together with and subject to covenants, easement and restrictions of record.

Said tract of land contains 0.22 acres more or less.

TEMPORARY CONSTRUCTION EASEMENT

KNOW ALL MEN BY THESE PRESENTS, that the **CITY OF GRAND ISLAND, NEBRASKA**, referred to hereinafter as "**Grantor**", for Ten and No/100 Dollars (\$10.00) to it paid by **BNSF RAILWAY COMPANY**, a Delaware corporation, whose address for purposes of this instrument is 2650 Lou Menk Drive, Fort Worth, Texas 76131-2830, the "**Grantee**", and for the promises of the Grantee hereinafter specified, does hereby grant, bargain, sell, and convey unto the Grantee and its employees, officers, affiliates, contractors, agents and/or assigns (the "**BNSF Parties**"), subject to the terms and conditions hereinafter set forth, an exclusive **TEMPORARY CONSTRUCTION EASEMENT** (the "**Temporary Construction Easement**") for the construction and installation of that certain "double track" expansion of railroad tracks and related equipment and facilities (collectively, the "**Double Track Facilities**") in, on, over, under, and through those certain premises (the "**Easement Area**"), situated in Hall County, Nebraska, to-wit:

See **Exhibit "A"**, attached hereto and made a part hereof, for the description of the Easement Area.

The foregoing Temporary Construction Easement is made subject to and upon the following express conditions:

1. The Grantor on behalf of itself, its successors, and assigns hereby agrees that, as of the Commencement Date (defined below), Grantee and the BNSF Parties shall enjoy the Temporary Construction Easement in, on, over, under, and through the Easement Area and may use the Easement Area in any way they see fit in order to construct the Double Track Facilities and all related equipment, facilities, structures, and/or infrastructure deemed necessary or beneficial by Grantee and/or the BNSF Parties.
2. The Temporary Construction Easement shall be binding upon and inure to the benefit of the heirs, executors, administrators, assigns, and successors of Grantor, Grantee, and the BNSF Parties.
3. The Temporary Construction Easement shall be exclusive in favor of Grantee and the BNSF Parties. Grantor shall not occupy, undertake any work on, or interfere with Grantee's and/or the BNSF Parties' use of the Easement Area. Further, Grantor shall use its best reasonable efforts to ensure that third parties do not interfere with use of the Easement Area by Grantee and/or the BNSF Parties.
4. In connection with the Temporary Construction Easement, Grantee and/or the BNSF Parties shall have the right, but not the obligation, to remove all trees, brush, and other vegetation from the above-described Easement Area and to reconfigure the Easement Area in any way they deem necessary or beneficial.

The Temporary Construction Easement shall commence in favor of Grantee and the BNSF Parties on **January 10, 2012** (the "**Commencement Date**"), and shall continue in full effect until its termination upon the earlier of (i) July 1, 2014, (ii) completion of the Double Track Facilities by Grantee and/or the BNSF Parties (with completion of the Double Track Facilities to be signified by Grantee's delivery of written notification of completion to Grantor), or (iii) Grantee's acquisition of fee simple title to the Easement Area from Grantor.

TO HAVE AND TO HOLD THE SAME, together with all the hereditaments and appurtenances thereunto belonging to Grantee and the BNSF Parties for their use and enjoyment for the purposes aforesaid and for no other purpose whatsoever subject to the terms and conditions hereinbefore slated.

EXECUTED to be effective as of the 10th day of January, 2012.

GRANTOR:

CITY OF GRAND ISLAND, NEBRASKA

By: _____
Name: Jay Vavricek
Title: Mayor

THE STATE OF NEBRASKA §
 §
COUNTY OF HALL §

This instrument was acknowledged before me on the _____ day of _____, 2012, as the voluntary act of the person known by me to be Jay Vavricek, the Mayor of the City of Grand Island, Nebraska, on behalf of and with the full authority of the City of Grand Island, Nebraska.

Notary Public, State of Nebraska

Notary's Typed or Printed Name

My Commission Expires: _____

EXHIBIT "A"
TO THE TEMPORARY CONSTRUCTION EASEMENT INSTRUMENT FROM
THE CITY OF GRAND ISLAND, NEBRASKA, TO BNSF AND THE BNSF PARTIES

Legal Description of the Easement Area

(Parcel 7)

A tract of land located in Lot 99, Industrial Addition to the City of Grand Island, and the Southwest Quarter of the Southwest Quarter (SW1/4, SW1/4) of Section Fourteen (14), Township Eleven (11) North, Range Nine (9) West of the 6th P.M., City of Grand Island, Hall County, Nebraska, more particularly described as follows:

Commencing at the Southeast corner of the Southwest Quarter of the Southwest Quarter (SW1/4, SW1/4) of said Section Fourteen (14); thence on an assumed bearing of North 00°56'21" West along the East line of the Southwest Quarter of the Southwest Quarter (SW1/4, SW1/4), a distance of one thousand one hundred thirty eight and four hundredths (1,138.04) feet to the Point of Beginning; thence North 63°05'57" West, a distance of three hundred ninety eight and forty two hundredths (398.42) feet to a point on the North line of the Southwest Quarter of the Southwest Quarter (SW1/4, SW1/4) of said Section Fourteen (14); thence North 89°31'50" East along said line, a distance of fifty seven and sixty hundredths (57.60) feet to a point on the southerly Right-of-Way line of the BNSF Railroad; thence South 63°05'57" East along said Right-of-Way line, a distance of three hundred thirty three and twenty nine hundredths (333.29) feet to a point on the East line of the Southwest Quarter of the Southwest Quarter (SW1/4, SW1/4); thence South 00°56'21" East along said line, a distance of twenty nine and ninety four hundredths (29.94) feet to the Point of Beginning.

Together with and subject to covenants, easement and restrictions of record.

Said tract of land contains 0.22 acres more or less.



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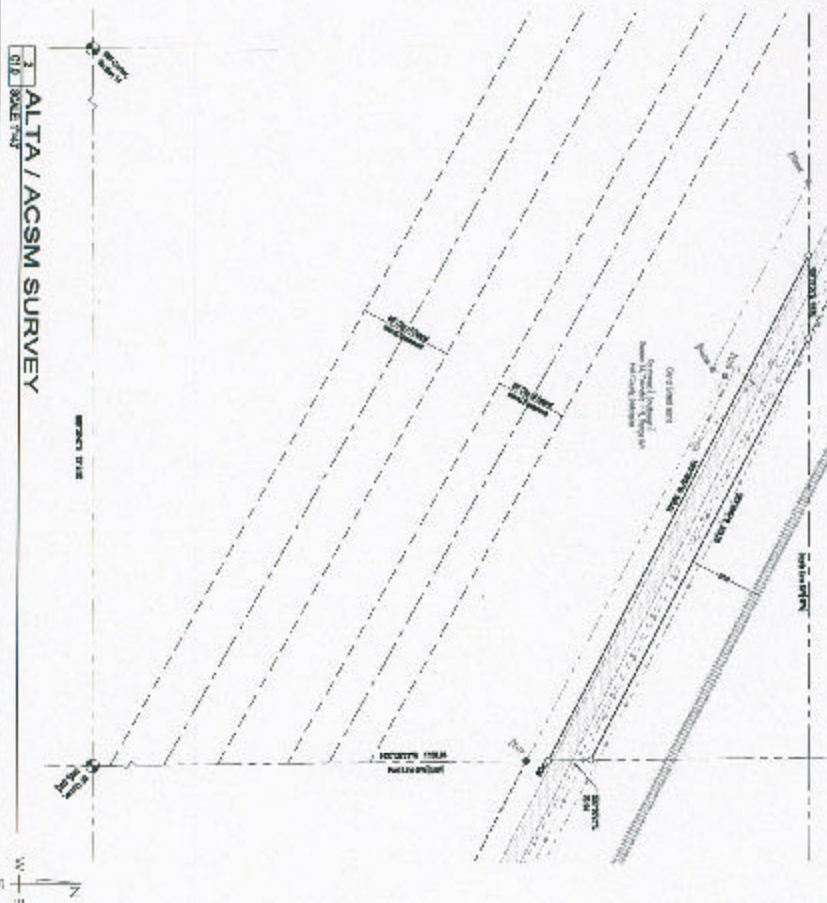
APPROVED
My Motion Made at 2:27 pm, June 15, 2011

Journal Name

DOI: 10.1002/2001.12005.1765N

LEGEND	
	SOLID FILL
	PLOT ON PAPER
	NO THERM COIL
	VCL
	WATER EQUIPMENT
	WATER TREAT.
	POUR CONC.
	GUY WIRE
	ELECTRIC & MECHANICAL

3. The economic system is characterized by:

ALTA / ACSM SURVEY
2
C10 SCALE 1:24,000

C1.0

ALTA'ADSEN SURVEY
Period 7
City of Grand Island



BNSF Right of Way
Acquisition
Hall County, Nebraska



RWV ENGINEERING
& SURVEYING

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WARRANTY DEED

The City of Grand Island, a(n) Nebraska Municipal Corporation ("**GRANTOR**"), for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) cash and other good and valuable consideration to it paid by BNSF RAILWAY COMPANY, a Delaware corporation ("**GRANTEE**"), whose mailing address is 2500 Lou Menk Drive, Fort Worth, Texas 76131, the receipt and sufficiency of which are hereby acknowledged and confessed, has GRANTED, BARGAINED, SOLD, and CONVEYED, and by these presents does GRANT, BARGAIN, SELL, and CONVEY unto the Grantee that certain tract of land ("**Land**") described on Exhibit "A" hereto, together with all improvements thereon and all rights and appurtenances appertaining thereto, and all of Seller's rights and interest, if any, in and to all easements and alleys, highways, or streets in, on, across or adjoining the Land (herein collectively called the "**Property**").

This Deed is executed by GRANTOR and accepted by GRANTEE subject to validly existing and enforceable rights, interests, and estates, if any do in fact exist, but only to the extent that the same do in fact exist, of third parties in connection with those items set out and listed on Exhibit "B" hereto (herein called the "**Permitted Encumbrances**"). GRANTOR covenants with GRANTEE that GRANTOR has legal power and lawful authority to convey the Land.

TO HAVE AND TO HOLD the Property together with all and singular the rights and appurtenances thereto in anywise belonging unto GRANTEE, its legal representatives, successors, and assigns forever; and GRANTOR does hereby bind itself, its legal representatives, successors, and assigns to WARRANT AND FOREVER DEFEND all and singular the Property, subject to the Permitted Encumbrances, unto GRANTEE, its legal representatives, successors, and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof.

WITNESS THE EXECUTION HEREOF as of the ____ day of _____, 20__.

GRANTOR:

The City of Grand Island

By: _____

Name: Jay Vavricek

Title: Mayor

STATE OF NEBRASKA)
)ss.
COUNTY OF HALL)

*This instrument was acknowledged before me on the _____ day of _____, 20__, by
Jay Vavricek, Mayor of The City of Grand Island a(n) Nebraska Municipal Corporation, on behalf of said
Municipal Corporation..*

WITNESS my hand and notarial seal on this _____ day of _____, 20__.

Notary Public

My Commission Expires: _____

Deed Exhibits:

Exhibit A: Legal Description
Exhibit B: Permitted Encumbrances

LEGAL DESCRIPTION – EXHIBIT A (Parcel 8)

A tract of land located in Lots 102, 109, 110, 112, 113, and 114, Industrial Addition to the City of Grand Island, Section Fourteen (14), Township Eleven (11) North, Range Nine (9) West of the 6th P.M., Hall County, Nebraska, more particularly described as follows:

Commencing at the Southwest corner of the Southeast Quarter of the Southwest Quarter (SE1/4, SW1/4) of said Section Fourteen (14); thence on an assumed bearing of North 00° 56' 21" West along the West line of the Southeast Quarter of the Southwest Quarter (SE1/4, SW1/4), a distance of one thousand one hundred thirty eight and four hundredths (1,138.04) feet to the Point of Beginning; thence North 00° 56' 21" West continuing along said West line, a distance of twenty nine and ninety four hundredths (29.94) feet to a point on the southerly Right-of-Way line of the BNSF Railroad; thence South 63° 05' 57" East along said Right-of-Way line, a distance of one thousand four hundred ninety two and fifty five hundredths (1,492.55) feet to a point of the East line of the Southeast Quarter of the Southwest Quarter (SE1/4, SW1/4); thence South 63° 05' 57" East, a distance of one thousand ninety seven and seventy eight hundredths (1,097.78) feet to the North Right-of-Way line of East Bismark Road; thence South 63° 05' 57" East, a distance of eighty and fifty three hundredths (80.53) feet to a point on the South line of the Southwest Quarter of the Southeast Quarter (SW1/4, SE1/4); thence North 87° 17' 30" West along said South line, a distance of one hundred twenty two and one hundredth (122.01) feet; thence North 63° 06' 00" West, a distance of eighty and fifty three hundredths (80.53) feet to a point on the North Right-of-Way line of East Bismark Road; thence North 63° 06' 00" West, a distance of one hundred twenty four and three hundredths (124.03) feet; thence North 26° 55' 50" East, a distance of thirty five and twenty four hundredths (35.24) feet; thence North 63° 03' 50" West, a distance of one hundred seven and twenty seven hundredths (107.27) feet; thence South 27° 00' 30" West, a distance of twenty (20.0) feet; thence North 63° 04' 00" West, a distance of seven hundred thirty seven and fourteen hundredths (737.14) feet to a point on the East line of the Southeast Quarter of the Southwest Quarter (SE1/4, SW1/4) of said Section Fourteen (14); thence North 62° 48' 00" West, a distance of one thousand four hundred ninety six and sixty seven hundredths (1,496.67) feet to the Point of Beginning.

Together with and subject to covenants, easement and restrictions of record.

Said tract of land contains 1.97 acres more or less.

EXCEPTIONS

Terms and conditions of Ordinance No. 3934, approving the Plat of Industrial Addition, recorded January 21, 1963 in Book 11, Page 375; records of Hall County, Nebraska.

Easements and restrictions reserved and shown in the Plat and Dedication of Industrial Addition, recorded January 24, 1963 in Book 104, Page 545, records of Hall County, Nebraska.

Reserving a right-of-way and easement for public streets and public utilities along Bismark Road, being more particularly described as: the easterly fifty (50) feet of the Northeast Quarter of the Southeast Quarter (NE1/4, SE1/4), Section One (1), Township Eleven (11) North, Range Ten (10) West of the 6th P.M., in the City of Grand Island, Hall County, Nebraska.

TEMPORARY CONSTRUCTION EASEMENT

KNOW ALL MEN BY THESE PRESENTS, that the **CITY OF GRAND ISLAND, NEBRASKA**, referred to hereinafter as "**Grantor**", for Ten and No/100 Dollars (\$10.00) to it paid by **BNSF RAILWAY COMPANY**, a Delaware corporation, whose address for purposes of this instrument is 2650 Lou Menk Drive, Fort Worth, Texas 76131-2830, the "**Grantee**", and for the promises of the Grantee hereinafter specified, does hereby grant, bargain, sell, and convey unto the Grantee and its employees, officers, affiliates, contractors, agents and/or assigns (the "**BNSF Parties**"), subject to the terms and conditions hereinafter set forth, an exclusive **TEMPORARY CONSTRUCTION EASEMENT** (the "**Temporary Construction Easement**") for the construction and installation of that certain "double track" expansion of railroad tracks and related equipment and facilities (collectively, the "**Double Track Facilities**") in, on, over, under, and through those certain premises (the "**Easement Area**"), situated in Hall County, Nebraska, to-wit:

See **Exhibit "A"**, attached hereto and made a part hereof, for the description of the Easement Area.

The foregoing Temporary Construction Easement is made subject to and upon the following express conditions:

1. The Grantor on behalf of itself, its successors, and assigns hereby agrees that, as of the Commencement Date (defined below), Grantee and the BNSF Parties shall enjoy the Temporary Construction Easement in, on, over, under, and through the Easement Area and may use the Easement Area in any way they see fit in order to construct the Double Track Facilities and all related equipment, facilities, structures, and/or infrastructure deemed necessary or beneficial by Grantee and/or the BNSF Parties.
2. The Temporary Construction Easement shall be binding upon and inure to the benefit of the heirs, executors, administrators, assigns, and successors of Grantor, Grantee, and the BNSF Parties.
3. The Temporary Construction Easement shall be exclusive in favor of Grantee and the BNSF Parties. Grantor shall not occupy, undertake any work on, or interfere with Grantee's and/or the BNSF Parties' use of the Easement Area. Further, Grantor shall use its best reasonable efforts to ensure that third parties do not interfere with use of the Easement Area by Grantee and/or the BNSF Parties.
4. In connection with the Temporary Construction Easement, Grantee and/or the BNSF Parties shall have the right, but not the obligation, to remove all trees, brush, and other vegetation from the above-described Easement Area and to reconfigure the Easement Area in any way they deem necessary or beneficial.

The Temporary Construction Easement shall commence in favor of Grantee and the BNSF Parties on **January 10, 2012** (the "**Commencement Date**"), and shall continue in full effect until its termination upon the earlier of (i) July 1, 2014, (ii) completion of the Double Track Facilities by Grantee and/or the BNSF Parties (with completion of the Double Track Facilities to be signified by Grantee's delivery of written notification of completion to Grantor), or (iii) Grantee's acquisition of fee simple title to the Easement Area from Grantor.

TO HAVE AND TO HOLD THE SAME, together with all the hereditaments and appurtenances thereunto belonging to Grantee and the BNSF Parties for their use and enjoyment for the purposes aforesaid and for no other purpose whatsoever subject to the terms and conditions hereinbefore stated.

EXECUTED to be effective as of the 10th day of January, 2012.

GRANTOR:

CITY OF GRAND ISLAND, NEBRASKA

By: _____
Name: Jay Vavricek
Title: Mayor

THE STATE OF NEBRASKA §
 §
COUNTY OF HALL §

This instrument was acknowledged before me on the _____ day of _____, 2012, as the voluntary act of the person known by me to be Jay Vavricek, the Mayor of the City of Grand Island, Nebraska, on behalf of and with the full authority of the City of Grand Island, Nebraska.

Notary Public, State of Nebraska

Notary's Typed or Printed Name

My Commission Expires: _____

EXHIBIT "A"
TO THE TEMPORARY CONSTRUCTION EASEMENT INSTRUMENT FROM
THE CITY OF GRAND ISLAND, NEBRASKA, TO BNSF AND THE BNSF PARTIES

Legal Description of the Easement Area

(Parcel 8)

A tract of land located in Lots 102, 109, 110, 112, 113, and 114, Industrial Addition to the City of Grand Island, Section Fourteen (14), Township Eleven (11) North, Range Nine (9) West of the 6th P.M., Hall County, Nebraska, more particularly described as follows:

Commencing at the Southwest corner of the Southeast Quarter of the Southwest Quarter (SE1/4, SW1/4) of said Section Fourteen (14); thence on an assumed bearing of North 00° 56' 21" West along the West line of the Southeast Quarter of the Southwest Quarter (SE1/4, SW1/4), a distance of one thousand one hundred thirty eight and four hundredths (1,138.04) feet to the Point of Beginning; thence North 00° 56' 21" West continuing along said West line, a distance of twenty nine and ninety four hundredths (29.94) feet to a point on the southerly Right-of-Way line of the BNSF Railroad; thence South 63° 05' 57" East along said Right-of-Way line, a distance of one thousand four hundred ninety two and fifty five hundredths (1,492.55) feet to a point of the East line of the Southeast Quarter of the Southwest Quarter (SE1/4, SW1/4); thence South 63° 05' 57" East, a distance of one thousand ninety seven and seventy eight hundredths (1,097.78) feet to the North Right-of-Way line of East Bismark Road; thence South 63° 05' 57" East, a distance of eighty and fifty three hundredths (80.53) feet to a point on the South line of the Southwest Quarter of the Southeast Quarter (SW1/4, SE1/4); thence North 87° 17' 30" West along said South line, a distance of one hundred twenty two and one hundredth (122.01) feet; thence North 63° 06' 00" West, a distance of eighty and fifty three hundredths (80.53) feet to a point on the North Right-of-Way line of East Bismark Road; thence North 63° 06' 00" West, a distance of one hundred twenty four and three hundredths (124.03) feet; thence North 26° 55' 50" East, a distance of thirty five and twenty four hundredths (35.24) feet; thence North 63° 03' 50" West, a distance of one hundred seven and twenty seven hundredths (107.27) feet; thence South 27° 00' 30" West, a distance of twenty (20.0) feet; thence North 63° 04' 00" West, a distance of seven hundred thirty seven and fourteen hundredths (737.14) feet to a point on the East line of the Southeast Quarter of the Southwest Quarter (SE1/4, SW1/4) of said Section Fourteen (14); thence North 62° 48' 00" West, a distance of one thousand four hundred ninety six and sixty seven hundredths (1,496.67) feet to the Point of Beginning.

Together with and subject to covenants, easement and restrictions of record.

Said tract of land contains 1.97 acres more or less.

WARRANTY DEED

The City of Grand Island, a(n) Nebraska Municipal Corporation ("**GRANTOR**"), for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) cash and other good and valuable consideration to it paid by BNSF RAILWAY COMPANY, a Delaware corporation ("**GRANTEE**"), whose mailing address is 2500 Lou Menk Drive, Fort Worth, Texas 76131, the receipt and sufficiency of which are hereby acknowledged and confessed, has GRANTED, BARGAINED, SOLD, and CONVEYED, and by these presents does GRANT, BARGAIN, SELL, and CONVEY unto the Grantee that certain tract of land ("**Land**") described on Exhibit "A" hereto, together with all improvements thereon and all rights and appurtenances appertaining thereto, and all of Seller's rights and interest, if any, in and to all easements and alleys, highways, or streets in, on, across or adjoining the Land (herein collectively called the "**Property**").

This Deed is executed by GRANTOR and accepted by GRANTEE subject to validly existing and enforceable rights, interests, and estates, if any do in fact exist, but only to the extent that the same do in fact exist, of third parties in connection with those items set out and listed on Exhibit "B" hereto (herein called the "**Permitted Encumbrances**"). GRANTOR covenants with GRANTEE that GRANTOR has legal power and lawful authority to convey the Land.

TO HAVE AND TO HOLD the Property together with all and singular the rights and appurtenances thereto in anywise belonging unto GRANTEE, its legal representatives, successors, and assigns forever; and GRANTOR does hereby bind itself, its legal representatives, successors, and assigns to WARRANT AND FOREVER DEFEND all and singular the Property, subject to the Permitted Encumbrances, unto GRANTEE, its legal representatives, successors, and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof.

WITNESS THE EXECUTION HEREOF as of the _____ day of _____, 20__.

GRANTOR:

The City of Grand Island

By: _____
Name: Jay Vavricek
Title: Mayor

STATE OF NEBRASKA)
)ss.
COUNTY OF HALL)

*This instrument was acknowledged before me on the _____ day of _____, 20____, by
Jay Vavricek, Mayor of The City of Grand Island a(n) Nebraska Municipal Corporation, on behalf of said
Municipal Corporation..*

WITNESS my hand and notarial seal on this _____ day of _____, 20____.

Notary Public

My Commission Expires: _____

Deed Exhibits:

Exhibit A: Legal Description
Exhibit B: Permitted Encumbrances

LEGAL DESCRIPTION – EXHIBIT A (Parcel 35)

A tract of land located in the North Half (N1/2) of Section Fifteen (15), Township Eleven (11) North, Range Nine (9) West of the 6th P.M., City of Grand Island, Hall County, Nebraska, more particularly described as follows:

Commencing at the East Quarter corner of said Section Fifteen (15); thence on an assumed bearing of South 89° 41' 12" West along the South line of said Section Fifteen (15), a distance of one thousand four hundred ninety nine and eighty six hundredths (1,499.86) feet to a point on the southerly Right-of-Way line of the BNSF Railroad also being the Point of Beginning; thence South 89° 41' 12" West along said South line, a distance of twenty three and fifty five hundredths (23.55) feet; thence North 62° 33' 35" West, a distance of one thousand three hundred thirty seven and fifty nine hundredths (1,337.59) feet; thence on a curve to the right having a radius of four thousand one hundred thirty nine and eighty nine hundredths (4,139.89) feet, an arc length of one hundred eight and ninety eight hundredths (108.98) feet being subtended by a chord of North 16° 44' 30" West, a length of one hundred eight and ninety seven hundredths (108.97) feet to a point on the southerly Right-of-Way line of the BNSF Railroad; thence South 59° 52' 40" East along said Right-of-Way line, a distance of one thousand four hundred thirty five and eighty seven hundredths (1,435.87) feet to the Point of Beginning.

Together with and subject to covenants, easement and restrictions of record.

Said tract of land contains 1.40 acres more or less.

EXCEPTIONS

Reservations of rights as contained in Deed and Release recorded September 8, 1922 in Book 61, Page 69; records of Hall County, Nebraska.

Platte Valley Public Power and Irrigation District Resolution No. 19-68 transferring Right of Way Easements for Transmission Line to the City of Grand Island, a municipal corporation, recorded April 5, 1968 in Book 17, Page 333; records of Hall County, Nebraska.

Easement granted to MCI Telecommunications Corporation, recorded April 19, 1993 as Instrument No. 1993103010; records of Hall County, Nebraska.

TEMPORARY CONSTRUCTION EASEMENT

KNOW ALL MEN BY THESE PRESENTS, that the **CITY OF GRAND ISLAND, NEBRASKA**, referred to hereinafter as "**Grantor**", for Ten and No/100 Dollars (\$10.00) to it paid by **BNSF RAILWAY COMPANY**, a Delaware corporation, whose address for purposes of this instrument is 2650 Lou Menk Drive, Fort Worth, Texas 76131-2830, the "**Grantee**", and for the promises of the Grantee hereinafter specified, does hereby grant, bargain, sell, and convey unto the Grantee and its employees, officers, affiliates, contractors, agents and/or assigns (the "**BNSF Parties**"), subject to the terms and conditions hereinafter set forth, an exclusive **TEMPORARY CONSTRUCTION EASEMENT** (the "**Temporary Construction Easement**") for the construction and installation of that certain "double track" expansion of railroad tracks and related equipment and facilities (collectively, the "**Double Track Facilities**") in, on, over, under, and through those certain premises (the "**Easement Area**"), situated in Hall County, Nebraska, to-wit:

See **Exhibit "A"**, attached hereto and made a part hereof, for the description of the Easement Area.

The foregoing Temporary Construction Easement is made subject to and upon the following express conditions:

1. The Grantor on behalf of itself, its successors, and assigns hereby agrees that, as of the Commencement Date (defined below), Grantee and the BNSF Parties shall enjoy the Temporary Construction Easement in, on, over, under, and through the Easement Area and may use the Easement Area in any way they see fit in order to construct the Double Track Facilities and all related equipment, facilities, structures, and/or infrastructure deemed necessary or beneficial by Grantee and/or the BNSF Parties.
2. The Temporary Construction Easement shall be binding upon and inure to the benefit of the heirs, executors, administrators, assigns, and successors of Grantor, Grantee, and the BNSF Parties.
3. The Temporary Construction Easement shall be exclusive in favor of Grantee and the BNSF Parties. Grantor shall not occupy, undertake any work on, or interfere with Grantee's and/or the BNSF Parties' use of the Easement Area. Further, Grantor shall use its best reasonable efforts to ensure that third parties do not interfere with use of the Easement Area by Grantee and/or the BNSF Parties.
4. In connection with the Temporary Construction Easement, Grantee and/or the BNSF Parties shall have the right, but not the obligation, to remove all trees, brush, and other vegetation from the above-described Easement Area and to reconfigure the Easement Area in any way they deem necessary or beneficial.

The Temporary Construction Easement shall commence in favor of Grantee and the BNSF Parties on **January 10, 2012** (the "**Commencement Date**"), and shall continue in full effect until its termination upon the earlier of (i) July 1, 2014, (ii) completion of the Double Track Facilities by Grantee and/or the BNSF Parties (with completion of the Double Track Facilities to be signified by Grantee's delivery of written notification of completion to Grantor), or (iii) Grantee's acquisition of fee simple title to the Easement Area from Grantor.

