



# **City of Grand Island**

**Tuesday, January 24, 2012**

**Council Session**

## **Item E4**

**Public Hearing on Acquisition of Real Estate Located South of the  
BNSF Railroad Tracks between Bismark Road and Stuhr Road  
(Gary R. Jacobson, Lloyd B. & Carol J. Gunderson, Trustees o/b/o  
Jocar Living Trust)**

**Staff Contact: Robert Sivick**

# **Council Agenda Memo**

**From:** Robert J. Sivick, City Attorney

**Meeting:** January 24, 2012

**Subject:** City Acquisition of Real Estate for Relocation of Utility Lines Due to BNSF Second Track Project

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

**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 the 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. On January 10, 2012 the Grand Island City Council approved the conveyance of real estate owned by the City to BNSF to allow the completion of the second track project. Utility lines located on parcels conveyed to BNSF will have to be relocated.

## **Discussion**

BNSF has negotiated with the Trustees of the Jocar Living Trust to grant the City an easement for the relocation of utility lines on real estate owned by this private property owner. In the course of negotiations, City staff was able to reach an agreement with the Trustees to convey the real estate to the City in fee simple rather than just granting an easement. The cost to the City will remain at one dollar. This agreement benefits the Trust in that it will not have to pay property tax on real estate it is unable to develop. This agreement also benefits the City in that the City will own the real estate, control who enters the property, and avoid any future disputes about the terms and conditions of an easement.

## **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 Resolution No. 2012-16 and authorize the Clerk to file with the Hall County Register of Deeds a Warranty Deed conveying to the City from the Jocar Living Trust a parcel of real estate to be used for the relocation of utility lines

## **Sample Motion**

Move to approve Resolution No. 2012-16 and authorize the Clerk to file with the Register of Deeds a Warranty Deed conveying to the City from the Jocar Living Trust a parcel of real estate to be used for the relocation of utility lines.

# Warranty Deed

GARY R. JACOBSEN, LLOYD B. GUNDERSON, and CAROL J. GUNDERSON, not personally but as Co-Trustees on behalf of the JOCAR LIVING TRUST, hereinafter referred to as GRANTOR, in consideration of the sum of One Dollar (\$1.00), receipt of which is hereby acknowledged, paid by the CITY OF GRAND ISLAND, a Nebraska Municipal Corporation, hereinafter referred to as GRANTEE, does hereby Grant and Convey unto the GRANTEE a certain tract of land together with all improvements thereon and all rights and appurtenances appertaining thereto, and all of the GRANTOR'S rights and interest in that land consisting of a part of Lot One (1) on the Mainland of the Southwest Quarter of the Southeast Quarter (SW  $\frac{1}{4}$ , SE  $\frac{1}{4}$ ), Section Fourteen (14), Township Eleven (11) North, Range Nine (9) West of the Sixth Principal Meridian (6th P.M.), Grand Island, Hall County, Nebraska; being more particularly described as follows:

Commencing at the South Quarter Corner of Section Fourteen (14), Township Eleven (11) North, Range Nine (9) West; thence on an assumed bearing of N00°50'10"W along the Westerly line of Lot One (1) on the Mainland of the Southwest Quarter of the Southeast Quarter (SW  $\frac{1}{4}$ , SE  $\frac{1}{4}$ ) said Section Fourteen (14), a distance of Three Hundred, Sixty-Seven and Forty Hundredths (367.40) feet to the Actual Point of Beginning; thence continuing N00°50'10"W along the Westerly line of Lot One (1) on the Mainland of the Southwest Quarter of the Southeast Quarter (SW  $\frac{1}{4}$ , SE  $\frac{1}{4}$ ) said Section Fourteen (14), a distance of Fifty-Nine and Eighty-Eight Hundredths (59.88) feet; thence S63°06'00"E, a distance of Nine Hundred, Sixty and

Eighteen Hundredths (960.18) feet to a point on the Northerly Right-of-Way line of Bismark Road; thence N87°17'30"W along the Northerly Right-of-Way line of said Bismark Road, a distance of One Hundred, Twenty-Nine and Thirty-Four Hundredths (129.34) feet; thence N63°06'00"W, a distance of Eight Hundred, Fourteen and Thirty-Three Hundredths (814.33) feet to the said Point of Beginning.

This Deed is executed by GRANTOR and accepted by GRANTEE subject to validly existing and enforceable rights, interests, and estates. GRANTOR covenants with GRANTEE that GRANTOR has legal power and lawful authority to convey the land described above.

To have and to hold the above described land together with all rights and appurtenances thereto 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 rights in the land described above conveyed unto the GRANTEE, its legal representatives, successors, and assigns, against every person and/or entity whomsoever lawfully claiming or to claim the same or any part thereof.