TO HAVE AND TO HOLD THE SAME, together with all the hereditaments and appurtenances thereunto belonging to Grantee and the BNSF Parties for their use and enjoyment for the purposes aforesaid and for no other purpose whatsoever subject to the terms and conditions hereinbefore stated.

EXECUTED to be effective as of the 10th day of January, 2012.

GRANTOR:

CITY OF GRAND ISLAND, NEBRASKA

By: _____
Name: Jay Vavricek
Title: Mayor

THE STATE OF NEBRASKA §
 §
COUNTY OF HALL §

This instrument was acknowledged before me on the _____ day of _____, 2012, as the voluntary act of the person known by me to be Jay Vavricek, the Mayor of the City of Grand Island, Nebraska, on behalf of and with the full authority of the City of Grand Island, Nebraska.

Notary Public, State of Nebraska

Notary's Typed or Printed Name

My Commission Expires: _____

EXHIBIT "A"
TO THE TEMPORARY CONSTRUCTION EASEMENT INSTRUMENT FROM
THE CITY OF GRAND ISLAND, NEBRASKA, TO BNSF AND THE BNSF PARTIES

Legal Description of the Easement Area

(Parcel 35)

A tract of land located in the North Half (N1/2) of Section Fifteen (15), Township Eleven (11) North, Range Nine (9) West of the 6th P.M., City of Grand Island, Hall County, Nebraska, more particularly described as follows:

Commencing at the East Quarter corner of said Section Fifteen (15); thence on an assumed bearing of South 89° 41' 12" West along the South line of said Section Fifteen (15), a distance of one thousand four hundred ninety nine and eighty six hundredths (1,499.86) feet to a point on the southerly Right-of-Way line of the BNSF Railroad also being the Point of Beginning; thence South 89° 41' 12" West along said South line, a distance of twenty three and fifty five hundredths (23.55) feet; thence North 62° 33' 35" West, a distance of one thousand three hundred thirty seven and fifty nine hundredths (1,337.59) feet; thence on a curve to the right having a radius of four thousand one hundred thirty nine and eighty nine hundredths (4,139.89) feet, an arc length of one hundred eight and ninety eight hundredths (108.98) feet being subtended by a chord of North 16° 44' 30" West, a length of one hundred eight and ninety seven hundredths (108.97) feet to a point on the southerly Right-of-Way line of the BNSF Railroad; thence South 59° 52' 40" East along said Right-of-Way line, a distance of one thousand four hundred thirty five and eighty seven hundredths (1,435.87) feet to the Point of Beginning.

Together with and subject to covenants, easement and restrictions of record.

Said tract of land contains 1.40 acres more or less.

WARRANTY DEED

The City of Grand Island, a(n) Nebraska Municipal Corporation ("**GRANTOR**"), for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) cash and other good and valuable consideration to it paid by BNSF RAILWAY COMPANY, a Delaware corporation ("**GRANTEE**"), whose mailing address is 2500 Lou Menk Drive, Fort Worth, Texas 76131, the receipt and sufficiency of which are hereby acknowledged and confessed, has GRANTED, BARGAINED, SOLD, and CONVEYED, and by these presents does GRANT, BARGAIN, SELL, and CONVEY unto the Grantee that certain tract of land ("**Land**") described on Exhibit "A" hereto, together with all improvements thereon and all rights and appurtenances appertaining thereto, and all of Seller's rights and interest, if any, in and to all easements and alleys, highways, or streets in, on, across or adjoining the Land (herein collectively called the "**Property**").

This Deed is executed by GRANTOR and accepted by GRANTEE subject to validly existing and enforceable rights, interests, and estates, if any do in fact exist, but only to the extent that the same do in fact exist, of third parties in connection with those items set out and listed on Exhibit "B" hereto (herein called the "**Permitted Encumbrances**"). GRANTOR covenants with GRANTEE that GRANTOR has legal power and lawful authority to convey the Land.

TO HAVE AND TO HOLD the Property together with all and singular the rights and appurtenances thereto in anywise belonging unto GRANTEE, its legal representatives, successors, and assigns forever; and GRANTOR does hereby bind itself, its legal representatives, successors, and assigns to WARRANT AND FOREVER DEFEND all and singular the Property, subject to the Permitted Encumbrances, unto GRANTEE, its legal representatives, successors, and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof.

WITNESS THE EXECUTION HEREOF as of the ____ day of _____, 20__.

GRANTOR:

The City of Grand Island

By: _____
Name: Jay Vavricek
Title: Mayor

STATE OF NEBRASKA)
)ss.
COUNTY OF HALL)

*This instrument was acknowledged before me on the _____ day of _____, 20__, by
Jay Vavricek, Mayor of The City of Grand Island a(n) Nebraska Municipal Corporation, on behalf of said
Municipal Corporation.*

WITNESS my hand and notarial seal on this _____ day of _____, 20__.

Notary Public

My Commission Expires: _____

Deed Exhibits:

Exhibit A: Legal Description
Exhibit B: Permitted Encumbrances

LEGAL DESCRIPTION – EXHIBIT A (Parcel 36)

A portion of Lots 40, 41 and 72, Industrial Addition to the City of Grand Island, Section Fifteen (15), Township Eleven (11), Range Nine (9) West of the 6th P.M., Hall County, Nebraska, more particularly described as follows:

Commencing at the East Quarter corner of said Section Fifteen (15); thence on an assumed bearing of South 00° 58' 50" East along the East line of the Southeast Quarter (SE 1/4), a distance of seven hundred eighty five and sixty seven hundredths (785.67) feet to a point on the southerly Right-of-Way line of the BNSF Railroad also being the Point of Beginning, thence South 00° 58' 50" East continuing along said East line, a distance of five and twenty hundredths (5.20) feet; thence North 63° 05' 05" West, a distance of forty five and twenty six hundredths (45.26) feet to a point on the West Right-of-Way line of South Stuhr Road; thence North 63° 05' 05" West, a distance of one thousand fifty three and sixty two hundredths (1,053.62) feet; thence North 63° 05' 03" West, a distance of two hundred ninety six and eighty six hundredths (296.86) feet; thence North 62° 44' 30" West, a distance of three hundred twenty eight and thirty five hundredths (328.35) feet to a point on the North line of the Southeast Quarter (SE 1/4); thence North 89° 41' 12" East along said North line, a distance of twenty three and fifty five hundredths (23.55) feet to a point on the existing BNSF Railroad Right-of-Way; thence South 61° 38' 40" East along said Right-of-Way, a distance of two hundred fifty nine and thirty six hundredths (259.36) feet; thence South 62° 56' 40" East, a distance of six hundred thirty five and sixty one hundredths (635.61) feet; thence South 63° 04' 46" East, a distance of seven hundred sixty and fifty six hundredths (760.56) feet to a point on the West Right-of-Way line of South Stuhr Road; thence South 63° 04' 46" East, a distance of forty five and twenty six hundredths (45.26) feet to the Point of Beginning.

Together with and subject to covenants, easement and restrictions of record.

Said tract of land contains 0.22 acres more or less.

EXCEPTIONS

Terms and conditions of Ordinance No. 3934, approving the Plat of Industrial Addition, recorded January 21, 1963 in Book 11, Page 365; records of Hall County, Nebraska.

Easements and restrictions reserved and shown in the Plat and Dedication of Industrial Addition recorded January 24, 1963 in Book 104, Page 545; records of Hall County, Nebraska.

Easement granted to MCI Telecommunications Corporation, recorded April 19, 1993 as Instrument No. 1993103010; records of Hall County, Nebraska.

Terms and conditions of Resolution No. 2000-347, recorded November 8, 2000 as Instrument No. 200009776; records of Hall County, Nebraska.

Reserving a right-of-way and easement for public streets and public utilities along Stuhr Road being more particularly described as; the easterly fifty (50) feet of the Northeast Quarter of the Southeast Quarter (NE1/4, SE1/4), Section Fifteen (15), Township Eleven (11) North, Range Nine (9) West, of the 6th P.M., in the City of Grand Island, Hall County, Nebraska.

TEMPORARY CONSTRUCTION EASEMENT

KNOW ALL MEN BY THESE PRESENTS, that the **CITY OF GRAND ISLAND, NEBRASKA**, referred to hereinafter as "**Grantor**", for Ten and No/100 Dollars (\$10.00) to it paid by **BNSF RAILWAY COMPANY**, a Delaware corporation, whose address for purposes of this instrument is 2650 Lou Menk Drive, Fort Worth, Texas 76131-2830, the "**Grantee**", and for the promises of the Grantee hereinafter specified, does hereby grant, bargain, sell, and convey unto the Grantee and its employees, officers, affiliates, contractors, agents and/or assigns (the "**BNSF Parties**"), subject to the terms and conditions hereinafter set forth, an exclusive **TEMPORARY CONSTRUCTION EASEMENT** (the "**Temporary Construction Easement**") for the construction and installation of that certain "double track" expansion of railroad tracks and related equipment and facilities (collectively, the "**Double Track Facilities**") in, on, over, under, and through those certain premises (the "**Easement Area**"), situated in Hall County, Nebraska, to-wit:

See **Exhibit "A"**, attached hereto and made a part hereof, for the description of the Easement Area.

The foregoing Temporary Construction Easement is made subject to and upon the following express conditions:

1. The Grantor on behalf of itself, its successors, and assigns hereby agrees that, as of the Commencement Date (defined below), Grantee and the BNSF Parties shall enjoy the Temporary Construction Easement in, on, over, under, and through the Easement Area and may use the Easement Area in any way they see fit in order to construct the Double Track Facilities and all related equipment, facilities, structures, and/or infrastructure deemed necessary or beneficial by Grantee and/or the BNSF Parties.
2. The Temporary Construction Easement shall be binding upon and inure to the benefit of the heirs, executors, administrators, assigns, and successors of Grantor, Grantee, and the BNSF Parties.
3. The Temporary Construction Easement shall be exclusive in favor of Grantee and the BNSF Parties. Grantor shall not occupy, undertake any work on, or interfere with Grantee's and/or the BNSF Parties' use of the Easement Area. Further, Grantor shall use its best reasonable efforts to ensure that third parties do not interfere with use of the Easement Area by Grantee and/or the BNSF Parties.
4. In connection with the Temporary Construction Easement, Grantee and/or the BNSF Parties shall have the right, but not the obligation, to remove all trees, brush, and other vegetation from the above-described Easement Area and to reconfigure the Easement Area in any way they deem necessary or beneficial.

The Temporary Construction Easement shall commence in favor of Grantee and the BNSF Parties on **January 10, 2012** (the "**Commencement Date**"), and shall continue in full effect until its termination upon the earlier of (i) July 1, 2014, (ii) completion of the Double Track Facilities by Grantee and/or the BNSF Parties (with completion of the Double Track Facilities to be signified by Grantee's delivery of written notification of completion to Grantor), or (iii) Grantee's acquisition of fee simple title to the Easement Area from Grantor.

TO HAVE AND TO HOLD THE SAME, together with all the hereditaments and appurtenances thereunto belonging to Grantee and the BNSF Parties for their use and enjoyment for the purposes aforesaid and for no other purpose whatsoever subject to the terms and conditions hereinbefore stated.

EXECUTED to be effective as of the 10th day of January, 2012.

GRANTOR:

CITY OF GRAND ISLAND, NEBRASKA

By: _____
Name: Jay Vavricek
Title: Mayor

THE STATE OF NEBRASKA §
 §
COUNTY OF HALL §

This instrument was acknowledged before me on the _____ day of _____, 2012, as the voluntary act of the person known by me to be Jay Vavricek, the Mayor of the City of Grand Island, Nebraska, on behalf of and with the full authority of the City of Grand Island, Nebraska.

Notary Public, State of Nebraska

Notary's Typed or Printed Name

My Commission Expires: _____

EXHIBIT "A"
TO THE TEMPORARY CONSTRUCTION EASEMENT INSTRUMENT FROM
THE CITY OF GRAND ISLAND, NEBRASKA, TO BNSF AND THE BNSF PARTIES

Legal Description of the Easement Area

(Parcel 36)

A portion of Lots 40, 41 and 72, Industrial Addition to the City of Grand Island, Section Fifteen (15), Township Eleven (11), Range Nine (9) West of the 6th P.M., Hall County, Nebraska, more particularly described as follows:

Commencing at the East Quarter corner of said Section Fifteen (15); thence on an assumed bearing of South 00° 58' 50" East along the East line of the Southeast Quarter (SE 1/4), a distance of seven hundred eighty five and sixty seven hundredths (785.67) feet to a point on the southerly Right-of-Way line of the BNSF Railroad also being the Point of Beginning, thence South 00° 58' 50" East continuing along said East line, a distance of five and twenty hundredths (5.20) feet; thence North 63° 05' 05" West, a distance of forty five and twenty six hundredths (45.26) feet to a point on the West Right-of-Way line of South Stuhr Road; thence North 63° 05' 05" West, a distance of one thousand fifty three and sixty two hundredths (1,053.62) feet; thence North 63° 05' 03" West, a distance of two hundred ninety six and eighty six hundredths (296.86) feet; thence North 62° 44' 30" West, a distance of three hundred twenty eight and thirty five hundredths (328.35) feet to a point on the North line of the Southeast Quarter (SE 1/4); thence North 89° 41' 12" East along said North line, a distance of twenty three and fifty five hundredths (23.55) feet to a point on the existing BNSF Railroad Right-of-Way; thence South 61° 38' 40" East along said Right-of-Way, a distance of two hundred fifty nine and thirty six hundredths (259.36) feet; thence South 62° 56' 40" East, a distance of six hundred thirty five and sixty one hundredths (635.61) feet; thence South 63° 04' 46" East, a distance of seven hundred sixty and fifty six hundredths (760.56) feet to a point on the West Right-of-Way line of South Stuhr Road; thence South 63° 04' 46" East, a distance of forty five and twenty six hundredths (45.26) feet to the Point of Beginning.

Together with and subject to covenants, easement and restrictions of record.

Said tract of land contains 0.22 acres more or less.

611-5052



CONCLUSION

Journal of Interpersonal Violence 26(12) 2399–2416
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DOI: 10.1177/0886260511419044
jiv.sagepub.com

APPROVED
By: _____

[illegible][illegible]

Editorial Board: J. Edgar Smith, MD, PhD, Director, Division 101, Center for Disease Prevention and Control, U.S. Department of Health and Human Services; David A. Asch, MD, MPH, University of Michigan School of Medicine; Robert M. Anderson, MD, PhD, University of Washington School of Public Health and Community Medicine; William H. Berman, MD, PhD, University of California at San Francisco School of Medicine; Richard D. Burkhardt, MD, PhD, University of Wisconsin-Madison School of Journalism & Mass Communication; John S. Coates, MD, PhD, University of Pennsylvania School of Medicine; Michael J. Fine, MD, PhD, University of North Carolina at Chapel Hill School of Medicine; Thomas R. Frieden, MD, MPH, Centers for Disease Control and Prevention; David C. Goffman, MD, PhD, University of Texas Medical Branch; Robert L. Hampton, MD, PhD, University of Illinois at Chicago School of Medicine; Robert E. Hendrix, MD, PhD, University of California at Los Angeles School of Medicine; Robert Kohn, MD, PhD, University of California at Berkeley School of Public Health; Robert A. Kruse, MD, PhD, University of Minnesota School of Medicine; Robert F. Maizels, MD, PhD, University of Toronto School of Medicine; Robert M. Martin, MD, PhD, University of Washington School of Medicine; Robert M. Miller, MD, PhD, University of Washington School of Medicine; Robert M. Nelson, MD, PhD, University of Washington School of Medicine; Robert M. O'Leary, MD, PhD, University of Washington School of Medicine; Robert M. Pridemore, MD, PhD, University of Washington School of Medicine; Robert M. Rothstein, MD, PhD, University of Washington School of Medicine; Robert M. Tarr, MD, PhD, University of Washington School of Medicine; Robert M. Turner, MD, PhD, University of Washington School of Medicine; Robert M. Vittinghoff, MD, PhD, University of Washington School of Medicine; Robert M. Weimer, MD, PhD, University of Washington School of Medicine; Robert M. White, MD, PhD, University of Washington School of Medicine; Robert M. Wilson, MD, PhD, University of Washington School of Medicine; Robert M. Wright, MD, PhD, University of Washington School of Medicine; Robert M. Zuckerman, MD, PhD, University of Washington School of Medicine.

Expected to be completed by _____ 12/1/01

Dr. Samuel J. L. May (1792-1880)

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ALTA / ACSM SURVEY
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C1.0

ALTY MCSM SURVEY PARCEL 36



BNSF Right of Way
Acquisition
Hall County, Nebraska



RVA ENGINEERING
& SURVEYING

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ORDINANCE NO. 9356

An ordinance directing and authorizing the sale of six (6) separate parcels of real estate to the BNSF Railway Company, providing for temporary construction easements for those parcels, providing for the giving of notice of such conveyance and the terms thereof; providing for the right to file remonstrances against such conveyances; and providing for the publication and 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 will convey to the BNSF Railway Company and provide temporary construction easements for six (6) separate tracts of real estate legally described as follows:

- A. A tract of land located in the Northeast Quarter of the Southeast Quarter (NE $\frac{1}{4}$, SE $\frac{1}{4}$) of Section One (10, Township Eleven (11) North, Range Ten (10) West of the Sixth Principal Meridian (6th P.M.), City of Grand Island, Hall County, Nebraska, more particularly described as follows:
Commencing at the East Quarter corner of said Section One (1); thence on an assumed bearing of South 88°55'30" West, a distance of Thirty-Nine and Eighty Hundredths (39.80) feet to a point on the Westerly Right-of-Way line of North Webb Road; thence South 01°23'00" East along said Right-of-Way line, a distance of Eighty-Seven and Thirty Hundredths (87.30) feet to the Point of Beginning; thence South 01°23'00" East, a distance of Fifty-Two and Twenty-Five Hundredths (52.25) feet to a point on the Northerly Right-of-Way line of the BNSF Railroad; thence North 74°58'20" West along said BNSF Railroad Right-of-Way line, a distance of Five Hundred, Seven and Seventy Hundredths (507.70) feet; thence North 89°04'30" East, a distance of One Hundred, Eighty-Two and Eight Hundredths (182.08) feet; thence South 74°59'10" East, a distance of Three Hundred, Seventeen and Eighty-Eight (317.88) feet to the Point of Beginning.
Together with and subject to covenants, easement and restrictions of record.
Said tract of land contains 0.48 acres more or less.
- B. A tract of land located in Lots Seventy-Six (76), Ninety-Nine (99), One Hundred (100), and One Hundred and One (101), Industrial Addition to the City of Grand Island, Section Fourteen (14), Township Eleven (11) North, Range Nine (9) West of the Sixth Principal Meridian (6th P.M.), City of Grand Island, Hall County, Nebraska, more particularly described as follows:

ORDINANCE NO. 9356 (Cont.)

Commencing at the West Quarter corner of said Section Fourteen (14); thence on an assumed bearing of South 00°58'50" East along the West line of the Northwest Quarter of the Southwest Quarter (NW ¼, SW ¼), a distance of Seven Hundred, Eighty-Five and Sixty-Five Hundredths (785.65) feet to a point on the Southerly Right-of-Way line of the BNSF Railroad also being the Point of Beginning; thence South 63°06'00" East along the existing Southerly Right-of-Way line of the BNSF Railroad, a distance of Thirty-Seven and Thirty-Three Hundredths (37.33) feet to the East Right-of-Way line of South Stuhr Road; thence South 63°06'00" East along the existing Southerly Right-of-Way line of the BNSF Railroad, a distance of One thousand, One Hundred, Twenty-Three and Fifty-Four Hundredths (1,123.54) feet to a point on the South line of the Northwest Quarter of the Southwest Quarter (NW ¼, SW ¼) of said Section Fourteen (14); thence South 89°31'50" West continuing along said line a distance of Fifty-Seven and Sixty Hundredths (57.60) feet; thence North 63°06'00" West, a distance of Two Hundred, Sixteen and Sixty-Four Hundredths (216.64) feet; thence North 26°54'00" East, a distance of Three and Fifty-Nine Hundredths (3.59) feet; thence North 63°06'00" West, a distance of Eight Hundred, Forty-Three and Sixty-Three Hundredths (843.63) feet to a point on the Easterly Right-of-Way line of South Stuhr Road; thence North 63°06'00" West a distance of Thirty-Seven and Thirty-Three Hundredths (37.33) feet to a point on the West line of the Northwest Quarter of the Southwest Quarter (NW ¼, SW ¼) of said Section Fourteen (14); thence North 00°58'50" West along said section line, a distance of Twenty-Five and Ninety Hundredths (25.90) feet to the Point of Beginning.

Together with and subject to covenants, easement and restrictions of record.
Said tract of land contains 0.61 acres more or less.

- C. A tract of land located in Lot Ninety-Nine (99), Industrial Addition to the City of Grand Island, and the Southwest Quarter of the Southwest Quarter (SW ¼, SW ¼) of Section Fourteen (14), Township Eleven (11) North, Range Nine (9) West of the Sixth Principal Meridian (6th P.M.), City of Grand Island, Hall County, Nebraska, more particularly described as follows:

Commencing at the Southeast corner of the Southwest Quarter of the Southwest Quarter (SW ¼, SW ¼) of said Section Fourteen (14); thence on an assumed bearing of North 00°56'21" West along the East line of the Southwest Quarter of the Southwest Quarter (SW ¼, SW ¼), a distance of One Thousand, One Hundred, Thirty-Eight and Four Hundredths (1,138.04) feet to the Point of Beginning; thence North 63°05'57" West, a distance of Three Hundred, Ninety-Eight and Forty-Two Hundredths (398.42) feet to a point on the North line of the Southwest Quarter of the Southwest Quarter (SW ¼, SW ¼) of said Section Fourteen (14); thence North 89°31'50" East along said line, a distance of Fifty-Seven and Sixty Hundredths (57.60) feet to a point on the southerly Right-of-Way line of the BNSF Railroad; thence South 63°05'57" East along said Right-of-Way line, a distance of Three Hundred, Thirty-Three and Twenty-Nine Hundredths (333.29) feet to a point on the East line of the Southwest Quarter of the Southwest Quarter (SW ¼, SW ¼); thence South 00°56'21" East along said line, a distance of Twenty-Nine and Ninety-Four Hundredths (29.94) feet to the Point of Beginning.

Together with and subject to covenants, easement and restrictions of record.
Said tract of land contains 0.22 acres more or less.

ORDINANCE NO. 9356 (Cont.)

- D. A tract of land located in Lots One Hundred and Two (102), One Hundred and Nine (109), One Hundred and Ten (110), One Hundred and Twelve (112), One Hundred and Thirteen (113), and One Hundred and Fourteen (114), Industrial Addition to the City of Grand Island, Section Fourteen (14), Township Eleven (11) North, Range Nine (9) West of the Sixth Principal Meridian (6th P.M.), City of Grand Island, Hall County, Nebraska, more particularly described as follows:

Commencing at the Southwest corner of the Southeast Quarter of the Southwest Quarter (SE $\frac{1}{4}$, SW $\frac{1}{4}$) of said Section Fourteen (14); thence on an assumed bearing of North 00°56'21" West along the West line of the Southeast Quarter of the Southwest Quarter (SE $\frac{1}{4}$, SW $\frac{1}{4}$), a distance of One Thousand, One Hundred, Thirty-Eight and Four Hundredths (1,138.04) feet to the Point of Beginning; thence North 00°56'21" West continuing along said West line, a distance of Twenty-Nine and Ninety-Four Hundredths (29.94) feet to a point on the Southerly Right-of-Way line of the BNSF Railroad; thence South 63°05'57" East along said Right-of-Way line, a distance of One Thousand, Four Hundred, Ninety-Two and Fifty-Five Hundredths (1,492.55) feet to a point of the East line of the Southeast Quarter of the Southwest Quarter (SE $\frac{1}{4}$, SW $\frac{1}{4}$); thence South 63°05'57" East, a distance of One Thousand, Ninety-Seven and Seventy-Eight Hundredths (1,097.78) feet to the North Right-of-Way line of East Bismark Road; thence South 63°05'57" East, a distance of Eighty and Fifty-Three Hundredths (80.53) feet to a point on the South line of the Southwest Quarter of the Southeast Quarter (SW $\frac{1}{4}$, SE $\frac{1}{4}$); thence North 87°17'30" West along said South line, a distance of One Hundred, Twenty-Two and One Hundredth (122.01) feet; thence North 63°06'00" West, a distance of Eighty and Fifty-Three Hundredths (80.53) feet to a point on the North Right-of-Way line of East Bismark Road; thence North 63°06'00" West, a distance of One Hundred, Twenty-Four and Three Hundredths (124.03) feet; thence North 26°55'50" East, a distance of Thirty-Five and Twenty-Four Hundredths (35.24) feet; thence North 63°03'50" West, a distance of One Hundred, Seven and Twenty-Seven Hundredths (107.27) feet; thence South 27°00'30" West, a distance of Twenty (20.0) feet; thence North 63°04'00" West, a distance of Seven Hundred, Thirty-Seven and Fourteen Hundredths (737.14) feet to a point on the East line of the Southeast Quarter of the Southwest Quarter (SE $\frac{1}{4}$, SW $\frac{1}{4}$) of said Section Fourteen (14); thence North 62°48'00" West, a distance of One Thousand, Four Hundred, Ninety-Six and Sixty-Seven Hundredths (1,496.67) feet to the Point of Beginning. Together with and subject to covenants, easement and restrictions of record. Said tract of land contains 1.97 acres more or less.

- E. A tract of land located in the North Half (N $\frac{1}{2}$) of Section Fifteen (15), Township Eleven (11) North, Range Nine (9) West of the Sixth Principal Meridian (6th P.M.), City of Grand Island, Hall County, Nebraska, more particularly described as follows:
Commencing at the East Quarter corner of said Section Fifteen (15); thence on an assumed bearing of South 89°41'12" West along the South line of said Section Fifteen (15), a distance of One Thousand, Four Hundred, Ninety-Nine and Eighty-Six Hundredths (1,499.86) feet to a point on the Southerly Right-of-Way line of the BNSF Railroad also being the Point of Beginning; thence South 89°41'12" West along said South line, a distance of Twenty-Three and Fifty-Five Hundredths (23.55) feet; thence North 62°33'35" West, a distance of One Thousand, Three Hundred, Thirty-Seven and Fifty-Nine Hundredths (1,337.59) feet; thence on a curve to the right having a radius of Four Thousand, One Hundred, Thirty-Nine and

ORDINANCE NO. 9356 (Cont.)

Eighty-Nine Hundredths (4,139.89) feet, an arc length of One Hundred, Eight and Ninety-Eight Hundredths (108.98) feet being subtended by a chord of North 16°44'30" West, a length of One Hundred, Eight and Ninety-Seven Hundredths (108.97) feet to a point on the Southerly Right-of-Way line of the BNSF Railroad; thence South 59° 52' 40" East along said Right-of-Way line, a distance of One Thousand, Four Hundred, Thirty-Five and Eighty-Seven Hundredths (1,435.87) feet to the Point of Beginning.

Together with and subject to covenants, easement and restrictions of record.

Said tract of land contains 1.40 acres more or less.