WITNESS OUR HANDS:

JOCAR LIVING TRUST, GRANTOR

By \_\_\_\_\_  
Gary R. Jacobson, Co-Trustee

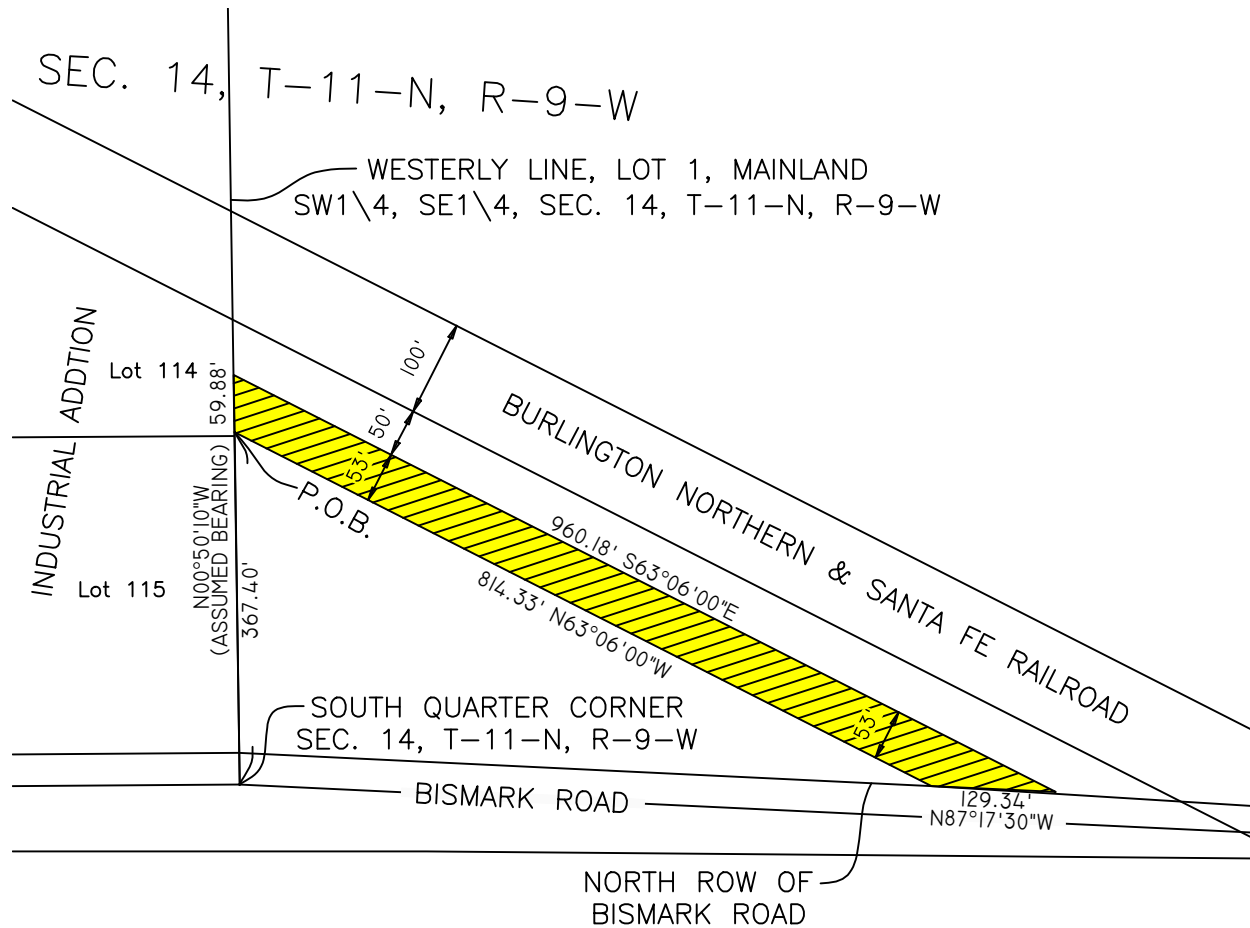
By \_\_\_\_\_  
Lloyd B. Gunderson, Co-Trustee

By \_\_\_\_\_  
Carol J. Gunderson, Co-Trustee

STATE OF NEBRASKA )  
                          ) SS.







# LEGEND



PROPERTY TO BE ACQUIRED



CITY OF <b>GRAND ISLAND</b>	
UTILITIES DEPARTMENT	
<b>EXHIBIT "A"</b>	
DRN BY: P.F.G.	SCALE: 1"= 200'
DATE: 12/19/2011	FILE: 14-11-9