- F. A portion of Lots Forty (40), Forty-One (41), and Seventy-Two (72), Industrial Addition to the City of Grand Island, Section Fifteen (15), Township Eleven (11), Range Nine (9) West of the Sixth Principal Meridian (6th P.M.), City of Grand Island, Hall County, Nebraska, more particularly described as follows:

Commencing at the East Quarter corner of said Section Fifteen (15); thence on an assumed bearing of South 00°58'50" East along the East line of the Southeast Quarter (SE ¼), a distance of Seven Hundred, Eighty-Five and Sixty-Seven Hundredths (785.67) feet to a point on the Southerly Right-of-Way line of the BNSF Railroad also being the Point of Beginning, thence South 00°58'50" East continuing along said East line, a distance of Five and Twenty Hundredths (5.20) feet; thence North 63°05'05" West, a distance of Forty-Five and Twenty-Six Hundredths (45.26) feet to a point on the West Right-of-Way line of South Stuhr Road; thence North 63°05'05" West, a distance of One Thousand, Fifty-Three and Sixty-Two Hundredths (1,053.62) feet; thence North 63°05'03" West, a distance of Two Hundred, Ninety-Six and Eighty-Six Hundredths (296.86) feet; thence North 62°44'30" West, a distance of Three Hundred, Twenty-Eight and Thirty-Five Hundredths (328.35) feet to a point on the North line of the Southeast Quarter (SE ¼); thence North 89°41'12" East along said North line, a distance of Twenty-Three and Fifty-Five Hundredths (23.55) feet to a point on the existing BNSF Railroad Right-of-Way; thence South 61°38'40" East along said Right-of-Way, a distance of Two Hundred, Fifty-Nine and Thirty-Six Hundredths (259.36) feet; thence South 62°56'40" East, a distance of Six Hundred, Thirty-Five and Sixty-One Hundredths (635.61) feet; thence South 63°04'46" East, a distance of Seven Hundred, Sixty and Fifty-Six Hundredths (760.56) feet to a point on the West Right-of-Way line of South Stuhr Road; thence South 63°04'46" East, a distance of Forty-Five and Twenty-Six Hundredths (45.26) feet to the Point of Beginning.

Together with and subject to covenants, easement and restrictions of record.

Said tract of land contains 0.22 acres more or less.

SECTION 2. In consideration of One Hundred and Twenty Dollars (\$120.00) and other consideration as set forth in the Master Utility Relocation Agreement approved pursuant to Resolution 2011-364, the City of Grand Island shall convey the real estate as listed above by Warranty Deed and shall grant temporary construction easements to BNSF Railway Company

ORDINANCE NO. 9356 (Cont.)

pursuant to the terms and conditions of the Warranty Deeds and Temporary Construction Easement agreements between the parties.

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

SECTION 4. Authority is hereby granted to the electors of the City of Grand Island to file remonstrances 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 or greater in number to thirty percent (30%) 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 (30) days of passage and publication of such ordinance, said property shall not then, nor within one (1) year thereafter, be conveyed.

SECTION 5. The conveyances of said real estate is hereby authorized, directed, and confirmed; and if no remonstrance is filed against such conveyances, the Mayor shall make, execute, and deliver to the BNSF Railway Company, Warranty Deeds for each parcel as described above, and the execution of these Deeds is hereby authorized without further action on behalf of the City Council.

SECTION 6. The Mayor shall make, execute, and deliver to the BNSF Railway Company Temporary Construction Easements for each parcel as described above.

SECTION 7. The City Clerk is directed to file this ordinance in the Office of the Register of Deeds of Hall County, Nebraska.

ORDINANCE NO. 9356 (Cont.)

SECTION 8. This ordinance shall be in force and take effect from and after its passage and publication, within fifteen (15) days in one (1) issue of the *Grand Island Independent* as provided by law.

Enacted: January 10, 2012.

Jay Vavricek, Mayor

Attest:

RaNae Edwards, City Clerk



City of Grand Island

Tuesday, January 10, 2012

Council Session

Item F3

#9357 - Consideration of Amending Salary Ordinance

Staff Contact: Brenda Sutherland

Council Agenda Memo

From: Brenda Sutherland, Human Resources Director

Meeting: January 10, 2012

Subject: Consideration of Amending Salary Ordinance

Item #'s: F-3

Presenter(s): Brenda Sutherland, Human Resources Director

Background

Salary Ordinances are presented to Council from time to time to obtain Council approval of compensation for City employees. The amendment being presented will more appropriately classify four positions.

Discussion

The changes proposed in Salary Ordinance #9357 are as follows; The Community Development Administrator position has recently moved to the Finance Department for supervision. Along with the move, the job description was updated. The changes to the job description make the position more appropriately classified as non-exempt under the FLSA (Fair Labor Standards Act). Non-exempt means that overtime is paid in excess of 40 hours per week. Employers with positions that are incorrectly classified under the FLSA are subject to penalties and fines. Therefore, the recommendation to reclassify is necessary to be compliant with the law as defined by the FLSA.

The next three positions are recommended for title/classification changes. The three Assistant Utility Directors have titles which don't accurately describe the position. It is recommended that the division function be added to the job title/classification and the location be removed. The Assistant Utility Director – PGS would instead be referred to as Assistant Utilities Director – Production. The Assistant Utility Director – Administration would be referred to as Assistant Utilities Director – Distribution, and the Assistant Utility Director – PCC would be referred to as Assistant Utilities Director – Transmission. The proposed changes are merely a nomenclature change. Job duties are not being changed and no wage changes are being recommended. The Director along with the three Assistant Directors will be referred to "Utilities" and not "Utility" as there is more than one utility provided by the City of Grand.

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

I recommend the classification changes listed above be approved in Salary Ordinance #9357.

Sample Motion

Move to approve classification changes as proposed in Salary Ordinance #9357.

ORDINANCE NO. 9357

An ordinance to amend Ordinance 9337 known as the Salary Ordinance which lists the currently occupied classifications of officers and employees of the City of Grand Island, Nebraska and established the ranges of compensation of such officers and employees; -to amend Overtime Eligibility for the Community Development Administrator from Exempt to 40 hrs/week; to amend the classification of Assistant Utility Director – Administration to Assistant Utilities Director – Distribution; to amend the classifications of Assistant Utility Director – PGS & PCC to Assistant Utilities Director – Production and Assistant Utilities Director – Transmission ~~to amend the salary ranges of the employees covered under the IBEW Finance labor agreement, the IBEW Utilities labor agreement and the IBEW Wastewater Treatment Plant labor agreement~~; and to repeal those portions of Ordinance No. ~~9326~~9337 and any parts of other ordinances in conflict herewith; to provide for severability; to provide for the effective date thereof; and to provide for publication of this ordinance in pamphlet form.

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

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

Classification	Hourly Pay Range Min/Max	Overtime Eligibility
Accountant	21.9881/31.0033	Exempt
Accounting Technician – Solid Waste	15.2625/20.0651	40 hrs/week
Assistant to the City Administrator	21.3879/30.1079	Exempt
Assistant Utility <u>Utilities</u> Director –	41.4936/58.4045	Exempt

Approved as to Form ☐ _____
City Attorney

ORDINANCE NO. 9357(Cont.)

Classification	Hourly Pay Range Min/Max	Overtime Eligibility
Administration <u>Distribution</u>		
Assistant Utility <u>Utilities</u> Director – PGS & PCC <u>Production</u>	44.9328/63.2681	Exempt
<u>Assistant Utilities Director – Transmission</u>	<u>44.9328/63.2681</u>	<u>Exempt</u>
Attorney	27.3606/42.2161	Exempt
Biosolids Technician	17.3383/24.4065	40 hrs/week
Building Department Director	32.0513/45.6044	Exempt
Cemetery Superintendent	18.6323/26.2314	Exempt
City Administrator	54.8239/77.1429	Exempt
City Attorney	37.8815/53.3170	Exempt
City Clerk	22.8836/32.2140	Exempt
Civil Engineering Manager – Utility PCC	32.5600/46.4896	Exempt
Collection System Supervisor	21.9678/31.2271	40 hrs/week
Community Service Officer	12.3118/16.7379	40 hrs/week
Custodian – Library, Police	11.2825/15.9214	40 hrs/week
Customer Service Representative – Part time	8.1400/12.21000	40 hrs/week
Electric Distribution Superintendent	31.7969/43.5795	Exempt
Electric Distribution Supervisor	26.8518/36.8223	40 hrs/week
Electric Underground Superintendent	28.3170/38.8176	Exempt
Electrical Engineer I	25.7733/35.5718	Exempt
Electrical Engineer II	29.8941/41.2189	Exempt
Emergency Management Deputy Director	21.7338/29.7221	Exempt
Emergency Management Director	30.9320/42.2873	Exempt
Engineering Technician - WWTP	19.2002/27.1266	40 hrs/week
Equipment Operator - Solid Waste	15.3864/21.6684	40 hrs/week
Finance Director	36.3126/51.0998	Exempt
Fire Chief	34.6459/49.0944	Exempt
Fire Division Chief	28.3344/40.8994	Exempt
Fleet Services Shop Foreman	19.5462/27.2283	40 hrs/week
Golf Course Superintendent	23.2091/33.4961	Exempt
Grounds Management Crew Chief – Cemetery	17.4024/24.4899	40 hrs/week

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Classification	Hourly Pay Range Min/Max	Overtime Eligibility
Grounds Management Crew Chief – Parks	17.9244/25.2244	40 hrs/week
Human Resources Director	32.7736/46.6931	Exempt
Human Resources Benefits & Risk Management Coordinator	17.5519/25.7936	40 hrs/week
Human Resources Recruiter	17.5519/25.7936	40 hrs/week
Human Resources Specialist	16.2210/22.8215	40 hrs/week
Information Technology Manager	29.4608/41.4516	Exempt
Legal Secretary	19.3020/25.9564	40 hrs/week
Librarian I	16.8600/23.4534	Exempt
Librarian II	18.6711/26.3024	Exempt
Library Assistant I	11.8132/16.2597	40 hrs/week
Library Assistant II	13.0138/17.9385	40 hrs/week
Library Assistant Director	21.2658/30.3114	Exempt
Library Director	28.7745/40.5034	Exempt
Library Page	7.5600/10.4599	40 hrs/week
Library Secretary	14.1331/20.0855	40 hrs/week
Maintenance Worker – Golf	14.1865/20.0066	40 hrs/week
Manager of Engineering Services	31.3695/45.0244	Exempt
Meter Reader Supervisor	17.8435/25.1290	Exempt
Office Manager – Police Department	15.4558/21.4088	40 hrs/week
Parks and Recreation Director	32.5449/45.7755	Exempt
Parks Superintendent	22.7411/32.1631	Exempt
Payroll Specialist	16.2210/22.8215	40 hrs/week
Planning Director	32.2698/45.3986	Exempt
Police Captain	27.2486/38.3293	Exempt
Police Chief	34.6459/49.0944	Exempt
Power Plant Maintenance Supervisor	28.5419/40.1479	Exempt
Power Plant Operations Supervisor	29.7110/42.7758	Exempt
Power Plant Superintendent – Burdick	32.5404/45.7903	Exempt
Power Plant Superintendent – PGS	37.5140/52.7646	Exempt
Project Manager – Public Works	28.9275/40.7000	Exempt

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Classification	Hourly Pay Range Min/Max	Overtime Eligibility
Public Information Officer	20.4314/28.7545	Exempt
Public Works Director	36.4524/51.2964	Exempt
Public Works Engineer	30.2000/42.5000	Exempt
Receptionist	12.6170/18.2540	40 hrs/week
Recreation Coordinator	16.4835/22.9955	Exempt
Recreation Superintendent	21.2963/30.5555	Exempt
Regulatory and Environmental Manager	28.1473/39.5929	Exempt
Senior Accountant	26.7806/37.2813	Exempt
Senior Electrical Engineer	32.7126/45.1058	Exempt
Senior Public Safety Dispatcher	16.4835/22.5275	40 hrs/week
Senior Utility Secretary	14.5757/20.8130	40 hrs/week
Shooting Range Superintendent	21.2963/30.5555	Exempt
Solid Waste Division Clerk - Full Time	14.5401/19.4750	40 hrs/week
Solid Waste Division Clerk - Part Time	12.9463/17.6842	40 hrs/week
Solid Waste Foreman	16.1559/22.7331	40 hrs/week
Solid Waste Superintendent	23.3808/32.9011	Exempt
Street Superintendent	23.9113/34.8086	Exempt
Street Foreman	18.8034/26.7195	40 hrs/week
Turf Management Specialist	20.8588/29.5279	40 hrs/week
Utility <u>Utilities</u> Director	52.8795/75.7733	Exempt
Utility Production Engineer	33.4540/47.0808	Exempt
Utility Services Manager	27.2181/37.8815	Exempt
Utility Warehouse Supervisor	22.2019/31.0134	40 hrs/week
Victim Assistance Unit Coordinator	12.7696/17.9792	40 hrs/week
Wastewater Engineering/Operations Superintendent	26.0989/36.9251	Exempt
Wastewater Plant Chief Operator	19.2816/27.1774	40 hrs/week
Wastewater Plant Maintenance Supervisor	23.3109/31.3899	40 hrs/week
Wastewater Plant Process Supervisor	24.1656/32.5804	40 hrs/week
Water Superintendent	24.6449/34.8086	Exempt
Water Supervisor	21.2759/30.6573	40 hrs/week
Worker / Seasonal	7.2500/20.0000	Exempt

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Classification	Hourly Pay Range Min/Max	Overtime Eligibility
Worker / Temporary	7.2500/20.0000	40 hrs/week

A shift differential of \$0.10 per hour shall be added to the base hourly wage for persons in the employee classification Senior Public Safety Dispatcher who work a **complete** shift that begins between 3:00 p.m. and 11:00 p.m. This does not include persons who work the day shift. Shift differential will only be paid for actual hours worked. Paid leave will not qualify for the shift differential pay.

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

Classification	Hourly Pay Range Min/Max	Overtime Eligibility
Equipment Operator – Streets	14.3613/21.2743	40 hrs/week
Fleet Services Mechanic	16.3825/24.2718	40 hrs/week
Horticulturist	15.1638/22.5063	40 hrs/week
Maintenance Worker – Cemetery	14.2525/21.1310	40 hrs/week
Maintenance Worker – Parks	14.1574/21.0022	40 hrs/week
Maintenance Worker – Streets	13.8581/20.5436	40 hrs/week
Senior Equipment Operator – Streets	15.7348/23.3375	40 hrs/week
Senior Maintenance Worker – Streets	15.7348/23.3375	40 hrs/week
Traffic Signal Technician	15.7348/23.3375	40 hrs/week

SECTION 3. The currently occupied classifications of employees of the City of Grand Island included under the IBEW labor agreements, and the ranges of compensation (salary

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

Classification	Hourly Pay Range Min/Max	Overtime Eligibility
Accounting Clerk	14.6738/19.4178	40 hrs/week
Cashier	13.4680/18.3525	40 hrs/week
Custodian	15.7268/18.5712	40 hrs/week
Electric Distribution Crew Chief	28.7270/36.5353	40 hrs/week
Electric Underground Crew Chief	28.7270/36.5353	40 hrs/week
Engineering Technician I	18.1032/25.9023	40 hrs/week
Engineering Technician II	22.3791/30.6848	40 hrs/week
GIS Coordinator	23.0246/32.3083	40 hrs/week
Instrument Technician	27.0030/35.6731	40 hrs/week
Lineworker Apprentice	17.5111/25.6767	40 hrs/week
Lineworker First Class	26.5428/31.3925	40 hrs/week
Materials Handler	21.8556/29.2968	40 hrs/week
Meter Reader	15.7469/20.5343	40 hrs/week
Meter Technician	21.1717/26.1661	40 hrs/week
Power Dispatcher I	26.5134/36.8640	40 hrs/week
Power Dispatcher II	27.8474/38.7126	40 hrs/week
Power Plant Maintenance Mechanic	25.0977/31.2514	40 hrs/week
Power Plant Operator	29.6493/34.5364	40 hrs/week
Senior Accounting Clerk	16.4937/21.6054	40 hrs/week
Senior Engineering Technician	28.3158/34.6522	40 hrs/week
Senior Materials Handler	25.1644/32.8236	40 hrs/week
Senior Meter Reader	18.6499/22.1352	40 hrs/week
Senior Power Dispatcher	32.2133/44.2057	40 hrs/week
Senior Power Plant Operator	29.2327/37.4754	40 hrs/week
Senior Substation Technician	34.4193/35.6731	40 hrs/week
Senior Water Maintenance Worker	20.4500/26.9280	40 hrs/week
Substation Technician	31.8632/33.1281	40 hrs/week

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Classification	Hourly Pay Range Min/Max	Overtime Eligibility
Systems Technician	28.0805/35.6731	40 hrs/week
Tree Trim Crew Chief	25.1546/31.2384	40 hrs/week
Utility Electrician	25.2079/33.1281	40 hrs/week
Utility Technician	24.6204/34.6321	40 hrs/week
Utility Warehouse Clerk	18.1921/22.4447	40 hrs/week
Water Maintenance Worker	17.0380/23.5619	40 hrs/week
Wireworker I	19.1407/27.0649	40 hrs/week
Wireworker II	26.5428/31.3925	40 hrs/week

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

Classification	Hourly Pay Range Min/Max	
Police Officer	17.8037/24.8884	
Police Sergeant	22.2831/30.5330	

OVERTIME ELIGIBILITY

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

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exceed their hours scheduled for work in the fourteen (14) day pay cycle with a minimum of eighty (80) hours. There shall also be established for each employee in the bargaining unit a Training and Special Events bank of fifty (50) hours per individual per contract year. Each employee may be scheduled for training or special event duty with a minimum of seven (7) days notice prior to the commencement of the pay period and the training and special events bank hours may be added to the eighty (80) hour, two (2) week pay period up to eighty-six (86) hours and these hours shall not be eligible for overtime. Training and special events hours worked in excess of eighty-six (86) hours in a two week pay period will be eligible for overtime, but will not be subtracted from the training and special events bank. All work completed after eighty (80) hours in a pay period that is performed for work that is funded by grants from parties outside or other than the City of Grand Island, shall be paid overtime for the time worked after eighty (80) hours, if the time is funded at overtime rates by the grant. Any such grant hours are not deducted from the training and special events bank.

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

Classification	Hourly Pay Range Min/Max	Overtime Eligibility
Fire Captain	16.9624/23.5195	212 hrs/28 days
Firefighter / EMT	12.6022/18.2885	212 hrs/28 days
Firefighter / Paramedic	14.0702/19.8718	212 hrs/28 days

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IAFF employees will be eligible for overtime pay for hours worked in excess of 212 hours in each 28-day pay period.

SECTION 6. The currently occupied classifications of the employees of the City of Grand Island included under the IBEW-WWTP labor agreement, and the ranges of compensation salary and wages, excluding shift differential as provided by contract, to be paid for such classifications, and the number of hours and work period which certain such employees included under the IBEW-WWTP labor agreement shall work prior to overtime eligibility are as follows:

Classification	Hourly Pay Range Min/Max	Overtime Eligibility
Accounting Technician – WWTP	14.5040/20.4084	40 hrs/week
Equipment Operator – WWTP	16.4663/23.1698	40 hrs/week
Maintenance Mechanic I	16.4663/23.1698	40 hrs/week
Maintenance Mechanic II	18.4369/25.9426	40 hrs/week
Maintenance Worker – WWTP	16.4663/23.1698	40 hrs/week
Senior Equipment Operator – WWTP	17.7987/25.0445	40 hrs/week
Wastewater Clerk	12.3898/17.4334	40 hrs/week
Wastewater Plant Laboratory Technician	17.4796/24.5955	40 hrs/week
Wastewater Plant Operator I	14.7271/20.7227	40 hrs/week
Wastewater Plant Operator II	16.4663/23.1698	40 hrs/week

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

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Classification	Hourly Pay Range Min/Max	Overtime Eligibility
Accounting Technician – Streets	15.5354/20.7381	40 hrs/week
Accounts Payable Clerk	14.7357/21.3196	40 hrs/week
Administrative Assistant	15.3277/21.9842	40 hrs/week
Audio Video Technician	15.4730/21.8284	40 hrs/week
Building Inspector	19.1389/27.1558	40 hrs/week
Building Secretary	14.4242/20.4992	40 hrs/week
Community Development Administrator	16.6985/24.0093	Exempt 40 hr/week
Community Development Specialist	15.3277/21.9842	40 hrs/week
Computer Operator	18.6196/24.4767	40 hrs/week
Computer Programmer	21.2365/31.1227	40 hrs/week
Computer Technician	19.1782/25.2114	40 hrs/week
Electrical Inspector	19.1389/27.1558	40 hrs/week
Emergency Management Coordinator	14.4242/20.4992	40 hrs/week
Engineering Technician – Public Works	19.6892/27.7684	40 hrs/week
Evidence Technician	14.3204/20.9561	40 hrs/week
Finance Secretary	14.4242/20.4992	40 hrs/week
GIS Coordinator	21.8310/30.6333	40 hrs/week
Maintenance Worker I – Building, Library	15.0473/20.3642	40 hrs/week
Maintenance Worker II – Building, Police	15.8573/21.4961	40 hrs/week
Parks and Recreation Secretary	14.4242/20.4992	40 hrs/week
Planning Secretary	14.4242/20.4992	40 hrs/week
Planning Technician	19.7483/27.7850	40 hrs/week
Plans Examiner	19.1389/27.1558	40 hrs/week
Plumbing Inspector	19.1389/27.1558	40 hrs/week
Police Records Clerk – Full Time	12.8769/17.9239	40 hrs/week
Public Safety Dispatcher	14.5384/21.2365	40 hrs/week
Shooting Range Operator	19.9799/27.0830	40 hrs/week
Stormwater Technician	19.6892/27.7684	40 hrs/week
Utility Secretary	14.4242/20.4992	40 hrs/week

A shift differential of \$0.10 per hour shall be added to the base hourly wage for persons in the employee classification Public Safety Dispatcher who work a **complete** shift that begins

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between 3:00 p.m. and 11:00 p.m. This does not include persons who work the day shift. Shift differential will only be paid for actual hours worked. Paid leave will not qualify for the shift differential pay.

SECTION 8. The classification of employees included under labor agreements with the City of Grand Island, and the ranges of compensation (salary and wages, excluding shift differential as provided by contract) to be paid for such classifications, and the number of hours and work period which certain such employees shall work prior to overtime eligibility are as stated above. All employees covered by the IAFF labor agreement shall be paid a clothing and uniform allowance in addition to regular salary in the amount of \$484.00 per year, divided into twenty-four (24) pay periods. All employees of the FOP labor agreement shall be paid a clothing and uniform allowance in addition to regular salary of \$25.00 per pay period. If any such employee covered by the IAFF or FOP labor agreements shall resign, or his or her employment be terminated for any reason whatsoever, the clothing allowance shall be paid on a prorata basis, but no allowance shall be made for a fraction of a month.

Fire Chief and Fire Division Chiefs shall be paid a clothing allowance of \$484.08 per year, divided into 24 pay periods. Police Chief and Police Captains shall be paid a clothing allowance of \$650.00 per year, divided into 26 pay periods.

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

Employees covered by the AFSCME labor agreement shall be granted a meal allowance of \$4.50 if they are required to work two (2) hours overtime consecutively with their normal working hours during an emergency situation, and if such overtime would normally

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

Non-exempt direct supervisors of employees who are covered by labor agreements which allow stand-pay shall be entitled to the same stand-by pay benefit.

Utilities Department personnel in the IBEW bargaining unit and the classifications of Meter Reader Supervisor, Power Plant Superintendent, Power Plant Supervisor, Electric Distribution Superintendent, Electric Distribution Supervisor, Water Superintendent, Water Supervisor, Electric Underground Superintendent, and Engineering Technician Supervisor shall be eligible to participate in a voluntary uniform program providing an allowance up to \$18.00 per month. When protective clothing is required for Utilities Department and Wastewater Treatment Plant personnel covered by the IBEW labor agreement and employees covered by the AFSCME labor agreement, except the Fleet Services Division of the Public Works Department, the City shall pay 60% of the cost of providing and cleaning said clothing and the employees 40% of said cost. Full-time Fleet Services personnel shall receive a uniform allowance of \$12 biweekly. Public Works Department personnel in the job classifications of Fleet Services Shop Foreman and Fleet Services Mechanic shall receive a tool allowance of \$10 biweekly.

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

ORDINANCE NO. 9357(Cont.)

(A) All employees covered in the IBEW Utilities and IBEW Finance labor agreements shall be paid for forty-seven percent (47%) of their accumulated medical leave at the time of their retirement, early retirement, or death, not to exceed four hundred eighty-eight and one third hours (calculated at $47\% \times 1039 \text{ hours} = 488.33 \text{ hours}$), the rate of compensation to be based on the employee's salary at the time of retirement or death. Employees covered in the IAFF labor agreement shall have a contribution to a VEBA made on their behalf in lieu of payment for thirty-eight percent (38%) of their accumulated medical leave at the time of their retirement, not to exceed five hundred ninety-eight and eighty-eight hundredths hours (calculated at $38\% \times 1,576 \text{ hours} = 598.88 \text{ hours}$). The amount of contribution will be based upon the employee's salary at the time of retirement. Employees covered by the IBEW Wastewater labor agreement shall be paid 37.5% of their accumulated medical leave at the time of retirement or death, based on the employee's salary at the time of retirement not to exceed three hundred ninety-nine hours (calculated at $37.5\% \times 1064 \text{ hours} = 399 \text{ hours}$). Employees covered by the IBEW Service/Clerical labor agreement shall have a contribution to a VEBA made on their behalf in lieu of payment for forty percent (40%) of their accumulated medical leave at the time of retirement or death, based on the employee's salary at the time of retirement not to exceed 433.60 hours (calculated at $40\% \times 1084 \text{ hours} = 433.60 \text{ hours}$.) Non-union employees shall have a contribution to a VEBA made on their behalf in lieu of payment for fifty percent (50%) of their accumulated medical leave at the time of their retirement, not to exceed five hundred forty-two hours (calculated at $50\% \times 1084 = 542$). The

ORDINANCE NO. 9357(Cont.)

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

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

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

ORDINANCE NO. 9357(Cont.)

SECTION 10. Non-union employees shall have a contribution made on their behalf to their VEBA account in the amount of \$30.00 per pay period. Employees represented by the IBEW Service/Clerical labor agreement shall have a contribution made on their behalf to the VEBA account of \$15 per pay period.

SECTION 11. The validity of any section, subsection, sentence, clause, or phrase of this ordinance shall not affect the validity or enforceability of any other section, subsection, sentence, clause, or phrase thereof.

SECTION 12. The adjustments identified herein shall be effective on the date of passage and publication in pamphlet form in one issue of the Grand Island Independent as provided by law.

SECTION 13. Those portions of Ordinance No. 9337 and all other parts of ordinances in conflict herewith be, and the same are, hereby repealed.

Enacted: January 10, 2012.

Jay Vavricek, Mayor

Attest:

RaNae Edwards, City Clerk



City of Grand Island

Tuesday, January 10, 2012

Council Session

Item G1

Approving Minutes of December 20, 2011 City Council Regular Meeting

Staff Contact: RaNae Edwards

CITY OF GRAND ISLAND, NEBRASKA

MINUTES OF CITY COUNCIL REGULAR MEETING

December 20, 2011

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 December 20, 2011. Notice of the meeting was given in *The Grand Island Independent* on December 14, 2011.

Mayor Jay Vavricek called the meeting to order at 7:00 p.m. The following City Council members were present: Chuck Haase, Bob Niemann, Kirk Ramsey, Peg Gilbert, Mitch Nickerson, Linna Dee Donaldson, Scott Dugan, Randy Gard, and John Gericke. Councilmember Larry Carney was absent. The following City Officials were present: City Administrator Mary Lou Brown, City Clerk RaNae Edwards, City Attorney Robert Sivick, Public Works Director John Collins and Interim Finance Director Jaye Monter.

INVOCATION was given by Pastor Bill Rowland, Beacon of Hope Church, 2525 West State Street followed by the PLEDGE OF ALLEGIANCE.

MAYOR COMMUNICATION: Mayor Vavricek introduced Community Youth Council members Alex Wirth and Tori Katzberg.

City Administrator Mary Lou Brown reported that the sidewalk for Knickrehm School had been completed.

BOARD OF EQUALIZATION: Motion by Gilbert, second by Niemann, carried unanimously to adjourn to the Board of Equalization.

#2011-BE-7 – Consideration of Determining Benefits for Sanitary Sewer District No. 526; Lot 3, Grand Island Plaza Subdivision. Public Works Director John Collins reported that the City Council in its capacity as the Board of Equalization was required to determine the benefits for Sanitary Sewer District No. 526. Special assessments were for the amount of \$27,799.23.

Motion by Gilbert, second by Niemann to approve Resolutions #2011-BE-7. Upon roll call vote, all voted aye. Motion adopted.

#2011-BE-8 – Consideration of Determining Benefits for Street Improvement District No. 1256; Capital Avenue from the Moores Creek Drain to Webb Road. Public Works Director John Collins reported that the City Council in its capacity as the Board of Equalization was required to determine the benefits for Street Improvement District No. 1256. Special assessments were for the amount of \$732,831.98.

Curtis Cellar, 4220 Shanna Street, Melinda Lavalleur, 2309 West Division Street, and Jeff Vinson, 3010 Gladstone Circle spoke in opposition.

Motion by Gilbert, second by Niemann to approve Resolutions #2011-BE-8.

A lengthy discussion was held concerning questions from those people opposing the district and how assessments were determined. Mr. Collins explained the method of calculating the costs. Federal funds for this project were 80% and the City's costs were 20%.

Motion by Gericke, second by Niemann to refer this item to the January 10, 2012 City Council meeting. Upon roll call vote, all voted aye. Motion adopted.

RETURN TO REGULAR SESSION: Motion by Gilbert, second by Gard carried unanimously to return to Regular Session.

PUBLIC HEARINGS:

Public Hearing on Request from GMRI Inc. dba The Olive Garden Italian Restaurant #4416, 1010 Allen Drive for a Class 'I' Liquor License. RaNae Edwards, City Clerk reported that an application for a Class "A" Liquor License had been received from GMRI, Inc. dba The Olive Garden Italian Restaurant #4416, 1010 Allen Drive. Ms. Edwards presented the following exhibits for the record: application submitted to the Liquor Control Commission and received by the City on November 30, 2011; notice to the general public of date, time, and place of hearing published on December 10, 2011; notice to the applicant of date, time, and place of hearing mailed on November 30, 2011; along with Chapter 4 of the City Code. Staff recommended approval contingent upon final inspections. No public testimony was heard.

Public Hearing on Acquisition of Utility Easement located West of Locust Street and North of Schimmer Drive (Hooker Brothers Sand & Gravel). Utilities Director Tim Luchsinger reported that acquisition of a utility easement located west of Locust Street and north of Schimmer Drive was needed in order to have access to install, upgrade, maintain, and repair power appurtenances, including lines and transformers for the purpose of installing underground electrical conduit cable and a pad-mounted transformer to provide 3-Phase service to a new building located on the property. Staff recommended approval. No public testimony was heard.

Public Hearing on Acquisition of Utility Easement Located at 1404 West 2nd Street (Casey's Retail Company). Utilities Director Tim Luchsinger reported that acquisition of a utility easement located at 1404 West 2nd Street was needed in order to have access to install, upgrade, maintain, and repair power appurtenances, including lines and transformers for the purpose of placing underground conduit, cable and a pad-mounted transformer to provide service to Casey's expansion of its store. Staff recommended approval. No public testimony was heard.

Public Hearing on Amendments to Chapter 36-69 of the Grand Island City Code Relative to (AC) Arterial Commercial Overlay Zone regarding Campgrounds. Regional Planning Director Chad Nabity reported that amendments to Chapter 36 of the Grand Island City Code were needed relative to the number of bathroom facilities required for campgrounds. Staff recommended approval. No public testimony was heard.

Public Hearing on Acquisition of Public Utility Easement in Oak Pointe Subdivision (R.B.O., L.L.C.). Public Works Director John Collins reported that acquisition of a public utility easement located in the Oak Pointe Subdivision was needed to allow for the construction, operation, maintenance, extension, repair, replacement, and removal of public utilities within the easement.

This easement would allow a redesign of the development area. Staff recommended approval. No public testimony was heard.

ORDINANCES:

Regional Planning Director Chad Nabity reported this was the final reading to annex property located at 1120 and 1140 South Lincoln.

#9346 – Consideration of Annexation of Property Located at 1120 and 1140 South Lincoln Avenue (former Aurora Coop Site) (Final Reading)

Motion by Ramsey, second by Niemann to approve Ordinance #9346 on final 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 are suspended and that ordinances numbered:

#9349 – Consideration of Amendments to Chapter 36-69 of the Grand Island City Code Relative to (AC) Arterial Commercial Overlay Zone Regarding Campgrounds

#9350 – Consideration of Assessments for Sanitary Sewer District No. 526; Lot 3, Grand Island Plaza Subdivision

#9352 – Consideration of Vacation of a Utility Easement Located in Lot 46, Block 1 of Dale Roush 2nd Subdivision (9 Dakota Drive)

#9353 – Consideration of Vacation of Starwood Avenue from Cedar Ridge Court East in Oak Pointe Subdivision (R.B.O., L.L.C.)

#9354 – Consideration of Vacation of a Utility Easement Located in Oak Pointe Subdivision (R.B.O., L.L.C.)

#9355 – Consideration of Conveyance of a Tract of Land Owned by the City of Grand Island to the State of Nebraska, Department of Roads for Project 34-4(126)

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 second reading and then upon final passage and call for a roll call vote on each reading and then upon final passage.” Councilmember Nickerson second the motion. Upon roll call vote, all voted aye. Motion adopted.

#9349 – Consideration of Amendments to Chapter 36-69 of the Grand Island City Code Relative to (AC) Arterial Commercial Overlay Zone Regarding Campgrounds

Regional Planning Director Chad Nabity reported that Ordinance #9349 would amend City Code Section 36-69 relative to the number of bathrooms from 15 to 25 for campgrounds. Mr. Nabity stated this was within the national standards. Building Department Director Craig Lewis stated this would be for primitive sites or tent camping.

Motion by Donaldson, second by Haase to approve Ordinance #9349.

Discussion was held concerning the number to bathroom sites and when they would need to be constructed after reaching 25.

Motion by Gilbert, second by Gericke to amend the motion to add “or fraction thereof” after the number 25 in the second sentence. Upon roll call vote, Councilmember’s Niemann, Ramsey, Gilbert, Nickerson, Donaldson, Dugan, Gard, and Gericke voted aye. Councilmember Haase voted no. Motion adopted.

City Clerk: Ordinance #9349 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 #9349 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 Vavricek: By reason of the roll call votes on first reading and then upon final passage, Ordinance #9349 is declared to be lawfully adopted upon publication as required by law.

#9350 – Consideration of Assessments for Sanitary Sewer District No. 526; Lot 3, Grand Island Plaza Subdivision

Motion by Dugan, second by Ramsey to approve Ordinance #9349.

City Clerk: Ordinance #9350 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 #9350 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 Vavricek: By reason of the roll call votes on first reading and then upon final passage, Ordinance #9350 is declared to be lawfully adopted upon publication as required by law.

#9352 – Consideration of Vacation of a Utility Easement Located in Lot 46, Block 1 of Dale Roush 2nd Subdivision (9 Dakota Drive)

Motion by Gericke, second by Gard to approve Ordinance #9352.

City Clerk: Ordinance #9352 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 #9352 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 Vavricek: By reason of the roll call votes on first reading and then upon final passage, Ordinance #9352 is declared to be lawfully adopted upon publication as required by law.

#9353 – Consideration of Vacation of Starwood Avenue from Cedar Ridge Court East in Oak Pointe Subdivision (R.B.O., L.L.C.)

#9354 – Consideration of Vacation of a Utility Easement Located in Oak Pointe Subdivision (R.B.O., L.L.C.)

Public Works Director John Collins reported that R.B.O., LLC was considering redesigning the Oak Pointe subdivision area and wished to vacate the east end of Starwood Avenue along with the sixty (60) foot wide utility easement.

Motion by Nickerson, second by Gericke to approve Ordinances #9353 and #9354.

City Clerk: Ordinances #9353 and #9354 on first reading. All those in favor of the passage of these ordinances on first reading, answer roll call vote. Upon roll call vote, all voted aye. Motion adopted.

City Clerk: Ordinances #9353 and #9354 on final passage. All those in favor of the passage of these ordinances on final passage, answer roll call vote. Upon roll call vote, all voted aye. Motion adopted.

Mayor Vavricek: By reason of the roll call votes on first reading and then upon final passage, Ordinances #9353 and #9354 are declared to be lawfully adopted upon publication as required by law.

#9355 – Consideration of Conveyance of a Tract of Land Owned by the City of Grand Island to the State of Nebraska, Department of Roads for Project 34-4(126)

Public Works Department Director John Collins reported that the State of Nebraska, Department of Roads (NDOR) was planning to improve a portion of US Highway 34 from US-281 to South Locust Street. US-34 would be widened at the intersection of Blaine Street to accommodate left turn lanes. The bridge immediately west of the Blaine Street intersection would be replaced with a concrete box culvert. Construction is scheduled in 2012. In order for US-34 to be widened and the new box culvert constructed, 0.03 Acre of property owned by the City of Grand Island must be acquired by NDOR.

Motion by Donaldson, second by Dugan to approve Ordinance #9355.

City Clerk: Ordinance #9355 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 #9355 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 Vavricek: By reason of the roll call votes on first reading and then upon final passage, Ordinance #9355 is declared to be lawfully adopted upon publication as required by law.

CONSENT AGENDA: Consent Agenda item G-6 was pulled for further discussion. Motion by Ramsey, second by Gard to approve the Consent Agenda. Upon roll call vote, all voted aye. Motion adopted.

Approving Minutes of December 6, 2011 City Council Regular Meeting.

Approving Re-Appointments of John Hoggatt and Roger Bullington to the Grand Island Facilities Corporation Board.

Approving Re-Appointments of Denise Kozel, Mike Rivera, Brady Blauhorn, Terry Klanecky, and Craig Lewis to the Electrical Board.

Approving Re-Appointments of Loran Peterson, Scott Hilligas, Mike McElroy, Mike Myers, Todd Bredthauer, Tom O'Neill, Russ Shaw, and Craig Lewis to the Mechanical Examining Board.

Approving Re-Appointments of Jennifer Herman, Mike Bailey, Verne Penas, David Scoggins, and Craig Lewis to the Plumbers Examining Board.

#2011-366 – Approving Acquisition of Utility Easement Located West of Locust Street and North of Schimmer Drive (Hooker Brothers Sand & Gravel).

#2011-367 – Approving Acquisition of Utility Easement Located at 1404 West 2nd Street (Casey's Retail Company).

#2011-368 – Approving Award of Safety Glass Contract for Utilities, Public Works, and Parks Employees for 2012-2014 with Eyecare Professionals/Grand Island Optical, of Grand Island, Nebraska.

#2011-369 – Approving Employee Uniform Contract for Utilities and Public Works Departments with Paramount Linen and Uniform of Kearney, Nebraska.

#2011-370 – Approving Bid Award for Cul-de-sac Snow Removal Operations for the 2011/2012 Winter Season (Streets Division of the Public Works Department) with The Diamond Engineering Company of Grand Island, Nebraska in an Amount of: CAT Motor Patrol & Front End Loaders - \$165.00 per hour; 10 yard dump - \$125.00 per hour; and 16 yard side dump - \$145.00 per hour.

#2011-371 – Approving Acquisition of Public Utility Easement in Oak Pointe Subdivision (R.B.O., L.L.C.).

#2011-372 – Approving Change Order No. 2 for Broadwell Avenue Shoulder Improvement – Capital Avenue to Veteran's Athletic Fields with J.I.L. Asphalt Paving Co. of Grand Island, Nebraska for an increase of \$1,243.77 and a Revised Contract Amount of \$126,943.67.

#2011-373 – Approving Maintenance Agreement No. 12 Renewal with the Nebraska Department of Roads for Calendar Year 2012.

#2011-374 – Approving Supplemental Agreement No. 1 with Kirkham Michael & Associates of Omaha, Nebraska for Preliminary Engineering Services for the US Highway 30 Drainage Improvement Project with an Additional Cost not to exceed \$38,023.00 and a total Consulting Service Cost of \$137,254.43.

#2011-375 – Approving Certificate of Final Completion for Building Reconstruction Lift Station No. 4 Project No. 2011-S-4 with The Diamond Engineering Company of Grand Island, Nebraska.

#2011-376 – Approving Time Extension to the Contract with Midlands Contracting, Inc. of Kearney, Nebraska for the Moores Creek Drain Extension – Old Potash Crossing; Drainage Project No. 2088-D-2 to May 15, 2012.

#2011-365 – Approving Final Plat and Subdivision Agreement for Ponderosa Village Subdivision. Regional Planning Director Chad Nabity answered questions concerning James Road, where the four lots were in the subdivision, and the B-2 – General Business zone.

Motion by Gilbert, second by Donaldson to approve Resolution #2011-365. Upon roll call vote, all voted aye. Motion adopted.

RESOLUTIONS:

#2011-377 – Consideration of Request from GMRI, Inc. dba The Olive Garden Italian Restaurant #4416, 1010 Allen Drive for a Class “I” Liquor License and Liquor Manager Designation for Becky Janes, 2236 West 11th Street. This item related to the aforementioned Public Hearing.

Motion by Gericke, second by Haase to approve Resolution #2011-377 contingent upon final inspections and the Liquor Manager request from Becky Janes, 2236 West 11th Street contingent upon completion of a state approved alcohol server/seller training program. Upon roll call vote, all voted aye. Motion adopted.

#2011-378 – Approving Contract for Engineering Design Services for Lincoln Park Pool. Parks and Recreation Director Steve Paustian reported that after several years of emergency repairs, Council determined to renovate/replace the Lincoln Park Swimming Pool. Request for Qualifications (RFQ) for the design service for Lincoln Park Swimming Pool were solicited with six firms responding to the request. A committee rated the proposals and are recommending JEO Consulting Group of Wahoo, Nebraska. A contract had been negotiated with JEO in the amount not to exceed \$150,000.

Motion by Ramsey, second by Niemann to approve Resolution #2011-378.

A brief discussion was held concerning the wording “not to exceed” which was not in the Resolution.

Motion by Gericke, second by Dugan to amend Resolution #2011-378 to add the wording “not to exceed” before the \$150,000. Upon roll call vote, all voted aye. Motion adopted.

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

#2011-379 – Consideration of Spending Process Requirements. Councilmember Chuck Haase recommended a Council Policy regarding City Spending and the process required relative to cash, budget and procurement to create awareness, compliance and openness. Explained was Dillons Rule which the State of Nebraska follows which requires enabling authority. Requested was that any money moved from one fund to another fund be brought to Council as a budget amendment.

Motion by Niemann, second by Dugan to approve Resolution #2011-379.

Terry Galloway explained the difference between the Enterprise funds and General Funds. Interim Finance Director Jaye Monter explained the reasons for lack of funds in the internal services funds. City Administrator Mary Lou Brown commented on the vagueness of the Resolution and how that could be a detriment to the operation of the City.

Motion by Gard, second by Gilbert to refer this item to a Study Session within the first 60 days of 2012. Upon roll call vote, all voted aye. Councilmember Haase abstained. Motion adopted.

PAYMENT OF CLAIMS:

Motion by Dugan, second by Gard to approve the Claims for the period of December 7, 2011 through December 20, 2011, for a total amount of \$4,484,038.49. Unanimously approved.

ADJOURN TO EXECUTIVE SESSION: Motion by Gilbert, second by Nickerson to adjourn to Executive Session at 9:16 p.m. for the purpose of a strategy session with respect to litigation which is imminent and strategy session with respect to pending litigation.

Tracy Overstreet representing the Independent requested the identity of the parties for the closed sessions. City Attorney Robert Sivick explained the State Statutes regarding closed sessions.

Upon roll call vote, all voted aye. Motion adopted.

RETURN TO REGULAR SESSION: Motion by Gilbert, second by Ramsey to return to Regular Session at 10:02 p.m. Upon roll call vote, all voted aye. Motion adopted.

#2011-380 – Consideration of Approving Settlement Agreement between Jessica Musil and the City of Grand Island.

Motion by Gilbert, second by Donaldson to approve Resolution #2011-380. Upon roll call vote, all voted aye. Motion adopted.

ADJOURNMENT: The meeting was adjourned at 10:02 p.m.

RaNae Edwards
City Clerk



City of Grand Island

Tuesday, January 10, 2012

Council Session

Item G2

Approving Minutes of December 27, 2011 City Council Special Meeting

Staff Contact: RaNae Edwards

CITY OF GRAND ISLAND, NEBRASKA

MINUTES OF CITY COUNCIL SPECIAL MEETING

December 27, 2011

Pursuant to due call and notice thereof, a Special 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 December 27, 2011. Notice of the meeting was given in *The Grand Island Independent* on December 21, 2011.

Mayor Jay Vavricek called the meeting to order at 5:30 p.m. The following City Council members were present: Chuck Haase, Bob Niemann, Peg Gilbert, Linna Dee Donaldson, Scott Dugan, and John Gericke. Council members Larry Carney, Kirk Ramsey, Mitch Nickerson, and Randy Gard were absent. The following City Officials were present: City Administrator Mary Lou Brown and Assistant to the City Administrator Shannon Oster.

PLEDGE OF ALLEGIANCE.

PAYMENT OF CLAIMS:

Motion by Dugan, second by Gericke to approve the Claims for the period of December 21, 2011 through December 27, 2011, for a total amount of \$1,235,697.44. Unanimously approved.

ADJOURNMENT: The meeting was adjourned at 5:33 p.m.

Shannon Oster
Assistant to the City Administrator



City of Grand Island

Tuesday, January 10, 2012

Council Session

Item G3

**#2012-1 - Approving Bid Award - Distributed Control System
Console Upgrade at Platte Generating Station**

Staff Contact: Tim Luchsinger

Council Agenda Memo

From: Tim Luchsinger, Utilities Director
Jason Eley, Assistant City Attorney/Purchasing

Meeting: January 10, 2012

Subject: Distributed Control System Console Upgrade – Platte
Generating Station

Item #'s: G-3

Presenter(s): Tim Luchsinger, Utilities Director

Background

The Distributed Control System (DCS) at the Platte Generating Station is used for control and to monitor plant equipment and operations and includes six Operator Interface Computers (OIC) in the main plant control console. The OICs are the means for the plant operators to perform control and monitoring functions through the DCS and are part of the original system installed in 1995. They utilize 1990s proprietary operating systems, processors, display monitors and keyboards, have been in constant operation for fifteen years, and are having reliability issues. Components for this vintage of systems are no longer available or supported. Replacement OIC systems now use standard open-architecture operating systems and hardware which allow increased flexibility and various control subsystems to be incorporated into the DCS instead of separate computer systems. To maintain a high level of reliability in plant operation, plant staff developed specifications for replacement DCS Operator Interface Computers.

Discussion

The specifications for the Distributed Control System Console Upgrade were issued for bids and responses were received from the following bidders. The engineer's estimate for this project was \$250,000.00.

Bidder	Bid Price, w/tax
ABB, Wickliffe, OH	\$197,843.50
Honeywell, Phoenix, AZ	\$390,452.00
Emerson, Pittsburgh, PA	\$299,453.00

The bids were reviewed for conformance with the specifications and found to be compliant except as noted as follows. The bids did not include taxes and therefore taxes on materials and engineering have been included in the above bid price. Honeywell listed an exception to the bid to not provide a separate line item bid for the computers, as they are configured specifically for Honeywell. Emerson listed exceptions that did not include a service agreement. Plant staff found the bids to be otherwise compliant and recommends award of the Distributed Control System Console Upgrade contract to ABB as the low compliant bid.

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 presented in this motion

Recommendation

The Utilities Department recommends that the Council award the contract to ABB of Wickliffe, Ohio, as the low responsive bidder, in the amount of \$197,843.50.

Sample Motion

Move to approve the bid of \$197,843.50 from ABB for the Distributed Control System Console Upgrade for Platte Generating Station.



PGS Control Console



Operator Interface Computer (OIC)

Purchasing Division of Legal Department
INTEROFFICE MEMORANDUM



Jason Eley, Purchasing Agent

*Working Together for a
Better Tomorrow, Today*

BID OPENING

BID OPENING DATE: December 15, 2011 at 2:00 p.m.

FOR: Distributed Control System Console Upgrade - PGS

DEPARTMENT: Utilities

ESTIMATE: \$250,000.00

FUND/ACCOUNT: 520

PUBLICATION DATE: December 1, 2011

NO. POTENTIAL BIDDERS: 3

SUMMARY

Bidder:	<u>Honeywell Process Solutions</u> Phoenix, AZ	<u>ABB, Inc</u> Wickliffe, OH
Bid Security:	Federal Insurance Company	Liberty Mutual Insurance Company
Exceptions:	Noted	Noted

Bid Price:		
Material:	\$183,387.00	\$ 45,000
Labor:	\$193,065.00	\$107,750.50
Sales Tax:	<u>\$ 14,000.00</u>	<u>-0-</u>
Total Bid:	\$390,452.00	\$152,750.00
Option 1:	N/A	\$33,750.00
Option 2:	\$29,703.00	\$19,830.00

Bidder:	<u>Emerson Power and Water Solutions</u> Pittsburgh, PA
Bid Security:	Travelers Casualty and Surety Co.
Exceptions:	Noted

Bid Price:

Material: \$148,468.00

Labor:	\$150,985.00
Sales Tax:	<u>-0-</u>
Total Bid:	\$299,453.00

Option 1:	N/A
Option 2:	N/A

cc: Tim Luchsinger, Utilities Director
 Jason Eley, Purchasing Agent
 Mary Lou Brown, City Administrator
 Lynn Mayhew, Utilities Engineer

Bob Smith, Assist. Utilities Director
Pat Gericke, Utilities Admin. Assist.
Karen Nagel, Utilities Secretary

P1527

RESOLUTION 2012-1

WHEREAS, the City of Grand Island invited sealed bids for Distributed Control System Console Upgrade at the Platte Generating Station, according to plans and specifications on file with the Utilities Department; and

WHEREAS, on December 15, 2011, bids were received, opened and reviewed; and

WHEREAS, ABB, Inc., of Wickliffe, Ohio, 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 \$197,843.50; and

WHEREAS, the bid of ABB, Inc., is less than the estimate for the Distributed Control System Console Upgrade at Platte Generating Station.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the bid of ABB, Inc., in the amount of \$197,843.50 for Distributed Control System Console Upgrade at the Platte Generating Station is hereby approved as the lowest responsible bid.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, January 10, 2012.

Jay Vavricek, Mayor

Attest:

RaNae Edwards, City Clerk

Approved as to Form	☐ _____
January 6, 2012	☐ City Attorney



City of Grand Island

Tuesday, January 10, 2012

Council Session

Item G4

**#2012-2 - Approving Acquisition of Utility Easement - 3323 West
Airport Road - Olson**

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

Staff Contact: Tim Luchsinger

RESOLUTION 2012-2

WHEREAS, a public utility easement is required by the City of Grand Island, from Luke A. Olson, 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 January 10, 2012, for the purpose of discussing the proposed acquisition of an easement located in the City of Grand Island, Hall County, Nebraska; and more particularly described as follows:

Commencing at the northwest corner of Lot One (1), Olson Subdivision in Hall County, Nebraska; thence easterly along the northerly line of said Lot One (1), a distance of two hundred eight (208.0) feet to the ACTUAL Point of Beginning; thence deflect right 90°00'00" and running southerly, a distance of thirty (30.0) feet to the point of termination.

The above-described easement and right-of-way containing a total of 600 square feet, more or less, as shown on the plat dated 12/19 /2011, 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 a public utility easement from Luke A. Olson, on the above-described tract of land.

- - -

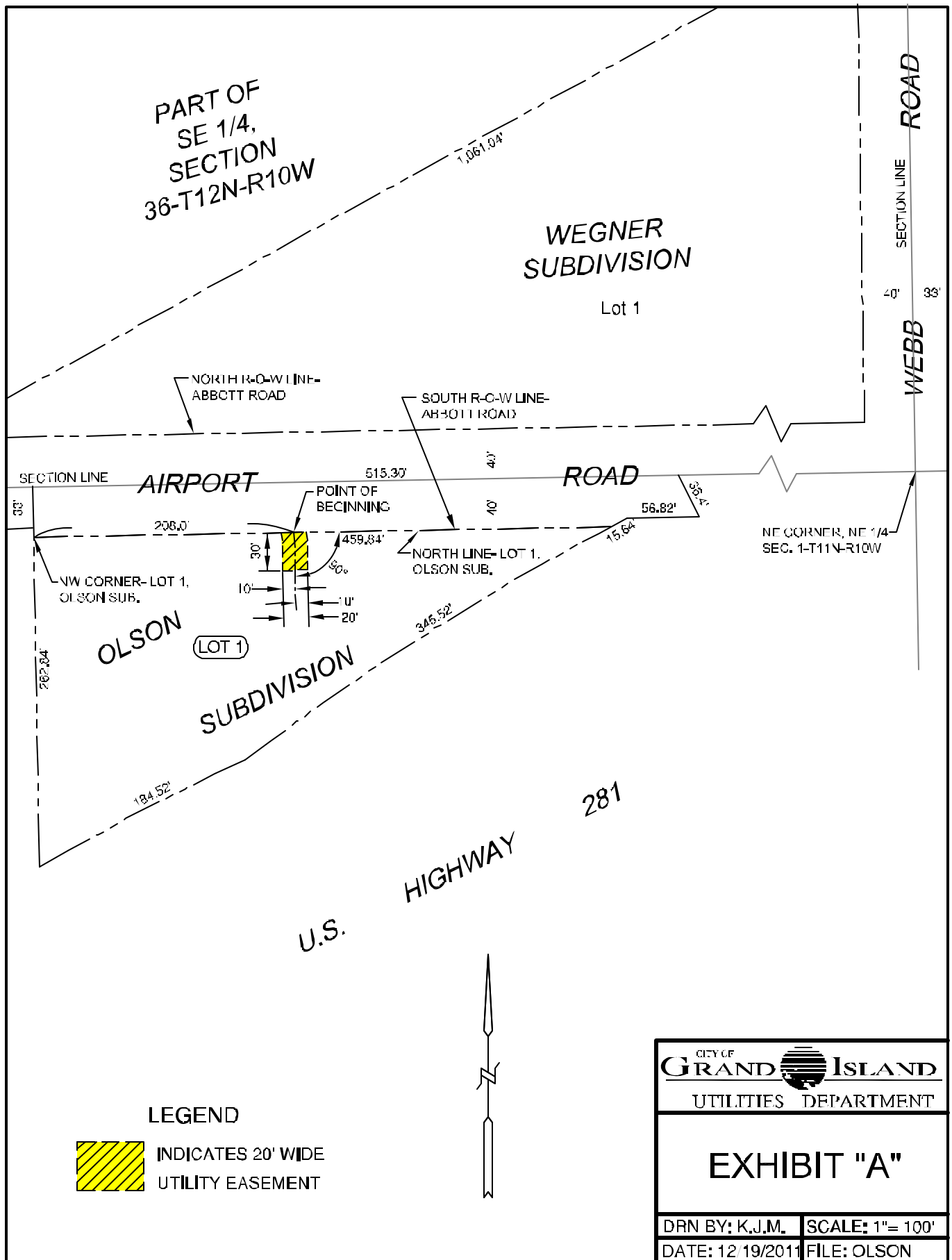
Adopted by the City Council of the City of Grand Island, Nebraska, January 10, 2012.

Jay Vavricek, Mayor

Attest:

RaNae Edwards, City Clerk

Approved as to Form	☐ _____
January 6, 2012	☐ City Attorney





City of Grand Island

Tuesday, January 10, 2012

Council Session

Item G5

**#2012-3 - Approving Acquisition of Utility Easement - 1819 East
7th Street - Eihusen**

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

Staff Contact: Tim Luchsinger

RESOLUTION 2012-3

WHEREAS, a public utility easement is required by the City of Grand Island, from D.J. Eihusen, having Power of Attorney for Robert G. Eihusen, 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 January 10, 2012, for the purpose of discussing the proposed acquisition of an easement located in the City of Grand Island, Hall County, Nebraska; and more particularly described as follows:

Commencing at the northwest corner of Lot One (1), Cottage Grove Third Subdivision in the City of Grand Island, Hall County, Nebraska; thence easterly along the northerly line of said Lot One (1), a distance of two hundred eight (208.0) feet to the ACTUAL Point of Beginning; thence deflecting right 90°00'00" and running in a southerly direction, a distance of sixty (60.0) feet to the point of termination.

The above-described easement and right-of-way containing a combined total of 0.028 acres, more or less, as shown on the plat dated 12/19/2011, 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 a public utility easement from D. J. Eihusen, having Power of Attorney for Robert G. Eihusen, on the above-described tract of land.

- - -

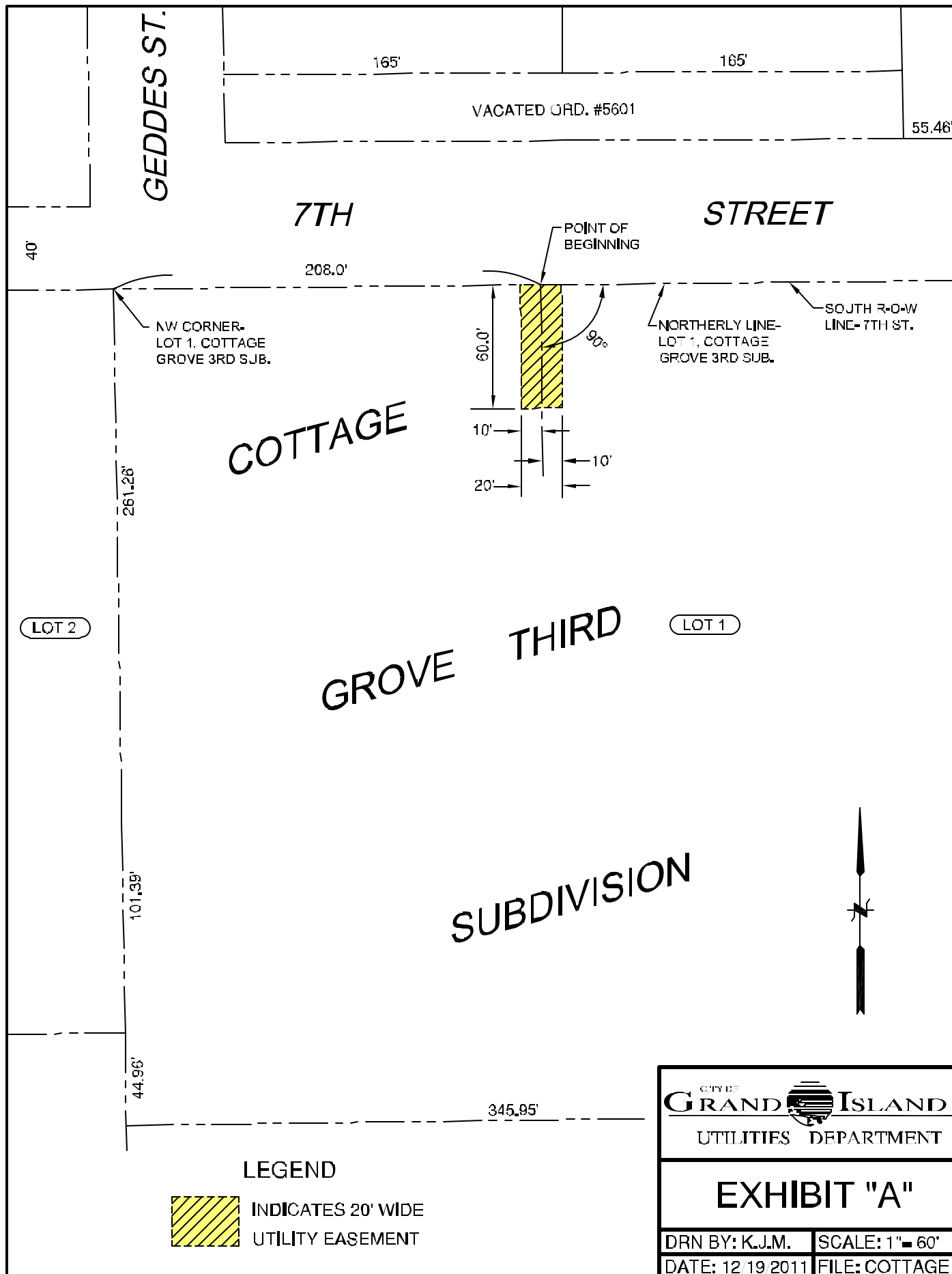
Adopted by the City Council of the City of Grand Island, Nebraska, January 10, 2012.

Jay Vavricek, Mayor

Attest:

RaNae Edwards, City Clerk

Approved as to Form	☐ _____
January 6, 2012	☐ City Attorney





City of Grand Island

Tuesday, January 10, 2012

Council Session

Item G6

#2012-4 - Approving Bid Award - 2012 Truck - Complete Unit with Telescopic Aerial Platform & Chassis for the Utilities Department, Line Division

Staff Contact: Tim Luchsinger

Council Agenda Memo

From: Timothy Luchsinger, Utilities Director
Jason Eley, Assistant City Attorney/Purchasing

Meeting: January 10, 2012

Subject: 2012 Truck – Complete with Telescopic Aerial Platform
& Chassis

Item #'s: G-6

Presenter(s): Timothy Luchsinger, Utilities Director

Background

The Utilities Department budgeted in the 2011 – 2012 Budget to replace Unit #62, one of the primary service trucks for the Line Division. The truck, a 2002 bucket truck is used 24 hours a day, seven days a week. It has over 8,568 hours (equivalent to 257,040 miles @ 30 mph). Specifications were prepared for a replacement vehicle. The old unit was offered in trade, but the Public Works Department will be purchasing the old unit. The trade will therefore not be a part of the evaluation.

Discussion

Specifications were sent to five possible bidders as well as advertised according to City Purchasing Code. Bids were publicly opened at 2:15 p.m. on December 15, 2011. Bids were received from two bidders. Exceptions were noted from both bidders. Exceptions were minor and acceptable by the Department's evaluation of the bids. The engineer's estimate for this vehicle purchase was \$130,000.

The bids are as follows:

Company	Bid Price
Terex Utilities White House, TN	\$104,814.00
Drake Scruggs Equipment, Inc. Springfield, IL	\$104,759.40

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 2012 Truck – Complete with Telescopic Aerial Platform & Chassis from Drake Scruggs Equipment, Inc., of Springfield, Illinois, in the amount of \$104,759.40.

Sample Motion

Move to the purchase of the 2012 Truck – Complete with Telescopic Aerial Platform and Chassis from Drake Scruggs Equipment, Inc., of Springfield, Illinois in the amount of \$104,759.40.

Purchasing Division of Legal Department
INTEROFFICE MEMORANDUM



Jason Eley, Purchasing Agent

*Working Together for a
Better Tomorrow, Today*

BID OPENING

BID OPENING DATE: December 15, 2011 at 2:15 p.m.

FOR: 2012 Truck – Complete w/Telescopic Aerial Platform & Chassis

DEPARTMENT: Utilities

ESTIMATE: \$130,000.00

FUND/ACCOUNT: 520

PUBLICATION DATE: November 22, 2011

NO. POTENTIAL BIDDERS: 5

SUMMARY

Bidder:	<u>Terex Utilities</u> White House, TN	<u>Drake Scruggs Equipment, Inc.</u> Springfield, IL
Exceptions:	Noted	Noted
Bid Price:	\$104,814.00	\$104,759.40
Trade In:	<u>\$ -17,000.00</u>	<u>\$ -12,100.00</u>
Total Cost:	\$ 87,814.00	\$ 92,659.40

cc: Tim Luchsinger, Utilities Director
Jason Eley, Purchasing Agent
Mary Lou Brown, City Administrator

Bob Smith, Assist. Utilities Director
Pat Gericke, Utilities Admin. Assist.
Bryan Fiala, Elec. Dist. Superintendent

P1525

RESOLUTION 2012-4

WHEREAS, the City of Grand Island invited sealed bids for a 2012 Truck – Complete with Telescopic Aerial Platform and Chassis, according to plans and specifications on file with the Utilities Department; and

WHEREAS, on December 15, 2011, bids were received, opened and reviewed; and

WHEREAS, Drake Scruggs Equipment, Inc., of Springfield, Illinois, 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 \$104,759.40; and

WHEREAS, the bid of Drake Scruggs Equipment, Inc., is less than the estimate for the 2012 Truck – Complete with Telescopic Aerial Platform and Chassis.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the bid of Drake Scruggs Equipment, Inc., in the amount of \$104,759.40, for the 2012 Truck – Complete with Telescopic Aerial Platform and Chassis, is hereby approved as the lowest responsible bid.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, January 10, 2012.

Jay Vavricek, Mayor

Attest:

RaNae Edwards, City Clerk

Approved as to Form	☐ _____
January 6, 2012	☐ City Attorney



City of Grand Island

Tuesday, January 10, 2012

Council Session

Item G7

**#2012-5 - Approving Contract for Installation & Purchase of 911
CPE System**

Staff Contact: Jon Rosenlund

Council Agenda Memo

From: Jon Rosenlund, Emergency Management Director

Meeting: January 10, 2012

Subject: 911 Telephone System Purchase

Item #'s: G-7

Presenter(s): Larry Smith, Emergency Management Deputy Director

Background

The Emergency Management Department has concluded a review of bids for a new 911 telephone system and has selected Platte Valley Communications, a Grand Island company, as the vendor of choice. Cost for the system is \$168,835.00 and includes four new telephone stations and a 5 year system support agreement.

Discussion

Currently, the Grand Island Emergency Center receives 911 calls on an InVision2 telephone system purchased from TCI several years ago. Since then, TCI was purchased by Cassadian Communications (formerly Plate CML.) On January 1, 2012, Cassadian Communications ended its support of the hardware and software of the InVision2.

On December 1, 2011, the Emergency Management Department opened bids from five (5) vendors who responded to a Request for Bidders on a new 911 telephone system to replace the current system. Platte Valley Communications and its quote to install the Emergency Call Worx telephone system was the lowest bid that meets the needs specified in the Request for Bidders at a cost of \$181,850.00 for 5 telephone stations and a 5 year maintenance agreement.

Adjusted Quote

Recognizing the Department's need to reduce costs in order to meet other equipment needs, the Department subsequently requested an adjusted quote from Platte Valley Communications for only 4 consoles and a 5 year maintenance agreement. That adjusted quote for 4 consoles and a 5 yr support plan is **\$168,835.00**. This expenditure will be paid through E911 Funds requiring no General Fund expenses.

Installation can proceed following completion of the attached contract. The Emergency Management Department hopes to have a contract signed and submitted to Platte Valley Communications in time to have the system operational by April 1, 2012.

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 accept the contract with Platte Valley Communications for \$168,835.00.

Sample Motion

Move to approve

Purchasing Division of Legal Department
INTEROFFICE MEMORANDUM



Jason Eley, Purchasing Agent

*Working Together for a
Better Tomorrow, Today*

BID OPENING

BID OPENING DATE: December 1, 2011 at 2:00 p.m.

FOR: Installation & Purchase of 911 CPE System

DEPARTMENT: Emergency Management

ESTIMATE: \$200,000.00

FUND/ACCOUNT: 21520006 (\$165,000.00) & 21620006 (\$35,000.00)

PUBLICATION DATE: October 8, 2011

NO. POTENTIAL BIDDERS: 8

SUMMARY

Bidder:	<u>Century Link Business/Qwest</u> Des Moines, IA	<u>RACOM</u> Marshall Town, IA
Bid Security:	Liberty Mutual Ins. Co.	Merchants Bonding Co.
Exceptions:	None	Noted
Bid Price:	\$220,508.40	\$234,118.15

Bidder:	<u>Platte Valley Communications</u> Grand Island, NE
Bid Security:	Western Surety Co.
Exceptions:	Noted
Bid Price:	\$180,805.00 (Solacom)
Bid Price:	\$162,621.60 (Emergency CallWorx, Inc.) Alternative: \$209,926.40 for 5 years
Bid Price:	\$146,969.00 (Cassidian)

cc: Jon Rosenlund, Emergency Management Director
Mary Lou Brown, City Administrator

Jason Eley, Purchasing Agent

CONTRACT AGREEMENT
FOR
INSTALLATION AND PURCHASE OF 911 CPE SYSTEM IN GRAND ISLAND, NE
GRAND ISLAND-HALL COUNTY EMERGENCY MANAGMENT DEPARTMENT
CITY OF GRAND ISLAND, NEBRASKA

THIS AGREEMENT made and entered into this 3rd day of January, 2012, by and between Platte Valley Communications, Inc. hereinafter called the Contractor, and the City of Grand Island, Nebraska, hereinafter called the City.

WITNESSETH:

THAT, WHEREAS, in accordance with law, the City has caused contract documents to be prepared and an advertisement calling for bids to be published, for INSTALLATION AND PURCHASE OF 911 CPE SYSTEM IN GRAND ISLAND, NE; and

WHEREAS, the City, in the manner prescribed by law, has publicly opened, examined, and canvassed the bids submitted, and has determined the aforesaid Contractor to be the lowest responsive and responsible bidder, and has duly awarded to the said Contractor a contract therefore, for the sum or sums named in the Contractor's bid, a copy thereof being attached to and made a part of this contract;

NOW, THEREFORE, in consideration of the compensation to be paid to the Contractor and of the mutual agreements herein contained, the parties have agreed and hereby agree, the City for itself and its successors, and the Contractor for itself, himself, or themselves, and its, his, or their successors, as follows:

ARTICLE I. That the Contractor shall (a) furnish all tools, equipment, superintendence, transportation, and other construction materials, services and facilities; (b) furnish, as agent for the City, all materials, supplies and equipment specified and required to be incorporated in and form a permanent part of the completed work; (c) provide and perform all necessary labor; and (d) in a good substantial and workmanlike manner and in accordance with the requirements, stipulations, provisions, and conditions of the contract documents as listed in the attached General Specifications, said documents forming the contract and being as fully a part thereof as if repeated verbatim herein, perform, execute, construct and complete all work included in and covered by the City's official award of this contract to the said Contractor, such award being based on the acceptance by the City of the Contractor's bid;

ARTICLE II. That the City shall pay to the contractor for the performance of the work embraced in this contract and the contractor will accept as full compensation therefore the sum (subject to adjustment as provided by the contract) of One hundred sixty eight thousand eight hundred thirty five Dollars \$ 168,835.00 for all services, materials, and work covered by and included in the contract award and designated in the foregoing Article I; payments thereof to be made in cash or its equivalent in the manner provided in the General Specifications. The City of Grand Island, Nebraska operates on a fiscal year beginning October 1st and ending on the following September 30th. It is understood and agreed that any portion of this agreement which will be performed in a future fiscal year is contingent upon the City Council adopting budget statements and appropriations sufficient to fund such performance. The contractor agrees that the final 30% of the contract will be paid following a 60 day period of operations without interruption.

ARTICLE III. The contractor hereby agrees to act as agent for the City in purchasing materials and supplies for the City for this project. The City shall be obligated to the vendor of the materials and supplies for the purchase price, but the

contractor shall handle all payments hereunder on behalf of the City. The vendor shall make demand or claim for payment of the purchase price from the City by submitting an invoice to the contractor. Title to all materials and supplies purchased hereunder shall vest in the City directly from the vendor. Regardless of the method of payment, title shall vest immediately in the City. The contractor shall not acquire title to any materials and supplies incorporated into the project. All invoices shall bear the contractor's name as agent for the City. This paragraph will apply only to these materials and supplies actually incorporated into and becoming a part of the finished product of the **INSTALLATION AND PURCHASE OF 911 CPE SYSTEM IN GRAND ISLAND, NE.**

ARTICLE IV. That the contractor shall start work as soon as possible after the contract is signed and the required bonds and insurance are approved, and that the Contractor shall complete the work by **April 30, 2012**. It is understood and agreed that time is the essence of the contract.

ARTICLE V. The Contractor agrees to comply with all applicable State fair labor standards in the execution of this contract as required by Section 73-102, R.R.S. 1943. The Contractor further agrees to comply with the provisions of Section 48-657, R.R.S. 1943, pertaining to contributions to the Unemployment Compensation Fund of the State of Nebraska. During the performance of this contract, the contractor and all subcontractors agree not to discriminate in hiring or any other employment practice on the basis of race, color, religion, sex, national origin, age or disability. The Contractor agrees to comply with all applicable Local, State and Federal rules and regulations. Every public contractor and his, her or its subcontractors who are awarded a contract by the City for the physical performance of services within the State of Nebraska shall register with and use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the state of Nebraska.

ARTICLE VI. City Code states that it is unethical for any person to offer, give or agree to give any City employee or former City employee, or for any City employee or former City employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, or preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefore. It shall be unethical for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.

IN WITNESS WHEREOF, the parties hereto have executed this Contract Agreement as of the date and year first above written.

Contractor PLATT'S Vending Company

By Debra Nijal

Date 12 23 2011

Title President

CITY OF GRAND ISLAND, NEBRASKA,

By _____
Mayor

Date _____

Attest: _____
City Clerk

The contract and insurance requirements are in due form according to law and are hereby approved.

Attorney for the City

Date _____

BID (service and materials)

TO: Jon Rosenlund
Hall County EM Director

PLATTE VALLEY COMMUNICATIONS
3820 W. ARCH AVE
GRAND ISLAND, NE 68803
(308) 382-6212, FAX # (308) 384-1557
CORY PRIESTER

DATE: 12/20/2011

We are pleased to submit the following bid:

Job Description: Emergency Callworx Base Bid Page 1 (Revised0)
Includes 4 Positions

MATERIALS

QUANTITY	DESCRIPTION	UNIT PRICE	TOTAL
Telecom Hardware Based Components			
4.0	ECX100101 WKS PC HP Dual Video, 4G RAM, XP	\$1,375.00	\$5,500.00
8.0	ECX100103 Monitor HP 22WM" FP, BLK	\$415.00	\$3,320.00
1.0	ECX100110-HA ECX Dual Server HA Appliance Assembly 2U	\$17,220.00	\$17,220.00
4.0	ECX100001-NS Audio Interface Unit	\$935.00	\$3,740.00
4.0	ECX100201 Polycom 650 SIP Phone	\$425.00	\$1,700.00
2.0	ECX100308 Media Gateway, 24 Port FXS or CAMA to SIP	\$2,595.00	\$5,190.00
2.0	ECX100312 Media Gateway, 4 Port FXS or CAMA to SIP	\$550.00	\$1,100.00
1.0	Rack Shelf, Media Gateway, 2 GW Per Shelf	\$30.00	\$30.00
Software Components			
4.0	ECX200001-NM CALLSTATION Without Map, License	\$8,995.00	\$35,980.00
1.0	ECX200004 WEBACCESSORY, SITE License	\$0.00	
1.0	ADMINISTRATION, SITE License	\$0.00	
1.0	SIPWORX, i3/IP INTERFACE, PSAP License	\$6,925.00	\$6,925.00
Custom Services - Interfaces - Map Data			
1.0	ECX400002 TELECOM ENGINE CONFIG/STAGING	\$2,255.00	\$2,255.00
1.0	ECX400002-A ADMIN CONFIG/STAGING	\$2,710.00	\$2,710.00
Peripheral-Miscellaneous Equipment			
1.0	ECX500001-24CH Cabinet Assm, 19" Host Rack	\$4,070.00	\$4,070.00
2.0	ECX500003 Switch, Cisco 24-Port POE, 10/100/100	\$2,430.00	\$4,860.00
1.0	ECX500005 Router, Netopia ADSL Router	\$310.00	\$310.00
1.0	ECX500007 Misc. Materials, Cables, Lot	\$1,085.00	\$1,085.00
2.0	ECX500008 ALI Modem, E911 CSU/DSU	\$1,180.00	\$2,360.00
1.0	IP to Serial Distribution 16 port, Dual NIC w/modem	2955	\$2,955.00

BID (service and materials)

TO: Jon Rosenlund
Hall County EM Director

PLATTE VALLEY COMMUNICATIONS
3820 W. ARCH AVE
GRAND ISLAND, NE 68803
(308) 382-6212, FAX # (308) 384-1557
CORY PRIESTER

DATE: 12/20/2011

We are pleased to submit the following bid:

Job Description: Emergency Callworx Base Bid Page 2 (Revised)
5 Year ECX Support

MATERIALS

QUANTITY	DESCRIPTION	UNIT PRICE	TOTAL
System Services			
1.0	ECX600001 CS User / Admin Opps Training (up to 8 students)	\$4,515.00	\$4,515.00
4.0	ECX700001 Project Management (1) Man day	\$3,250.00	\$13,000.00
1.0	ECX700002 System Installation	\$19,065.00	\$19,065.00
1.0	Platte Valley Communications Installation Labor	\$10,000.00	\$10,000.00
1.0	ECX800001 System Engineering, (1) Lot	\$3,815.00	\$3,815.00
Recurring Maintenance Charges			
1.0	ECX900001 System Support, 1 Year	\$11,655.00	
	ECX900002 System Support, 3 Year	\$25,850.00	
	ECX900003 System Support, 5 Year	\$30,950.00	\$30,950.00
1.0	Discount	-\$15,180.00	-\$15,180.00
OPTION:			
Recommended Spares:			
1.0	ECX1000001-NS Audio Interface Unit	\$935.00	\$935.00
1.0	ECX100201 Polycom 650 SIP Phone	\$425.00	\$425.00
Note: Quote does not include maintenance costs from Platte Valley.			
Platte Valley recommends the city keep the existing maintenance			
contract with Platte Valley in place.			

Price valid until: 4/18/2012

Total of Base Bid: **\$168,835.00**

RESOLUTION 2012-5

WHEREAS, the City of Grand Island, Nebraska, operates an emergency 911 call center through interlocal agreement with Hall County; and

WHEREAS, the Grand Island Emergency Center, managed by the Grand Island Emergency Management Department is the Public Safety Answering Point for all of Hall County; and

WHEREAS, the current 911 telephone system is no longer supported for parts or software by the vendor after December 31, 2011; and

WHEREAS, Council has budgeted \$190,000 for the installation of a replacement 911 telephone system to include a 5 year support agreement, and

WHEREAS, a recently completed bid process produced a successful bid below budget, from Platte Valley Communications of Grand Island, NE, for a total of \$168,835.00,

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

1. The Mayor is hereby authorized and directed to award this bid to Platte Valley Communications on behalf of the City of Grand Island.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, January 10, 2012.

Jay Vavricek, Mayor

Attest:

RaNae Edwards, City Clerk



City of Grand Island

Tuesday, January 10, 2012

Council Session

Item G8

**#2012-6 - Approving Bid Award for One (1) 2012 Model 90,000
GVW Conventional Truck-Tractor for the Solid Waste Division**

Staff Contact: John Collins, Public Works Director

Council Agenda Memo

From: Jeff Wattier, Solid Waste Superintendent

Meeting: January 10, 2012

Subject: Approving Bid Award for One (1) 2012 Model 90,000 GVW Conventional Truck-Tractor for the Solid Waste Division

Item #'s: G-8

Presenter(s): John Collins, P.E., Public Works Director

Background

On December 8, 2011 the Solid Waste Division of the Public Works Department advertised the request for bids for a 2012 Model 90,000 GVW Conventional Truck-Tractor. Funds for the truck-tractor are in the approved 2011/2012 budget.

Discussion

Five (5) bids were received and opened on December 20, 2011. The Solid Waste Division of the Public Works Department and the Purchasing Division reviewed the bids that were received. The alternate truck-tractor bid by Nebraska Truck Center of Grand Island, NE meets all of the specifications. This truck-tractor is a front-line piece of equipment that is utilized on a daily basis for hauling solid waste from the Transfer Station to the Landfill for disposal.

Bidder	Base Price	Trade-In	Net Cost
Nebraska Truck Center of Grand Island, NE	\$96,338	\$30,000	\$66,338
Nebraska Truck Center of Grand Island, NE (Alternate Bid)*	\$98,618	\$30,000	\$68,618
Nebraska Peterbilt of Grand Island, NE	\$104,853	\$30,000	\$74,853
Hansen International Truck of Grand Island, NE	\$103,642.40	\$27,000	\$76,642.40
Nebraska Machinery of Doniphan, NE	\$148,461.07	\$16,000	\$132,461.07

*Alternate bid from Nebraska Truck Center simply includes larger cab dimensions which provide 4” of additional knee/leg room for the driver.

Public Works Department staff is recommending the purchase of the alternate truck-tractor bid by Nebraska Truck Center of Grand Island, NE. The additional knee/leg room provided in the alternate bid will better accommodate the taller Solid Waste Division equipment operators during the daily operations of this truck-tractor.

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 alternate bid for the 2012 Model 90,000 GVW Conventional Truck-Tractor from Nebraska Truck Center of Grand Island, NE for the net amount of \$68,618.00.

Sample Motion

Move to approve the purchase of the alternate bid for the 2012 Model 90,000 GVW Conventional Truck-Tractor from Nebraska Truck Center of Grand Island, NE for the net amount of \$68,618.00.

Purchasing Division of Legal Department
INTEROFFICE MEMORANDUM



Jason Eley, Purchasing Agent

*Working Together for a
Better Tomorrow, Today*

BID OPENING

BID OPENING DATE: December 20, 2011 at 2:00 p.m.

FOR: (1) 2012 Model 90,000 GVW Conventional Truck-Tractor
w/Set-Back Axle

DEPARTMENT: Public Works

ESTIMATE: \$120,000.00

FUND/ACCOUNT: 50530040-85625

PUBLICATION DATE: December 8, 2011

NO. POTENTIAL BIDDERS: 6

SUMMARY

Bidder:	<u>Nebraska Truck Center, Inc.</u> Grand Island, NE	<u>NMC, Inc.</u> Doniphan, NE
Bid Security:	Universal Surety Company	Travelers Casualty & Surety Co.
Exceptions:	Noted	None

		<u>Alternate Bid:</u>	
Bid Price:	\$96,338.00	\$98,618.00	\$148,461.07
Trade-In:	<u>\$30,000.00</u>	<u>\$30,000.00</u>	<u>\$ 16,000.00</u>
Total Bid:	\$66,338.00	\$68,618.00	\$132,461.07
Delivery Date:	180 days		14 weeks
Make/Model:	Freightliner		CAT CT660

Bidder:	<u>Hansen International Truck, Inc.</u> Grand Island, NE	<u>Nebraska Peterbilt</u> Grand Island, NE
Bid Security:	\$5,500.00	\$3,742.65
Exceptions:	Noted	None

Bid Price:	\$103,642.40	\$104,853.00
Trade-In:	<u>\$ 27,000.00</u>	<u>\$ 30,000.00</u>
Total Bid:	\$76,642.40	\$74,853.00

Delivery Date: 90 – 120 days
Make/Model: International 7600

90 days
Peterbilt 384

cc: John Collins, Public Works Director
Jason Eley, Purchasing Agent
Mary Lou Brown, City Administrator

Catrina DeLosh, PW Admin. Assist.
Jeff Wattier, Solid Waste Supt.

P1528

RESOLUTION 2012-6

WHEREAS, the City of Grand Island invited sealed bids for one (1) 2012 Model 90,000 GVW Conventional Truck-Tractor for the Solid Waste Division of the Public Works Department, according to specifications on file with the Public Works Department; and

WHEREAS, on December 20, 2011 bids were received, opened and reviewed; and

WHEREAS, Nebraska Truck Center of Grand Island, Nebraska submitted a bid in accordance with the terms of the advertisement of bids and specifications and all other statutory requirements contained therein, such bid being in the amount of \$68,618.00; and

WHEREAS, Nebraska Truck Center's bid is fair and reasonable for such item.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the bid of Nebraska Truck Center of Grand Island, Nebraska in the amount of \$68,618.00 for one (1) 2012 Model 90,000 GVW Conventional Truck-Tractor is hereby approved as the lowest responsive and responsible bid.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, January 10, 2012.

Jay Vavricek, Mayor

Attest:

RaNae Edwards, City Clerk



City of Grand Island

Tuesday, January 10, 2012

Council Session

Item G9

#2012-7 - Approving Revised Contract Amount to Resolution 2011-357 (Bid Award to Midlands Contracting, Inc.) for Lift Station No. 7 Repairs; Project No. 2011-S-1

Staff Contact: John Collins, Public Works Director

Council Agenda Memo

From: Terry Brown, Manager of Engineering Services

Meeting: January 10, 2012

Subject: Approving Revised Contract Amount to Resolution 2011- 357 (Bid Award to Midlands Contracting, Inc.) for Lift Station No. 7 Repairs; Project No. 2011-S-1

Item #'s: G-9

Presenter(s): John Collins, Public Works Director

Background

On December 6, 2011 City Council approved, by Resolution 2011-357, the bid award to Midland Contracting, Inc. for the Lift Station No.7 Repairs, in the amount of \$310,978.67.

Discussion

Since the project is funded by Community Development Block Grant (CDBG) proceeds, labor wage determinations are required to be incorporated into the bid document. In the sequence between bid advertisement and bid opening, the Department of Labor (DOL) reissued labor wage determinations. The attachment shows the following: the negotiated new wage determination rates in unit costs, previous unit costs with old wage determination rates are stricken through. With the wage correction to the Midland Contracting, Inc. bid they are still the lowest responsible bidder for the Lift Station No.7 Repairs, in the amount of \$312,728.67.

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 revised bid and award it to Midlands Contracting, Inc. of Kearney, Nebraska who had a revised bid of \$312,728.67 for Lift Station No. 7 Repairs, Project No. 2011-S-1.

Sample Motion

Move to approve bid award to Midlands Contracting, Inc. of Kearney, Nebraska for Lift Station No. 7 Repairs, Project No. 2011-S-1 for the City of Grand Island.

Bid Form Reflective of Department Of Labor Wage Determination Rates Evoked November 4, 2011

Project: Lift Station No. 7 Repairs, Project No. 2011-S-1

BELTLINE FORCEMAIN No.	Item	Estimated Quantity		Firm Unit Price	Total Price
1.	Bore and install 8" HDPE Forcemain	3,517.0	L.F.	<u>36.25</u> <u>36.00</u>	<u>127,491.25</u> <u>126,612.00</u>
2.	Open Trench and Install 8" DR11 HDPE Forcemain	100.0	L.F.	<u>193.00</u> <u>190.00</u>	<u>19,300.00</u> <u>19000.00</u>
3.	Install 8" HDPE (Factory) 45° Elbows	4.0	EA.	<u>530.00</u>	<u>2,120.00</u>
4.	Install 8" DR11 M.J. Adapter w/Kit @ Sta 34+36.26	1.0	EA.	<u>680.00</u>	<u>680.00</u>
5.	Build 4' Diameter Manhole	1.0	EA.	<u>1,730.00</u>	<u>1,730.00</u>
6.	Build 4' Diameter Manhole Extra Depth	7.86	V.F.	<u>290.00</u>	<u>2279.40</u>
7.	Remove 8' x 54" Tunnel Liner & Seal (2) 54" Ends w/Concrete	1.0	L.S.	<u>2,100.00</u>	<u>2,100.00</u>
8.	Remove Top One Half (1/2) 24" C.I.P. (3'x1') For New Manhole F.L.	1.0	L.S.	<u>180.00</u>	<u>180.00</u>
9.	Install Thrust Blocks As Per Std Plan No. 134A and 134B.	2.0	EA.	<u>285.00</u>	<u>570.00</u>
10.	Install Thrust Blocks Per Std. Plan No. 134.	2.0	EA.	<u>240.00</u>	<u>480.00</u>
11.	Remove 10" Tree	1.0	EA.	<u>270.00</u>	<u>270.00</u>
12.	Dry Bore and Install 16" Steel (0.3125 thk.) Tunnel Liner	110.0	L.F.	<u>326.00</u>	<u>35,860.00</u>

BELTLINE FORCEMAIN; Cont.		Estimated		Firm	Total
No.	Item	Quantity		Unit Price	Price
13.	Rehab Manhole No. 83-A	12.86.0	V.F.	<u>172.00</u>	<u>2211.92</u>
14.	Install Manhole Entrance as per Special Detail "A".	1.0	L.S.	<u>1,100.00</u>	<u>1,100.00</u>
15.	Install Tracer Ribbon in bore Holes and Trenches	500.0	L.F.	<u>0.40</u>	<u>200.00</u>
16.	Install ? " (316) Tracer Wire	3,517.0	L.F.	<u>0.75</u>	<u>2637.75</u>
17.	Install Tracer Wire Access Box	4.0	EA.	<u>220.00</u>	<u>880.00</u>
18.	Construction Dewatering	1.0	L.S.	<u>20,100.00</u> <u>20,000.00</u>	<u>20,100.00</u> <u>20,000.00</u>
TOTAL FOR BELTLINE FORCEMAIN			\$		<u>220,245.32</u> <u>218,911.07</u>

STOLLEY AND BLAINE		Estimated		Firm	Total
No.	Item	Quantity		Unit Price	Price
1.	Install 5' x 8" Point Repair Liner Sleeve	3.0	EA.	<u>1,360.00</u>	<u>4,080.00</u>
TOTAL FOR STOLLEY AND BLAINE			\$		<u>4,080.00</u>

ARTHUR TO GRANT (Option 1), Pipe Lining No.	Item	Estimated Quantity		Firm Unit Price	Total Price
1.	Install 8" Cure In Place Pipe	623.0	L.F.	23.25 <u>23.00</u>	14,484.75 <u>14,329.00</u>
2.	Install Top Hat Cut-Out	16.0	EA.	<u>135.00</u>	<u>2160.00</u>
3.	Install 8"-10" Top Hat	16.0	EA.	1,500.00 <u>1,490.00</u>	24,000.00 <u>23,840.00</u>
4.	Install 24" Top Hat	2.0	EA.	<u>1700.00</u>	<u>3400.00</u>
5.	Remove and Replace Service at Sta. 3 + 64 South	1.0	EA.	<u>3,400.00</u>	<u>3,400.00</u>
6.	Remove and Replace Service at Sta 5 + 12 North	1.0	EA.	<u>3,400.00</u>	<u>3,400.00</u>
7.	Rehab Manholes 84-79, 84-95A, and 84-95				
	Mobilization	1.0	L.S.	<u>840.00</u>	<u>840.00</u>
	Remove Steps	12.0	EA.	<u>23.00</u>	<u>276.00</u>
	Infiltration Leak M.H. Sidewall	2.0	EA.	<u>470.00</u>	<u>940.00</u>
	Infiltration Leak Bench & Invert	2.0	EA.	<u>450.00</u>	<u>900.00</u>
	M.H. Rehab Cementitious Lining	35.36	V.F.	<u>160.00</u>	<u>5,657.60</u>
	M.H. Rehab Epoxy Lining	35.36	V.F.	<u>150.00</u>	<u>5,304.00</u>
8.	Remove and Replace Extra Fence	1.0	L.F.	<u>12.00</u>	<u>12.00</u>
9.	Remove and Replace extra Sanitary Sewer Service	1.0	L.S.	<u>4,700.00</u>	<u>4,700.00</u>
10.	Construction Dewatering	1.0	L.S.	<u>3,000.00</u>	<u>3,000.00</u>
TOTAL FOR ARTHUR TO GRANT (Option 1)			\$		72,474.35 <u>72,158.60</u>
ARTHUR TO GRANT (Option 2), Open Dig		Estimated		Firm	Total
CB-3 (Addendum No.2) (Revised Wage Determination)					

No.	Item	Quantity		Unit Price	Price
1.	Build 4' Diameter, Type 2 Manhole	3.0	EA.	<u>3,000.00</u>	<u>9,000.00</u>
2.	Build 4' Diameter, Type 2 Manhole Extra Depth	8.6	L.F.	<u>300.00</u>	<u>2,580.00</u>
3.	Build 8" PVC Gravity Sewer	624.0	L.F.	<u>180.00</u>	<u>112,320.00</u>
4.	Build Residential Service Lateral	16.0	EA.	<u>5,000.00</u>	<u>80,000.00</u>
5.	Restore Property Corners	16.0	EA.	<u>1,000.00</u>	<u>16,000.00</u>
6.	Restore Surface	13,900.0	SQ/FT	<u>25.00</u>	<u>347,500.00</u>
7.	Remove and Replace Concrete Sidewalk	10.0	L.F.	<u>20.00</u>	<u>200.00</u>
8.	Rehab Manholes 84-79				
	Mobilization	1.0	L.S.	<u>840.00</u>	<u>840.00</u>
	Remove Steps	4.0	EA.	<u>23.00</u>	<u>92.00</u>
	Infiltration Leak M.H. Sidewall	1.0	EA.	<u>470.00</u>	<u>470.00</u>
	Infiltration Leak Bench & Invert	1.0	EA.	<u>450.00</u>	<u>450.00</u>
	M.H. Rehab Cementitious Lining	10.71	V.F.	<u>160.00</u>	<u>1,713.60</u>
	M.H. Rehab Epoxy Lining	10.71	V.F.	<u>150.00</u>	<u>1,606.50</u>
9.	Abandon 8" V.C.P. Sanitary Sewer	624.0	L.F.	<u>50.00</u>	<u>31,200.00</u>
10.	Remove and Replace Extra Fence	1.0	L.F.	<u>12.00</u>	<u>12.00</u>
11.	Remove and Replace extra Sanitary Sewer Service	1.0	L.F.	<u>5,000.00</u>	<u>5,000.00</u>
12.	Construction Dewatering	1.0	L.S.	<u>150,000.00</u>	<u>150,000.00</u>
TOTAL FOR ARTHUR TO GRANT (Option 2)				\$	<u>758,984.10</u>

BARBARA AND GRETCHEN No.	Item	Estimated Quantity		Firm Unit Price	Total Price
1.	Remove 10" V.C.P. Sanitary Sewer Pipe	26.0	L.F.	11.00	286.00
2.	Build 10" P.V.C. Sanitary Sewer Pipe	26.0	L.F.	160.00	4,160.00
3.	Remove 10" x 6" V.C.P. Wye	1.0	EA.	45.00	45.00
4.	Install 10" x 6" P.V.C. Tee	1.0	EA.	170.00	170.00
5.	Remove 6" V.C.P. Sanitary Sewer Pipe	8.0	L.F.	11.00	88.00
6.	Build 6" P.V.C. Sanitary Sewer Pipe (Licensed Plumber)	8.0	L.F.	160.00	1,280.00
7.	Construction Dewatering	1.0	L.S.	9,900.00 9,800.00	9,900.00 9,800.00
TOTAL FOR BARBARA AND GRETCHEN			\$		15,929.00 15,829.00
Total for Beltline Forcemain			\$		220,245.32 218,911.07
Total for Stolley and Blaine			\$		4,080.00
Total for Arthur to Grant (Option 1)			\$		72,474.35 72,158.60
Total for Arthur to Grant (Option 2)			\$		758,984.10
Total for Barbara and Gretchen			\$		15,929.00 15,829.00
TOTAL BID – W/ OPTION 1 LIFT STATION NO. 7 REPAIRS PROJECT NO. 2011-S-1			\$		312,728.67 310,978.67
TOTAL BID – W/ OPTION 2 LIFT STATION NO. 7 REPAIRS PROJECT NO. 2011-S-1			\$		999,238.42 997,804.17

RESOLUTION 2012-7

WHEREAS, On December 6, 2011 City Council approved, by Resolution 2011-357, the bid award to Midland Contracting, Inc. for the Lift Station No.7 Repairs, in the amount of \$310,978.67; and

WHEREAS, on November 4, 2011 the Department of Labor issued new labor wage determinations; and

WHEREAS, it is necessary to amend Resolution 2011-357 to award the revised bid in the revised amount of \$312,728.67 to Midland Contracting, Inc. for the Lift Station No.7 Repairs; and

WHEREAS, with the wage correction to Midland Contracting, Inc. bid they are still the lowest responsible bidder for the Lift Station No.7 Repairs; and

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that Resolution 2011-357 is hereby amended to the revised bid award amount to \$312,728.67 to Midland Contracting, Inc. for the Lift Station No.7 Repair

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

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, January 10, 2012.

Jay Vavricek, Mayor

Attest:

RaNae Edwards, City Clerk

Approved as to Form	☐ _____
January 10, 2012	☐ City Attorney



City of Grand Island

Tuesday, January 10, 2012

Council Session

Item G10

**#2012-8 - Approving the Certificate of Compliance with the
Nebraska Department of Roads for Maintenance Agreement No.
12; Calendar Year 2011**

Staff Contact: John Collins, Public Works Director

Council Agenda Memo

From: Shannon Callahan, Streets Superintendent

Meeting: January 10, 2012

Subject: Approving the Certificate of Compliance with the Nebraska Department of Roads for Maintenance Agreement No. 12; Calendar Year 2011

Item #'s: G-10

Presenter(s): John Collins, Public Works Director

Background

The City of Grand Island and the Nebraska Department of Roads have had an agreement for the maintenance of state highways within the city limits dating back to 1970. Maintenance responsibilities for state highways within the corporate city limits are defined by state statute.

The Nebraska Department of Roads (NDOR) is responsible for the cost of the maintenance of the highway lanes through a community and the City is responsible for the cost of the maintenance of any highway widening including parking, additional thru lanes or left turn lanes. The statutes provide that the NDOR is to reimburse the City for work the City performs on NDOR's highway lanes.

Discussion

The agreement requires the City to certify that it has completed the maintenance work required by the agreement for the 2011 calendar year.

The NDOR performs snow removal on NE Highway 2, US Highway 281, US Highway 34, and a portion of US Highway 30 from the west city limits to Johnstown Road. The City performs snow removal on US Highway 30 from Johnstown Road through town to the east city limits at Shady Bend Road. The City performs the surface maintenance on all state highways within the city limits. The net result of this exchange of services is a payment by the Nebraska Department of Roads to the City of Grand Island in the amount of \$45,450.50.

Alternative Motions

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

1. Move to approve a resolution authorizing the Mayor to sign the Certificate of Compliance.
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 pass a resolution authorizing the Mayor to sign the Certificate of Compliance.

Sample Motion

Move to approve the Certificate of Compliance for Maintenance Agreement No. 12.

RESOLUTION 2012-8

WHEREAS, each year the City of Grand Island enters into a maintenance agreement with the State of Nebraska Department of Roads with respect to the maintenance of state highways within the corporate limits of Grand Island; and

WHEREAS, the City has complied with all surface maintenance work for the calendar year 2011 in accordance with the agreement; and

WHEREAS, upon receiving the City's Certificate of Compliance, the State will reimburse the City for maintenance work performed.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the City of Grand Island has complied with the terms of Maintenance Agreement No. 12 for calendar year 2011; and the Mayor is hereby authorized and directed to execute the Certificate of Compliance for such agreement on behalf of the City of Grand Island.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, January 10, 2012.

Jay Vavricek, Mayor

Attest:

RaNae Edwards, City Clerk

Approved as to Form	☐ _____
January 6, 2012	☐ City Attorney



City of Grand Island

Tuesday, January 10, 2012

Council Session

Item G11

**#2012-9 - Designating Local Public Agency Official Responsible
for Setting Just Compensation for Tracts Acquired for Federal
Transportation Aid Projects**

Staff Contact: John Collins, Public Works Director

Council Agenda Memo

From: Scott Griepenstroh, Project Manager

Meeting: January 10, 2012

Subject: Designating Local Public Agency Official Responsible for Setting Just Compensation for Tracts Acquired for Federal Transportation Aid Projects

Item #'s: G-11

Presenter(s): John Collins, Public Works Director

Background

Grand Island is a Local Public Agency (LPA) in the State of Nebraska receiving federal transportation funding from the Federal Highway Administration (FHWA). As a sub-recipient of federal transportation funding, the City of Grand Island is charged with the responsibility of spending these funds in accordance with Federal and State law. The Nebraska Department of Roads (NDOR) administers these funds under guidelines in the NDOR's Local Public Agency (LPA) Manual.

The City of Grand Island currently has Federal Transportation-Aid projects programmed through the Surface Transportation Program, the Safe Routes to School Program, and the Transportation Enhancement Program.

The law governing property acquisition and relocation on federally assisted projects is Public Law 91-646; The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, commonly called the Uniform Act. The procedures for complying with the Uniform Act are described in 49 CFR Part 24.

All Local Public Agencies must have a federally approved Right of Way manual and if not, the LPA must use the NDOR's *Right of Way Acquisition Guide for Local Public Agencies* and NDOR's complete *Right of Way Manual*. The City of Grand Island does not have a federally approved manual and therefore follows the NDOR's manual.

Discussion

As per Section 5, Review of Property Valuation of the *Right of Way Acquisition Guide for Local Public Agencies*, "Just Compensation" must be determined for each tract acquired for a Federal-Aid project. This amount shall not be less than the approved appraisal of the fair market value of the property.

An elected or appointed official shall be empowered to review appraisals, appraisal reviews and set the Just Compensation for each project tract. Passing this resolution will designate the City Administrator and the Public Works Director as the public officials empowered to set Just Compensation for tracts acquired in accordance with the Uniform Act.

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 Mayor and Council approve a resolution empowering the City Administrator and the Public Works Director to set Just Compensation for tracts acquired in accordance with the Uniform Act.

Sample Motion

Move to approve the resolution.

RESOLUTION 2012-9

WHEREAS, the City of Grand Island is a Local Public Agency in the State of Nebraska receiving federal transportation funding from the Federal Highway Administration; and

WHEREAS, the law governing property acquisition and relocation on federally assisted projects is Public Law 91-646; The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, commonly called the Uniform Act; and

WHEREAS, all Local Public Agencies must have a federally approved Right of Way manual and if not, the LPA must use the NDOR's *Right of Way Acquisition Guide for Local Public Agencies* and NDOR's complete *Right of Way Manual*; and

WHEREAS, "Just Compensation" must be determined for each tract acquired for a Federal-Aid project. This amount shall not be less than the approved appraisal of the fair market value of the property; and

WHEREAS, an elected or appointed official shall be empowered to review appraisals, appraisal reviews and set the "Just Compensation" for each project tract.

BE IT FURTHER RESOLVED: The Mayor and Council of the City of Grand Island do hereby designate the following individuals as empowered to set "Just Compensation" for properties acquired in accordance with the Uniform Act.

Public Works Director

City Administrator

Adopted by the City Council of the City of Grand Island, Nebraska, January 10, 2012.

The City Council of the City of Grand Island

Randy Gard

Robert Niemann

Peg Gilbert

Scott Dugan

Kirk Ramsey

Linna Dee Donaldson

Larry Carney

Mitch Nickerson

Chuck Haase

John Gericke

Council Member _____

Moved the adoption of said resolution

Member _____ Seconded the motion

Roll Call: ___Yes ___No ___Abstained ___Absent

Resolution adopted, signed and billed as adopted

Jay Vavricek, Mayor

Attest:

RaNae Edwards, City Clerk



City of Grand Island

Tuesday, January 10, 2012

Council Session

Item G12

**#2012-10 - Approving Change Order No. 1 for Moores Creek
Drain Extension - Old Potash Crossing; Drainage Project No. 2008-
D-2**

Staff Contact: John Collins, Public Works Director

Council Agenda Memo

From: Terry Brown, Manager of Engineering Services

Meeting: January 10, 2012

Subject: Approving Change Order No. 1 for Moores Creek Drain Extension – Old Potash Crossing; Drainage Project No. 2008-D-2

Item #'s: G-12

Presenter(s): John Collins, Public Works Director

Background

Midlands Contracting, Inc., of Kearney, Nebraska was awarded a \$166,805.00 contract by the City Council on September 13, 2011 to extend the last constructed segment of the Moores Creek Drainway to the south under Old Potash Highway.

The Moores Creek Drainway is one portion of a series of open ditches, detention cells and storm sewer that were proposed in a 1975 study to provide flood relief to urbanized areas in western Grand Island. Future extensions of this drainway will be constructed west and south beyond Engleman Road and Stolley Park Road. The Moores Creek Drain Extension project begins south of Old Potash Highway on the east side of North Road, and ends approximately 500' north.

Discussion

Change Order No. 1 includes additional work associated with utility conflicts that were discovered once the project began. The main conflict involved the lowering of a 16" water main. These items were not included in the original bid documents, but are necessary to complete the project. Change Order No. 1 will increase this project cost by \$43,560.00, for a total contract amount of \$210,365.00.

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 Change Order No. 1 for the Moores Creek Drain Extension – Old Potash Crossing; Drainage Project No. 2008-D-2.

Sample Motion

Move to approve the resolution.

City of Grand Island
100 East 1st Street
Grand Island, Nebraska 68801

CHANGE ORDER NUMBER 1

Date of Issuance: January 10, 2012

PROJECT: Moores Creek Drain Extension – Old Potash Crossing; Drainage Project No. 2008-D-2

CONTRACTOR: Midlands Contracting, Inc.

CONTRACT DATE: September 13, 2011

This change order allows for items required to complete the project that were not included in the original bid documents, such as utility conflicts which consisted of lowering a 16" water main and laying a 48" Reinforced Concrete Pipe underneath duct bank and gas line; additional traffic control costs; and the additional cost of concrete to open Old Potash Highway by December 25, 2011.

The changes result in the following adjustment to the Contract Amount:

Contract Price Prior to This Change Order\$166,805.00

Net Increase/Decrease Resulting from this Change Order.....\$ 43,560.00

Revised Contract Price Including this Change Order.....\$210,365.00

Approval Recommended:

By _____
John Collins, Public Works Director

Date _____

The Above Change Order Accepted:

Midlands Contracting, Inc. _____
Contractor

By _____

Date _____

Approved for the City of Grand Island:

By _____
Jay Vavricek, Mayor

Attest: _____
RaNae Edwards, City Clerk

Date _____

RESOLUTION 2012-10

WHEREAS, on September 13, 2011, by Resolution 2011-244, the City of Grand Island awarded Midlands Contracting, Inc. of Kearney, Nebraska the contract in the amount of \$166,805.00 for the Moores Creek Drain Extension – Old Potash Crossing; Drainage Project no. 2008-D-2; and

WHEREAS, it has been determined that modifications to the work to be performed by Midlands Contracting, Inc. are necessary; and

WHEREAS, such modifications have been incorporated into Change Order No. 1; and

WHEREAS, the result of such modifications will increase the contract by the amount of \$43,560.00, for a total contract price of \$210,365.00.

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 Change Order No. 1 between the City of Grand Island and Midlands Contracting, Inc. of Kearney, Nebraska to provide the modifications.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, January 10, 2012.

Jay Vavricek, Mayor

Attest:

RaNae Edwards, City Clerk

Approved as to Form	☐ _____
January 6, 2012	☐ City Attorney



City of Grand Island

Tuesday, January 10, 2012

Council Session

Item G13

**#2012-11 - Approving Amendment to the Fee Schedule Relative to
HPSP and Jackrabbit Run Golf Course**

Staff Contact: Steve Paustian

Council Agenda Memo

From: Steve Paustian. Parks & Recreation Director

Meeting: January 10, 2012

Subject: Approving Changes to the 2011-2012 Fee Schedule

Item #'s: G-13

Presenter(s): Steve Paustian, Parks & Recreation Director

Background

The City currently operates the Heartland Public Shooting Park and Jackrabbit Run Golf Course. As programs are added or improved and as expenses increase it is desirable to adjust user fees to minimize the subsidies necessary to operate the facilities and in the case of the Golf Course to reflect the additional fee to the fee schedule. To this end a modification to the fee schedule is proposed.

Discussion

These proposed fees are the staff's best effort to maximize the return on investment. The proposed fees took into consideration fees charged by similar facilities in the area for similar services along with an allowance for the quality of the facility the shooting public enjoys at the Heartland Public Shooting Park. In addition a fee has been developed to promote early purchase of season passes at Jackrabbit Run. Attached are the recommended fee modifications and additions.

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 recommended fee additions and increases for the Heartland Public Shooting Park and Jackrabbit Run Golf Course.

Sample Motion

Move to modify the existing fee schedule to include the new offerings and rate changes proposed for the Heartland Public Shooting Park and Jackrabbit Run Golf Course.

2012 Heartland Public Shooting Park Pricing Structure

The Parks and Recreation Director shall establish fees for miscellaneous merchandise sales, tournament, league play, special events, and promotions.

Venue	Adult	Consult	Youth	Consult
Skeet (25 targets/round)	\$6.00	\$4.50	\$4.50	\$3.50
Trap (25 targets/round)	\$6.00	\$4.50	\$4.50	\$3.50
5-Stand (25 targets/round)	\$6.75	\$5.25	\$4.75	\$4.25
Sporting Clays (50 targets/round)	\$17.50	\$14.50	\$12.50	\$10.00
Sporting Clays (100 target/round)	\$31.50	\$28.50	\$25.00	\$20.00
Trap/Skeet Punch Card (12-25 target rounds)	\$66.75	\$50.25	NA	NA
Sporting Clay Punch Card (6-50 target rounds)	\$94.00	\$84.00	NA	NA
Counter Purchase 1500 Targets				
Trap/Skeet	\$0.17	NA	NA	NA
Sporting Clays	\$0.27	NA	NA	NA
Rifle/Handgun Daily Fee	\$10.00	NA	\$5.00	NA
Rifle/Handgun Punch Card 6 days at \$7.50	\$45.00	NA	NA	NA
Rifle/Handgun Family Pass (Yearly)	\$175.00	NA	NA	NA
Archery Practice Range	\$ 5.00	NA	\$2.50	NA
3 D Range	\$15.00		\$8.00	
Rifle Range Daily Rental				
Law Enforcement with own RSO	\$100.00			
With Park RSO	\$200.00			
Business with own RSO	\$150.00			
With Park RSO	\$250.00			
Classroom Rental per day				
Shooting Sports Educational	\$100.00			
Business or Private	\$200.00			
With Associated Shooting Event	NC			
Golf Cart Rental				
per round (per rider)	\$4.00			
½ day	\$25.00			
per day (4 rider limit)	\$50.00			
RV Park		(per night)		
RV Pad with electricity/water		\$25.00		
Primitive Camping (no water/electric)		\$5.00		

Jackrabbit Run Golf Course
Discounted season passes if purchased from December 1 through January 31

Pass (Annual – December 1 through January 31)

Adult Seven Day	470.00
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Additional Family Member	210.00
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Family Pass	675.00
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Adult Five Day Pass (Mon.-Fri. only)	355.00
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Junior/Student pass includes full time college students (weekdays and after 1:00 on weekends)	145.00
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Senior Pass (55 & Older, excludes holidays and weekends before 1:00 pm)	270.00
---	--------

Effective July 1 all season passes are discounted 50%.

RESOLUTION 2012-11

WHEREAS, the 2011/2012 budget process requires an update of the Fee Schedule for numerous services that the City provides; and

WHEREAS, it is necessary to modify fees at the Heartland Public Shooting Park and Jackrabbitt Run Golf Course.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the 2011/2012 adopted Fee Schedule be modified and the changes incorporated into the 2011/2012 budget.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, January 10, 2012.

Jay Vavricek, Mayor

Attest:

RaNae Edwards, City Clerk



City of Grand Island

Tuesday, January 10, 2012

Council Session

Item I1

**#2012-12 - Consideration of Request from Fuji Steak House, Inc.
dba Fuji Japanese Steak House, 1004 North Diers Avenue, Suite
200 for a Class "I" Liquor License and Liquor Manager
Designation for Qi Qin Huang, 1206 Cedar Ridge Court, Apt. 101**

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

Staff Contact: RaNae Edwards

RESOLUTION 2012-12

WHEREAS, an application was filed by Fuji Steak House, Inc. doing business as Fuji Japanese Steak House, 1004 North Diers Avenue, Suite 200 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 December 31, 2011; such publication cost being \$16.27; and

WHEREAS, a public hearing was held on January 10, 2012 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 Qi Qin Huang, 206 Cedar Ridge Court, Apt. 101 as liquor manager of such business contingent upon completing a state approved alcohol server/seller program.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, January 10, 2012.

Jay Vavricek, Mayor

Attest:

RaNae Edwards, City Clerk

Approved as to Form	☐ _____
January 6, 2012	☐ City Attorney



City of Grand Island

Tuesday, January 10, 2012

Council Session

Item I2

#2012-13 - Consideration of Intent to Annex Area 8b (Rainbow Lake Area)

Staff Contact: Chad Nabity

Council Agenda Memo

From: Hall County Regional Planning Department

Meeting: January 10, 2012

Subject: Annexation Area Identified as 8b

Item #'s: I-2

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

Background

At the March 22, 2011 meeting of the Grand Island City Council a resolution was passed that directed the planning department and other city staff as follows:

- to proceed with preparing annexation plans (as required and defined by statute),
- to notify property owners and school districts as required by law, and
- to forward the annexation plans to the Regional Planning Commission for review.

Eight areas were identified as eligible for annexation into the Grand Island municipal limits. Council has acted on 6 of the 8 areas. An annexation plan is available for annexation area 8b the 7th of 8 areas.

The annexation plan for area 8b (Rainbow Lake) is complete and was considered by the Regional Planning Commission after a public hearing at their meeting held January 4, 2012. The annexation plans for the area identified as 8b is attached are available from the Grand Island City Clerk, the Hall County Regional Planning Department and on the Grand Island Website at www.grand-island.com.

Discussion

Nebraska Revised Statute §16-117 provides for the process of annexation. In following the process approved by Council on March 22nd, 2011 annexation plans have been prepared by staff and referred to the Regional Planning Commission for recommendation. The second action in this process is for Council to pass a resolution stating their intent to annex, approve annexation plans and set public hearings for comment on the annexations before council.

Alternatives

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

1. Approve the resolution of intent to annex, the attached annexation plan, and set public hearing on annexation for February 14, 2012
2. Choose not to approve the resolution of intent to annex, the attached annexation plan, and set public hearing on annexation for.
3. Modify the resolution of intent to annex, the attached annexation plan, and/or the public hearing date.
4. Postpone the issue

Recommendation

At the January 4, 2012 meeting of the Hall County Regional Planning Commission a public hearing was held to take comment on the annexation plans for area 8b. Two members of the public spoke in opposition to the annexation of area 8b. One, a resident of Rainbow Lake and the other representing the owner of a 40+ acre parcel with a single house located between Rainbow Lake and U.S. Highway 34. The minutes of the Planning Commission Meeting pertaining to this item are attached. Planning Commission took separate votes on each area and recommended approval of all of the areas.

City staff also recommends that the Council approve the resolution of intent to annex, the attached annexation plan, and set a public hearing on annexation of this area for February 14, 2012.

Sample Motion

Move to approve the resolution of intent to annex, the attached annexation plan, and set public hearings on annexation of Area 8b.

From the January 4, 2012 Planning Commission Minutes

4. Public Hearing – Public Hearing – Annexation - (C-04-2012GI)

Annexation Area 8b - This property is located in the southwest part of the city. It is south of US Hwy 34 and east of south Blaine Street. This property includes the Rainbow Lake area. Part of the SW ¼ of Section 28, Township 11 North, Range 9 and Part of the NW ¼ of Section 33, Township 11 North, Range 9 West of the 6th P.M.

O'Neill opened the Public Hearing.

Nabity explained to the Planning Commission and to the members of the audience that annexation was first talked about back in January of 2011 at the City Council retreat. Council then decided on potential area for Annexation and how this is part of the Comprehensive Plan for Grand Island. The Comprehensive Plan was adopted in 2004. On March 22, 2011, Council gave the go ahead to Planning to state the annexation process. Last fall there were five areas annexed into the City of Grand Island.

The City provides police, EMS and Fire protection. This area is also within the city's two mile jurisdiction and is subject to the current City building codes. With the annexation this would allow access to the City library without having to pay the Hall County fee.

Nabity noted that privately owned lakes within the City limits would still be privately owned lakes with no public access.

Vi Sheeks, 3623 S Blaine spoke against the annexation, she commented a few years ago when the Rainbow Lake area had issues with the sewer and came to the City for help they were refused. Homeowners then gathered together and paid to fix the issue themselves. She asked about Northwest High School and how they would be affected? She noted that those wanting sewer and water should be the ones to pay for this not the homeowner who already has functioning service and like the way things are now.

John Niedfelt, 1515 W Husker Hwy., spoke against the annexation. His mother owns 40+ acres and this would be an extreme expense to install sewer and water to the house. Niedfelt said this property will not become a developed property. He also questioned the upfront costs or future costs.

Nabity stated public works has formulated a plan to eliminate the lift station that is currently serving Rainbow Lake. A gravity main could be extended from the Knot subdivision northeast of Rainbow across the Robb property east of Catfish Avenue. The cost to run a gravity sewer line to the Rainbow Lake area is estimated at \$410,000.




O'Neill closed the Public Hearing.

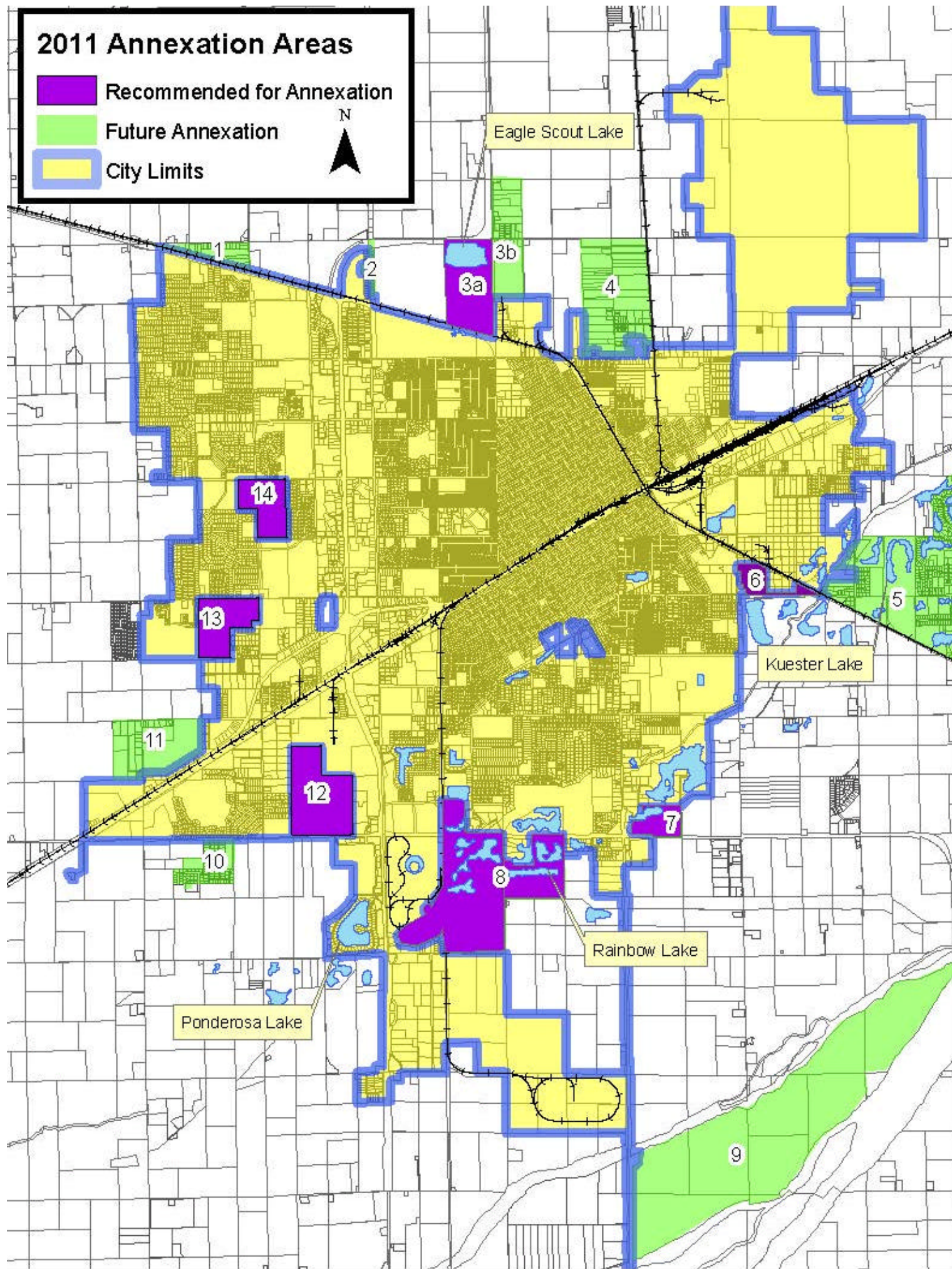
A motion was made by Erickson to not recommend Annexation of Area 8b, Rainbow Lakes to City Council and was seconded by Connelly. The motion failed with 5 members present voting in favor of not recommending Annexation to City Council (Hayes, Reynolds, Eriksen, Connelly and Snodgrass) and 6 voting against (McCarty, O'Neill, Ruge, Monter, Haskins and Bredthauer).

O'Neill looked for a new motion.

A motion was made by Bredthauer to approve the Annexation of Area 8b, Rainbow Lakes and recommend Annexation to City Council. Bredthauer noted some findings of facts were the City will assume the sewer responsibility, city sewer and water could be readily available and this area is surrounded by the City Limits and this does meet the guidelines as set forth in the Grand Island Comprehensive Plan. This was seconded by Haskins. The motion carried with 7 members present voting in favor of recommending the Annexation of Area 8b to City Council (McCarty, O'Neill, Ruge, Monter, Haskins, Bredthauer, and Snodgrass) and 4 voting no (Hayes, Reynolds, Eriksen and Connelly).

2011 Annexation Areas

-  Recommended for Annexation
-  Future Annexation
-  City Limits



ANNEXATION PLAN AREA 8b–December 2011

December 16, 2011

OVERVIEW

Section 16-117 of The Nebraska State Statute allows municipalities of the first class to annex any contiguous or adjacent lands, lots, tracts, streets, or highways that are urban or suburban in character and in such direction as may be deemed proper.

Regulations governing municipal annexation were implemented in order to develop an equitable system for adding to and increasing city boundaries as urban growth occurs. Areas of the community that are urban in nature, and are contiguous to existing boundaries, are appropriate for consideration of annexation.

Annexation of urban areas adjacent to existing city boundaries can be driven by many factors. The following are reasons annexation should be considered:

1. Governing urban areas with the statutorily created urban form of government, municipalities have historically been charged with meeting the needs of the expanded community.
2. Provide municipal services. Municipalities are created to provide the governmental services essential for sound urban development and for the protection of health, safety and well being of residents in areas that are used primarily for residential, industrial, and commercial purposes.
3. Ensure orderly growth pursuant to land use, building, street, sidewalk, sanitary sewer, storm sewer, water, and electrical services.
4. Provide more equitable taxation to existing property owners for the urban services and facilities that non-city residents in proposed annexation areas use on a regular basis such as parks, streets, public infrastructure, emergency services, retail businesses and associated support.
5. Ensure ability to impose and consistently enforce planning processes and policies.
6. Address housing standards and code compliance to positively impact quality of life for residents.
7. Enable residents of urban areas adjacent to city to participate in municipal issues, including elections that either do or will have an impact on their properties.
8. Anticipate and allocate resources for infrastructure improvements.
9. Increase number of street or lane miles while increasing gas tax dollars received from the Nebraska Department of Roads.
10. Provide long term visioning abilities as it relates to growth and provision of services.

City Services Available and to be provided

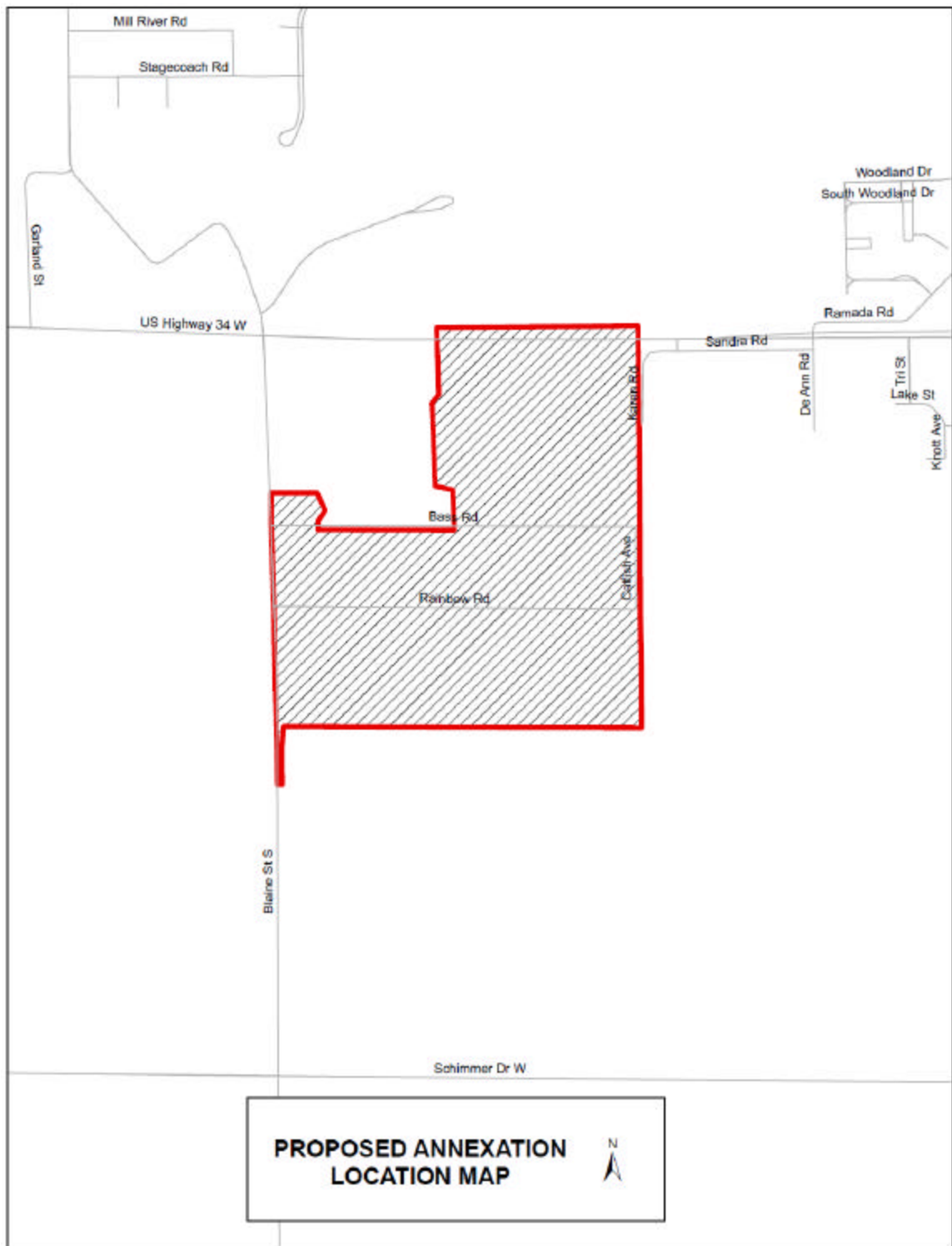
A comprehensive inventory of services and facilities, relative to the types and level of services currently being provided as well as the types of level of services anticipated as a result of annexation, has been developed.

The inventory includes general information concerning:

- Existing infrastructure in affected area(s)
- Summary of expenditures to extend existing infrastructure
- Summary of operating expenditures associated with increased services
- Emergency services

The service plan incorporates detailed elements of the inventory. The inventory and resulting service plan should be the basis for discussions concerning each specific area identified for potential annexation. *It should be noted that the capital improvements to existing infrastructure and extending services will take place over a period of time in order to ensure adequate time for planning, designing, funding and constructing such a sizable number of projects while protecting the financial integrity of the City's enterprise funds. The service plan provides for extending the trunk water and sanitary sewer lines to the annexed area if they are not already available. Individual property owners will be responsible for the cost of extending services through neighborhoods and for connecting their properties to the public systems.*

City Services not requiring extension of infrastructure would be available immediately upon annexation. Services requiring extension of infrastructure would be available upon installation of services to City of Grand Island standards and acceptance into the City systems. Extension may be contingent on the successful creation and continuation of an assessment district to raise the necessary funding for installation.



South of U.S. Highway 34 and east of Blaine Street (Rainbow Lake)

This property is located in the south central part of the community. It is south of U.S. Highway 34 and on the east side of Blaine Street. The City of Grand Island provides electric services to the area. Sewer is available to some of the properties and water is

available to all of the properties. There are about 129 acres of property included in the area. The property is currently used primarily for residential and agricultural purposes. There are 46 houses included in this area with an estimated population of 175.

INVENTORY OF SERVICES

1. Police Protection. The City of Grand Island Police Department will provide protection and law enforcement services in the annexation area. These services include:

- Normal patrols and responses
- Handling of complaints and incident reports
- Investigation of crimes
- Standard speed and traffic enforcement
- Special units such as traffic enforcement, criminal investigations, narcotics, and gang suppression

These services are provided, on a city-wide basis. The Police Department has an authorized police force of 77 officers. The Police Department is staffed at a rate of 1.58 officers per one thousand population persons. Immediate annexation of the area will not have any impact on police services. The area when fully developed will likely create the need for additional police staffing.

2. Fire Protection. The City of Grand Island Fire Department will provide emergency and fire prevention services in the annexation area. These services include:

- Fire suppression and rescue
- Hazardous materials incident response
- Periodic inspections of commercial properties
- Public safety education

These services are provided, on a city-wide basis, by 69 employees operating from four fire stations. The nearest fire station is Station #3 located on Webb Road about 2 miles from the proposed annexation area.

3. Emergency Medical Services. The City of Grand Island is the current provider of local emergency medical services in the city and will provide this service in the annexed area.

- Emergency medical and ambulance services
- Emergency dispatch (provided by the City/County Emergency Management Department)

The City of Grand Island Fire Department provides these services, on a city-wide basis. Fire personnel are emergency medical technicians and 32 are certified paramedics.

4. Wastewater (Sanitary Sewer). The City of Grand Island has sanitary sewer services in the area through existing sewer lines. A collection system could be extended throughout the property when development occurs. Collection systems within a

development are typically done at the property owner's expense. The City can finance this development through the creation of an assessment district. The cost of the collection system is dependent on the nature, density and design of the development proposed on the site. Rainbow Lake is currently served by a private sewer line and lift station. The city will take over maintenance and control of the private line from the homeowners association. This will allow the City to permit access to this line to other development as needed. The City Public Works Department has preliminary designs for a plan that could result in the elimination of the lift station. The estimated cost of installing the new gravity line is \$410,000. This would also allow for additional development between U.S Highway 34 and the Wood River Diversion Channel.

5. Maintenance of Roads and Streets. The City of Grand Island, Public Works Department, will maintain public streets over which the City has jurisdiction. These services include:

- Snow and ice removal
- Emergency pavement repair
- Preventative street maintenance
- Asphalt resurfacing
- Ditch and drainage maintenance
- Sign and signal maintenance
- Asphalt resurfacing

A portion of Bass Road is already within the City jurisdiction. The remainder of Bass Road, along with Catfish Avenue, Rainbow Road and Blaine Street would become the responsibility of the City.

6. Electric Utilities. This Annexation area is currently provided electrical services by the City of Grand Island. The services appear adequate to meet the needs of the area. These services include:

- Electric utility services
- Street lights

7. Water Utilities. The City of Grand Island, Utilities Department, currently maintains the water utilities services for the proposed annexation area. No additional mains are necessary to serve this property. Additional extensions will be necessary to serve the property as it is developed. The cost of extending water throughout the property dependent on the nature, density and design of the development proposed on the site. *Based on the current cost to construct water mains the City Utilities Department is estimating the cost of construction of a water main around Rainbow Lake at \$631,600 this would include the necessary taps and hydrants. The estimated cost to the City is \$68,200 for the installation of oversized lines. The remaining \$563,400 could be financed through the creation of an assessment district. Water is available along U.S Highway 34, and Schimmer Drive.

8. Maintenance of Parks, Playgrounds, and Swimming Pools No impact is anticipated as a result of annexation. Hall County Park is within the area but there is no

requirement that the City take any responsibility for Hall County facilities that are within the municipal limits. No impacts are anticipated. Rainbow Lake is a privately owned lake and annexation does not provide public access to private property.

9. Building Regulations. The City of Grand Island, Building Department, will oversee services associated with building regulations, including:

- Commercial Building Plan Review
- Residential Building Plan Review
- Building Permit Inspections and Issuance
- Investigation of complaints relative to Minimum Housing Standards
- Regulation of Manufactured Home Parks
- Investigation of Illegal Business Complaints
- Investigation and Enforcement of Zoning Violations

10. Code Compliance. The City of Grand Island's Legal Department and Code Compliance division will continue to provide the following services associated with enforcing compliance with the City Code:

- Enforcement Proceedings for Liquor and Food Establishment Violations
- Investigation and Enforcement of Complaints Regarding Junked Vehicles and Vehicle Parts, Garbage, Refuse and Litter
- Investigation of Enforcement of Complaints Regarding Weed and Animal Violations Providing Enforcement Support to Other Departments for City Code and Regulatory Violations

11. Library Services. In 2010 the City of Grand Island began charging a non-resident fee to people living outside of the Grand Island City Limits for library services. Residents of this area will no longer be required to pay this fee to use the Grand Island library.

12. Other City Services. All other City Departments with jurisdiction in the area will provide services according to city policies and procedures.

Summary of Impacts	
Police Protection	No Impact
Fire Protection	No Impact
Emergency Medical Services	No Impact
Wastewater	Available and can be extended
Roads and Streets	Some additional responsibility for Blaine Street, part of Bass Road, Rainbow Road and Catfish Avenue
Electric Service	Already in GI Service Area
Water Service	Available
Parks, Playgrounds and Swimming Pools	No Impact
Building Regulations	Already Subject to GI Regulations
Code Compliance	Already Subject to GI Regulations

Library	Would be available at no additional fee
Other	No Impact
School District	In Cedar Hollow/Northwest School District

Financial Impacts of the Properties west of Blaine Street generally south of Stage Coach Road and north of Schimmer Drive Annexation

Financial Impact	Before Annex	After Annex
2010 Property Valuation	\$	\$9,668,384
City sales tax now applicable	No	Yes

Assume \$9,668,384 Value

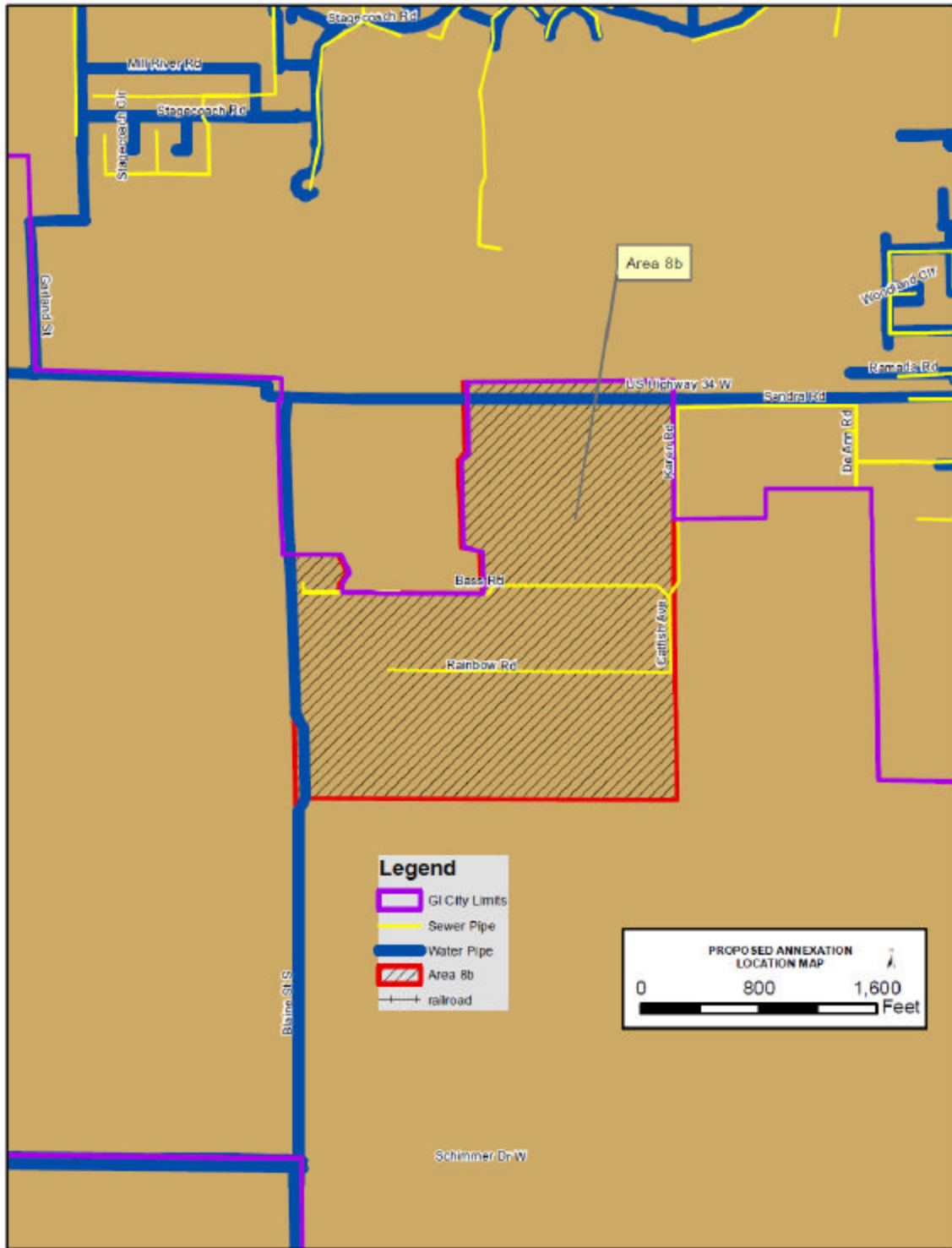
Tax Entity	Bond	2010 Levy	2010 Taxes	2010 Levy	2010 Taxes
City Levy	City Bond		\$0.00	0.204855	\$19,806.17
			\$0.00	0.067645	\$6,540.18
CRA			\$0.00	0.017742	\$1,715.36
Hall County		0.430957	\$41,666.58	0.430957	\$41,666.58
Rural Fire	Fire Bond*	0.049493	\$4,785.17	0.008064	\$0.00
		0.008064	\$779.66		\$779.66
GIPS School	2nd Bond		\$0.00	1.073899	\$103,828.68
			\$0.00	0.082245	\$7,951.76
	4th Bond		\$0.00	0.045144	\$4,364.70
NW School		1.012636	\$97,905.54	0.049034	\$0.00
	6th Bond	0.049034	\$4,740.80		\$4,740.80
ESU 10		0.015	\$1,450.26	0.015	\$1,450.26
CCC		0.112023	\$10,830.81	0.112023	\$10,830.81
CPNRD		0.04733	\$4,576.05	0.04733	\$4,576.05
Ag Society		0.004168	\$402.98	0.004168	\$402.98
Airport		0.011825	\$1,143.29	0.011825	\$1,143.29
	Airport Bond	0.010493	\$1,014.50	0.010493	\$1,014.50
Total Combined		1.751023	\$169,295.63	2.180424	\$210,811.77

Hall County, ESU, Community College, NRD and other levies will not change.

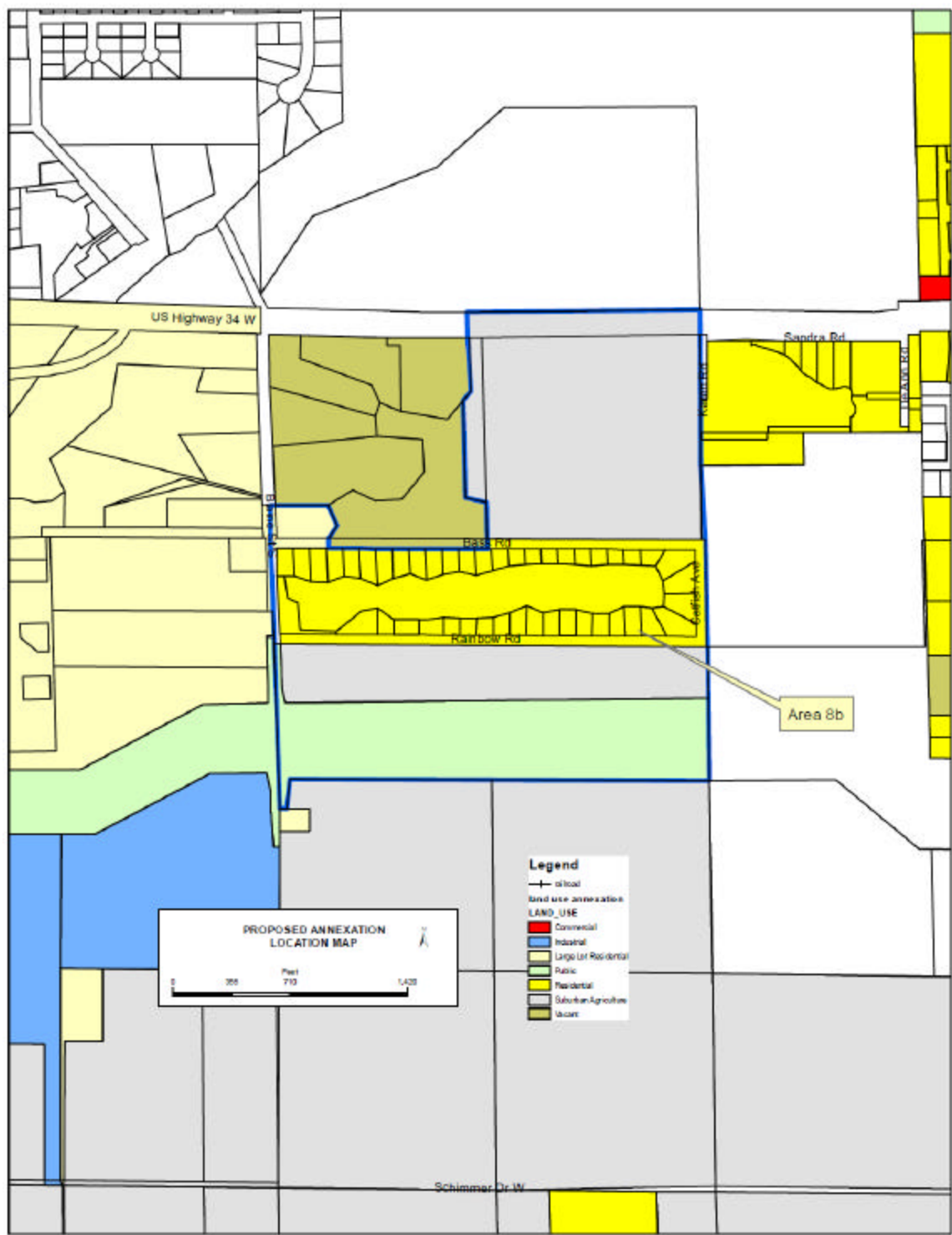
Total property tax levy 1.751023/\$169,295.63 2.180424/\$210,811.77

Depending on development these properties will connect to city water and sewer services and generate revenue for those enterprise funds based on the rate structure and usage.

*previously approved bonds will remain with property until paid off



Location of Sewer and Water Lines near area 7



Generalized Existing Land Use December 2011

RESOLUTION NO. 2012-13

WHEREAS, the City of Grand Island, in accordance with Neb. Rev. Stat. §16-117, et seq., is considering the annexation of the land and a plan for extending city services to the adjacent and contiguous land which are urban or suburban in character and legally described as

Annexation Area 8b as follows and as shown on Exhibit A attached hereto and incorporated herein by this reference:

Annexation Area 8b:

Beginning At A Point On The East Line Of The Southwest Quarter Section 28-11-9 Where It Intersects The North Right Of Way Line Of Nebraska Hwy 34, Husker Highway Said Point Being 92.4' North Of The Quarter Corner Common To The Southwest Quarter Section 28-11-9 And The Northwest Quarter Section 33-11-9 Thence Southerly On The Easterly Line Of Southwest Quarter Of Section 28-11-9 For A Distance Of 92.4' To The Southeast Corner Of Southwest Quarter Section 28-11-9 Thence Continuing Southerly On The East Line Of Northwest Quarter Section 33-11-9 To The Southeast Corner Of Said Northwest Quarter Section 33-11-9 Thence Continuing Southerly On The East Line Of The Southwest Quarter Section 33-11-9 For A Distance Of 153.29' Thence Westerly On A Line 153.29' South Of And Parallel To The North Line Of Said Southwest Quarter Section 33-11-9 To A Point On The West Line Of Section 33-11-9 Thence Northerly On The West Line Of Section 33-11-9 To The Southwest Corner Of Rainbow Lake Third Subdivision Thence Continuing North On The West Line Of Rainbow Lake Third Subdivision, Rainbow Lake Subdivision To The Northwest Corner Of Rainbow Lake Subdivision, Said Point Also Being The Northwest Corner Of North Half Of South Half Of Northwest Quarter Section 33-11-9 Thence Continuing Northerly On The West Line Of Section 33-11-9 To The Northwest Corner Lake Heritage Subdivision Thence Easterly On The North Line Of Lake Heritage Subdivision For A Distance Of 357' The Southeasterly On A Line For A Distance Of 136.52' Thence Southwesterly On A Line For A Distance Of 91.01' To The North Line Of Bass Road Thence South On A Line Perpendicular To The North Line Of Bass Road To The South Line Of Bass Road Thence Easterly On The South Line Of Bass Road To A Point Being An Extension Of The East Line Of Lake Heritage Second Subdivision Thence Northerly On The Line Of Lake Heritage Second Subdivision And Said Extension To A Point 223.81' North Of The North Line Of Bass Road Thence Northeasterly On A Line For A Distance Of 128.88' Thence Northerly On A Line For A Distance Of 588.44' To A Point On The South Line Of Lot 5 Lake Heritage Second Subdivision Thence Northeasterly On A Line For A Distance Of 74.74' Thence Northerly On The East Line Of Lot 5 Lake Heritage Second Subdivision And An Extension There Of To The North Line Of Nebraska State Highway No. 34 Thence Easterly On The North Line Of Nebraska Highway 34, Husker Highway To the Point Of Beginning.

As shown on Exhibit "A" attached hereto and incorporated herein by this reference.

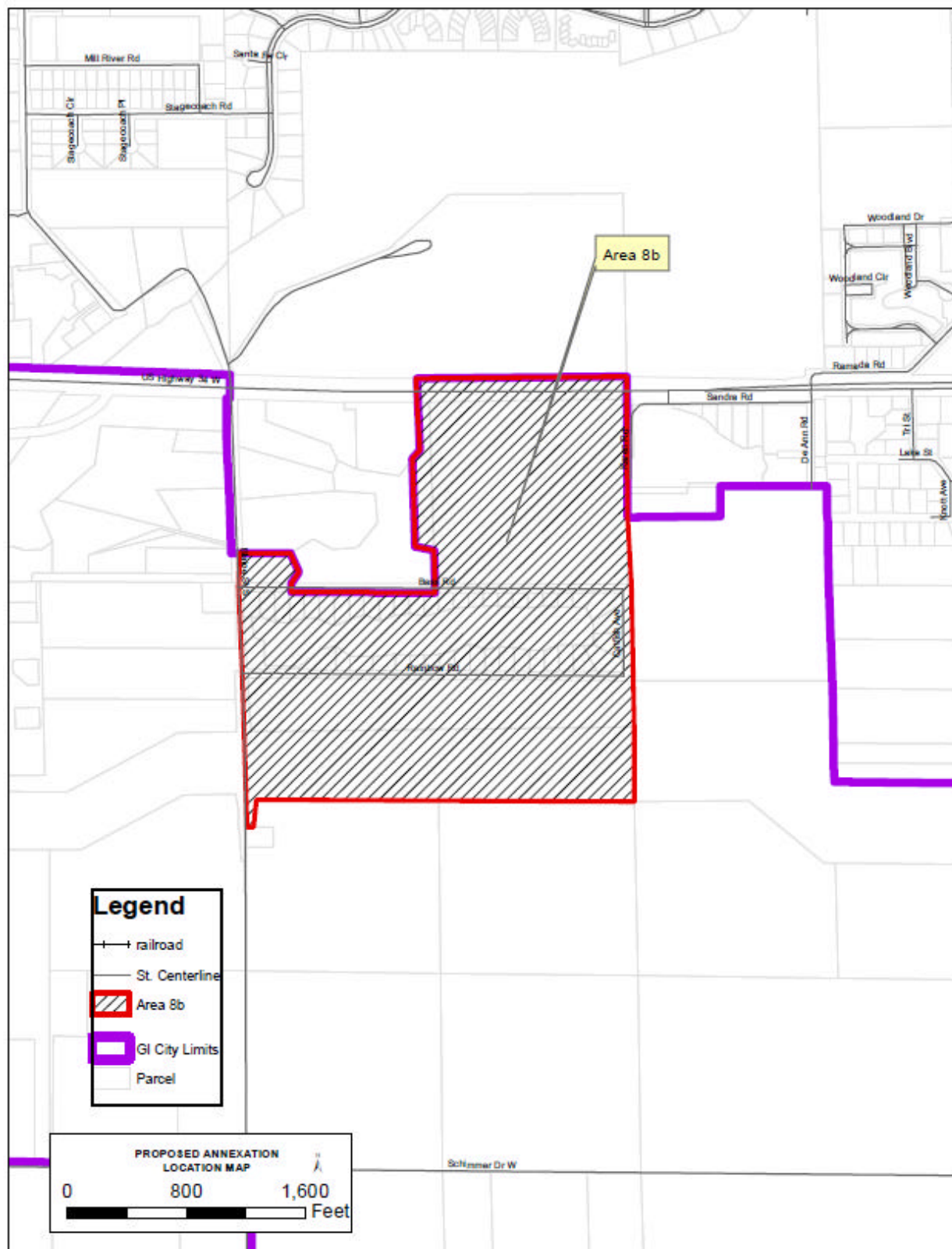


Exhibit "A"

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that a plan outlining the city services available to the above-described land and showing or including: (a) the estimated cost impact of providing the services to such land, (b) the method by which the city is financing the extension of services to the land and how services already provided will be maintained, (c) maps drawn to scale clearly delineating the land proposed for annexation, (d) maps showing the current boundaries of the city, (e) maps showing the proposed boundaries of the City after the annexation, and (f) maps showing the general land-use pattern in the land proposed for annexation is hereby adopted and approved and shall be available for inspection during regular business hours in the office of the City Clerk.

BE IT FURTHER RESOLVED, that a public hearing before the Mayor and City Council on the proposed annexation shall be held at 7:00 p.m. on February 14, 2012 or as soon thereafter as the matter may be heard, in the Council Chambers at City Hall, 100 East First Street, Grand Island, Nebraska, to receive testimony from interested persons.

BE IT FURTHER RESOLVED, that the City Clerk be, and hereby is, authorized and directed to publish in the *Grand Island Independent* at least once, not less than ten days preceding the date of the public hearing, a copy of this Resolution and a map or maps drawn to scale delineating the land proposed for annexation.

BE IT FURTHER RESOLVED, that the City Clerk be, and hereby is, authorized and directed to send by first-class mail, a copy of the resolution providing for the public hearing to the school boards of the school districts including the lands proposed for annexation.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, January 10, 2012.

Jay Vavricek, Mayor

Attest:

RaNae Edwards, City Clerk



City of Grand Island

Tuesday, January 10, 2012

Council Session

Item I3

**#2012-14 - Consideration of Structured Solutions Petition to
Extend Contract**

Staff Contact: Mary Lou Brown

Council Agenda Memo

From: Robert J. Sivick, City Attorney

Meeting: January 10, 2012

Subject: Request by Structured Solutions, Inc. to Modify
Economic Development Agreement

Item #'s: I-3

Presenter(s): Mary Lou Brown, City Administrator

Background

On December 15, 2009, the Grand Island City Council (Council) unanimously approved an Economic Development Agreement (Agreement) with Structured Solutions, Inc. The terms of that agreement provided an unsecured, forgivable loan of Six Hundred Thousand Dollars (\$600,000.00) to Structured Solutions to assist it in setting up a business in Grand Island providing loan management services to lenders. The agreement provided that in exchange for the monetary advance, Structured Solutions would create 200 new jobs in Grand Island by 2014. The Agreement provided periodic benchmarks for the creation of jobs with the first one being Structured Solutions would have fifty employees in Grand Island by December 31, 2011. The Agreement also provided portions and ultimately all of the monetary advance would be forgiven as Structured Solutions met its job creation benchmarks. The Agreement also provided if Structured Solutions failed to meet its job creation benchmarks, it would be in default and the City could demand the return of the monetary advance.

On December 27, 2011 Robert Yuan of Structured Solutions contacted the Grand Island Area Economic Development Corporation and requested a seven month extension of the first benchmark. Mr. Yuan offered 10% of Structured Solutions stock as collateral in exchange for the extension.

Discussion

As the governing body for the City of Grand Island, it is the Council's decision whether to accept or reject Structured Solutions' request for a seven month extension of the first job creation benchmark. The City is under no legal obligation to accept or reject the request and the ultimate decision is entirely within the Council's discretion.

Alternatives

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

1. Move to approve.
2. Move to reject.



PROJECT APPLICATION FOR ECONOMIC DEVELOPMENT PROGRAMS

1. Applicant Business Name Structured Solutions, Inc.
- Address c/o Grand Island Area Economic Development Corp.
- Telephone () 381-7500
- Email Address _____
- Business Contact Person Robert Yuan, President/CEO
- Telephone () TBD
2. Business Organization: ☒ Corporation ☐ Partnership
☐ Proprietor ☐ Other
3. Business Type: ☐ Startup ☒ Existing
☐ Business Buyout ☐ Spec Building
☐ Other _____
4. Project Location: ☒ Within the city limits of Grand Island, Nebraska
☐ Outside the city limits, but within the 2 mile zoning jurisdiction
☐ Outside the zoning jurisdiction of Grand Island in (county) _____

5. Product or Services Provided: Leading next-generation integrated loan management
(ILM) system that integrates best practice origination, servicing, collections, recovery
management, asset management, document management, and accounting in one on-
demand web-based platform.

6. Project Description: At the core of the platform is a centralized notes system, role
based workflow, and analysis engine. Structured Solutions, Inc. allows your business to run
more efficiently and profitably by eliminating errors, improving communications, and providing
a single-source for operational, financial, and risk-management information.

7. Project Timetable: Expanding company. G.I. operations to start First Quarter 2010.
Over the next three years, will hire 200 employees.

8. Employment Information:

Current number of employees 0 (full-time equivalent)

Proposed number of employees 200 (full-time equivalent)

What is the average hourly wage for all employees? \$17.50-\$28.65/hr.

Number of new jobs to be created 200 (full-time equivalent)

What would be the average hourly wage for new jobs? \$17.50-\$28.85/hr.

Number of jobs to be retained, if any 200 (full-time equivalent)

Please describe all benefits which the business provides to employees:

benefits will compete with the area.

9. Financing/Incentives Requested: Structured Solutions, Inc. is not a customer service
center, but rather a highly technical computer database business. ^{Structured Solutions} VantageTM will be
hiring approximately 30 engineers at a starting wage of \$45-90,000/yr.; 57 Customer
Operations employees with wages \$36-72,000/yr; 22 Management at a rate of pay between
\$68-96,000/yr.; and 20 Administrative employees at a rate of \$25-36,000/yr. Total annual
wages will exceed \$5 million.
- Based on the number of positions being created, benefits, and wages, an incentive
package of \$3,000/job, the projected creation of 200 new jobs created over a three year
period, a total incentive package of \$600,000 is being requested at this time.

NOTE: Additional Information may be required and made part of this application by attachment.

To the best of my knowledge, this application and supporting information is accurate, and may be relied upon by representatives of the Grand Island Area Economic Development Corporation (GIAEDC).

By: 

Robert Yuan

CEO

Title

Date: 12/1/09

Grand Island Area Economic Development LB-840 Project Application

Project Name: Structured Solutions, Inc.

Date Referred to Grand Island Area Economic Development Board: 12-Nov-09

Approved: x Disapproved: _____ Date: _____

Comments: Structured Solutions is a highly technical computer database business. This company will
employ highly educated Engineers, Management, Administrators, and customer operations.
This company will not compete with any other company in this area for its employees.

Signature of President: Marlan Ferguson
Marlan Ferguson

Date Referred to Citizen's Review Committee: December 8, 2009

Approved: X Disapproved: _____ Date: 12-8-09

Comments: _____

Signature of Chairman: Dehn Renter
Dehn Renter

Date Referred to City Council: December 15, 2009

Approved: X Disapproved: _____ Date: 12-15-09

Comments: _____

Signature of Mayor: Margaret Hornady
Margaret Hornady

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ECONOMIC DEVELOPMENT AGREEMENT

In reliance upon the business plan of Structured Solutions, Inc., a Nevada corporation, herein referred to as "Structure Solutions" which will have a beneficial economic impact upon the Grand Island area by increasing employment opportunities, the City of Grand Island (the "City") and the Grand Island Area Economic Development Corporation (the "Development Corporation") hereby agree to provide Structure Solutions with the assistance described in this Economic Development Agreement (the "Agreement"). Structure Solutions hereby accepts the economic assistance expressly set forth below and agrees to the terms and conditions hereof, including, without limitation, the terms and conditions of repayment.

Section 1

BUSINESS PLAN

1.1. Structure Solutions, a California company is a leading next-generation integrated loan management system that integrates best practice origination, servicing, collection, recovery management, asset management, document management and accounting in one on-demand web-based platform. It proposes to open an operation within the City of Grand Island, Nebraska, originally to be located at _____, Grand Island, NE _____ (the "Grand Island Operation"). The Grand Island Operation is proposed to be operational in the first calendar quarter of 2010.

1.2. Structure Solutions proposes the Grand Island Operation to utilize facilities of a size that will ultimately include a minimum of two hundred (200) new Employees.

1.3. Structure Solutions' Grand Island Operation projects that by not later than December 31, 2011, it will grow its work force to a minimum of fifty (50) new Employees; by not later than December 31, 2012, Structure Solutions will employ not less than one hundred (100) additional new Employees and maintain a total of one hundred fifty (150) new Employees in its Grand Island Operation; and by not later than December 31, 2013, Structure Solutions will add an additional fifty (50) new Employees, for a total minimum new Employees of two hundred (200) by December 31, 2013. From and after December 31, 2013, Structure Solutions anticipates it will maintain employment at or above two hundred (200) Employees working in Grand Island at its Grand Island Operation at all times during the term of this Agreement. It is anticipated that the two hundred (200) new employees shall consist of approximately thirty (30) Engineers, fifty-seven (57) Customer Operations employees, twenty-two (22) Management employees and twenty (20) Administrative employees.

1.4. Average base compensation for new Employees is estimated to be a minimum combined average wage level between \$17.50 and \$28.65 per hour. In addition to the base wage, all full time employees will be provided benefits comparable to the benefits provided to similarly compensated employees working in the Grand Island, Nebraska area, as reasonably determined by the Development Corporation from time to time.

Section 2

TERMS USED HEREIN

As used in this Agreement the following words and phrases shall mean the following:

2.1. "Employee" means the number of fulltime equivalent persons employed by Structure Solutions at the Grand Island Operation, throughout a Measuring Period and determined as follows: divide (i) the total number of regular time hours that Structure Solutions paid Employees to work during the Measuring Period [including forty (40) hours per week for each week worked by each salaried Employees] by (ii) 2080. Overtime hours are not included in determining fulltime equivalent persons. The total hours worked necessary to equate to two hundred (200) fulltime equivalent employees is 416,000 per annum.

2.2 "Benefits" mean employer provided benefits to comparably paid full time employees in the Grand Island area as reasonably determined by the Development Corporation from time to time.

2.2. "First Measuring Period" shall be the period from January 1, 2012 through and including December 31, 2012. Subsequent "Measuring Periods" shall be a twelve month period commencing on January 1 and ending on December 31. By way of example, the "Second Measuring Period" shall commence on January 1, 2012 and end on December 31, 2012.

2.3. "Employment Certificate" means a written statement certified to be true and correct by the President or CEO of Structure Solutions. It shall be delivered to the Development Corporation within fifteen (15) days after the close of each Measuring Period. It shall state (i) the total number of regular time hours for which Structure Solutions paid hourly Employees, (ii) the number of salaried Employees and the number of weeks each were employed by Structure Solutions at the Grand Island Operation during the applicable Measuring Period; (iii) the calculation determining the average hourly wage of the Employees during each year; and (iv) a summary list of employee benefits provided to all full employees at the Grand Island Operation.

Section 3

EMPLOYMENT REQUIREMENTS

Structure Solutions shall meet each of the following requirements:

3.1. Structure Solutions shall have at least fifty (50) Employees continuously throughout the First Measuring Period, ending December 31, 2012 at an average wage of \$17.50 per hour plus Benefits for each full time employee.

3.2. Structure Solutions shall have had at least one hundred fifty (150) Employees continuously throughout the Second Measuring Period, ending December 31, 2013, at an average wage of not less than \$17.50 per hour plus Benefits for each full time employee.

3.3. Structure Solutions shall have had at least two hundred (200) Employees continuously throughout the Third Measuring Period, ending December 31, 2014, at an average wage of not less than \$17.50 per hour plus Benefits for each full time employee.

3.4. Structure Solutions shall have had at least two hundred (200) Employees continuously throughout each successive Measuring Period at an average wage of not less than \$17.50 per hour plus Benefits for each full time employee.

Section 4

MONETARY ADVANCES

4.1. Within ten (10) days after (a) Structure Solutions submits a sworn statement of its President or CEO certifying that (i) it is qualified to do business in the state of Nebraska and (b) funds are approved under the City's Economic Development Program, The City will advance Structure Solutions Six Hundred Thousand and No/100 Dollars (\$600,000.00) (the "Advance"). Structure Solutions will open an office and begin operations in Grand Island within thirty (30) days of the execution of this agreement.

4.2. Provided Structure Solutions meets the requirements of each Measuring Period as set forth in Section 3 and otherwise remains in full compliance with this Agreement, as determined by the Development Corporation based on its review of each annual Employment Certificate and its Benefits determination, forgiveness of the Advance will occur as follows:

- (a) Two Hundred Thousand Dollars (\$200,000.00) shall be forgiven as of January 1, 2013;
- (b) Two Hundred Thousand Dollars (\$200,000.00) shall be forgiven as of January 1, 2014; and
- (c) Two Hundred Thousand Dollars (\$200,000.00) shall be forgiven as of January 1, 2015.

The Development Corporation will notify Structure Solutions of the forgiveness of a portion of the Advance in writing on or before January 31 of each applicable year and Structure Solutions shall thereafter have no obligation to repay that amount to the City.

4.3. If Structure Solutions fails to meet the Employment Requirements set forth in Section 3, including number, wages and Benefits, for any Measuring Period, then the total of any amounts forgiven under the provisions of Section 4.2 for prior years performances shall be deducted from the Advance and Structure Solutions shall repay the balance to the City. The balance shall become due on the last day of any Measuring Year for which the requirements of that Measuring Period or any prior Measuring Period were not attained or became unattainable

and shall be paid together with interest on the unpaid balance due at the rate of eight per cent (8%) per annum from the date of the Advance until paid in full.

Section 5

LEGAL EFFECT

5.1. Notwithstanding any other provision of this agreement Structure Solutions agrees as follows:

(a) If Structure Solutions is merged into or with any corporation, limited liability company or partnership, the provisions of this agreement shall continue in full force and effect and shall inure to the benefit of and be binding upon the surviving organization.

(b) If Structure Solutions or its successor discontinues the primary operation of its Grand Island Operation, by reason of the transfer of its assets to another person or company or for any other reason, then immediately and without any further notice being required the entire amount of the Advance which is then repayable to the City or which would become repayable after a lapse of time as provided in this agreement, shall become immediately due and payable; provided, however, that the Development Corporation may waive the provisions of this subparagraph (b) if a transferee of all of Structure Solutions' assets which is acceptable to Development Corporation agrees in writing to assume the obligations of Structure Solutions hereunder.

5.2. Upon request of Development Corporation, Structure Solutions, and its successors, shall furnish any additional documentation Development Corporation deems necessary to confirm that Structure Solutions has met its obligations under this Economic Development Agreement.

5.3. The contents of this Economic Development Agreement contain all of the agreements and understandings between the Development Corporation, the City and Structure Solutions relative to the provisions hereof and the specified repayment and supersedes any and all prior agreements and understandings whether written or oral concerning economic development grants or incentives.

5.4. Time is of the essence for the performance of each of the provisions of this agreement.

5.5. This Agreement may be exercised in any one or number of counterparts, each of which shall be deemed an original and which together shall constitute one and the same instrument. The to be named principal of Structure Solutions, upon public disclosure of the same, shall execute a duplicate original of this Agreement and shall be deemed to be a party hereto as if executing this Agreement as of the date and year set forth below.

5.5. The provisions of this agreement are fully binding upon the Development Corporation, the City and upon Structure Solutions and upon its successors and authorized assigns.

Dated this 24 day of November, 2009.

GRAND ISLAND AREA ECONOMIC
DEVELOPMENT CORPORATION

By Marlan Ferguson
Marlan Ferguson, President

THE CITY OF GRAND ISLAND

By Margaret Hornady 12-16-09
Margaret Hornady, Mayor

STRUCTURE SOLUTIONS

By Robert Yuan
Robert Yuan, CEO

RESOLUTION 2009-327

WHEREAS, on July 22, 2003, the City of Grand Island adopted an Economic Development Program and a Citizens Advisory Review Committee to oversee the process of approving applications for economic development incentives; and

WHEREAS, Structured Solutions, Inc. has applied for a forgivable loan in the amount of \$600,000.00 towards job incentives from the Grand Island Area Economic Development Corporation in accordance with the Economic Development Program; and

WHEREAS, such application has been approved by the executive committee of the Economic Development Corporation and was approved on December 8, 2009 by the Citizens Advisory Review Committee; and

WHEREAS, Structured Solutions, Inc. will be required to meet or exceed employment numbers and employee salary levels as outlined in the Economic Development Agreement to retain all of the economic incentives granted under the agreement; and

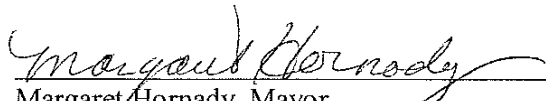
WHEREAS, it is in the best interests of the City to provide economic development funding to Structured Solutions, Inc. as provided by the Grand Island Economic Development Program.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the Economic Development Agreement by and between the City, the Grand Island Area Economic Development Corporation and Structured Solutions, Inc., to provide \$600,000.00 in economic assistance to Structured Solutions, Inc., to be used for developing its business in Grand Island is hereby approved.


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

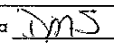
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Adopted by the City Council of the City of Grand Island, Nebraska, December 15, 2009.


Margaret Hornady, Mayor

Attest:


RaNae Edwards, City Clerk

Approved as to Form	<input checked="" type="checkbox"/>	
December 14, 2009	<input type="checkbox"/>	City Attorney

RESOLUTION 2012-14 (A)

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

That the City amends the Economic Development Agreement entered into on December 15, 2009 with Structured Solutions, Inc. to extend the first employee benchmark requirement from December 31, 2011 to July 31, 2012 as stated in sections 1.3 and referenced in 2.2 and 3.1 of said Agreement.

Adopted by the City Council of the City of Grand Island, Nebraska, January 10, 2012.

Jay Vavricek, Mayor

Attest:

RaNae Edwards, City Clerk

RESOLUTION 2012-14 (B)

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

That the existing Economic Development Agreement entered into on December 15, 2009 with Structured Solutions, Inc. remain unchanged and steps to enforce the Agreement be initiated.

Adopted by the City Council of the City of Grand Island, Nebraska, January 10, 2012.

Jay Vavricek, Mayor

Attest:

RaNae Edwards, City Clerk



City of Grand Island

Tuesday, January 10, 2012

Council Session

Item J1

Approving Payment of Claims for the Period of December 28, 2011 through January 10, 2012

*The Claims for the period of December 28, 2011 through January 10, 2012 for a total
amount of \$2,653,465.31. A MOTION is in order.*

Staff Contact: Jaye Monter