



# City of Grand Island

Tuesday, February 28, 2012

Council Session

## Item G11

**#2012-49 - Approving Amendment #2 to the Consent to Access for  
EPA Environmental Response Action Agreement**

Staff Contact: John Collins, Public Works Director

# **Council Agenda Memo**

**From:** Terry Brown, PW Manager of Engineering Services

**Meeting:** February 28, 2012

**Subject:** Approving Amendment #2 to the Consent to Access for EPA Environmental Response Action Agreement

**Item #'s:** G-11

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

## **Background**

As part of the EPA program for remediation of the Parkview Superfund site groundwater contamination, the City entered into an agreement on July 14, 2009 with EPA to allow utilization of City right-of-way for the installation of several of the components of the remediation system and the installation groundwater monitoring wells that will be used to measure the effectiveness of the system once it goes into service next month.

On May 25, 2010, by Resolution #2010-138 the Grand Island City Council approved Amendment #1 to the original consent to access agreement, which allowed for the installation of additional groundwater monitoring wells in the City right-of-way in the area of the leading edge of the contamination plume.

## **Discussion**

The EPA has requested to install a water pipeline for groundwater cleanup to connect the new extraction well with the treatment system. This will also include control conduit for well system fiber optics and electrical power. The pipelines and conduit will be installed beneath City roads and within City controlled right-of-ways, consistent with all prior work performed at the Parkview Well Site in 2010.

Attached is the proposed Amendment #2 to the Consent to Access for EPA Environmental response Action ("Agreement") and a copy of both the original agreement and Amendment #1.

## **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 Amendment #2 to the Consent to Access for EPA Environmental Response Action (“Agreement”) and authorize the Mayor to sign all related documents.

## **Sample Motion**

Move to approve Amendment #2 to the Consent to Access for EPA Environmental Response Action (“Agreement”) and authorize the Mayor to sign all related documents.

May 12 to  
June 15, 2010  
137-15-019

**CONSENT TO ACCESS FOR EPA  
ENVIRONMENTAL RESPONSE ACTION ("AGREEMENT")**

**RIGHT of ENTRY**

The City of Grand Island, Nebraska ("Grantor"), pursuant to the terms of this Agreement, hereby knowingly consents to and permits the United States Environmental Protection Agency ("EPA") and its employees, authorized representatives, agents and contractors to enter upon and perform environmental response actions upon certain properties owned by the City as generally set forth in Attachment A ("Property"). The Property that is the subject of this Agreement are within the Parkview Well Superfund Site ("Site") located in Grand Island, Hall County, Nebraska. Grantor understands that this grant of consent does not limit EPA's right of access under the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. §§ 9601-9675, or any other law.

**PURPOSE OF ACCESS**

Pursuant to Section 104(e) of CERCLA, 42 U.S.C. § 9604(e), and consistent with the National Oil and Hazardous Substances Pollution Contingency Plan, 40 C.F.R Part 300, EPA has requested that Grantor allow EPA and its employees and representatives access to the Property for the purpose of investigating and/or responding to a release of hazardous substances, pollutants and/or contaminants at and from the Site.

**ENVIRONMENTAL RESPONSE ACTIONS TO BE TAKEN**

The planned environmental response actions to be taken at the Property include, but are not limited to, the following:

- Perform geoprobe sampling involving the installation of temporary boreholes into the subsurface to allow collection of environmental samples;
- Install new groundwater monitoring wells, and monitor and maintain new and existing monitoring wells, including the periodic collection of groundwater samples from those wells (generally depicted on Drawings C-16, C-19, and Figures 3-2, and 3-3);
- Perform chemical oxidation injections to subsurface areas using geoprobe equipment along North Road South (generally depicted on Figure 3-2). Injections to be performed using temporary boreholes that will be grouted after completion.
- Construct, operate and maintain one groundwater extraction well (EX-10) and associated well house, piping to convey contaminated groundwater to groundwater treatment plant, pipeline provision in anticipation of future City water main expansion, protective barricade around well house, and associated electrical lines (generally depicted on Drawings A-8, C-2, C-6 through C-10, and E-4).

- Construct, operate and maintain groundwater treatment plant and associated discharge piping and discharge control features, including necessary connection to the City's storm sewer inlet (generally depicted on Drawings A-4 through A-6, C-3 through C-5, and C-15).
- General access for vehicles and support equipment to perform the activities identified above.

#### TERM OF AGREEMENT

This Consent to Access will be effective on the date signed by EPA, and will extend until the completion of all environmental response actions at the Site.

#### AGREEMENT NOT TO INTERFERE

Grantor agrees not to interfere with any of the activities undertaken by EPA at the Property, tamper with any property that EPA may bring on to or add to the Site, which includes the Property, or take any actions regarding the use of the Property which may endanger human or welfare or the environment, or allow others to use the Property in such manner during the term of this Consent. Grantor agrees to provide notice and a copy of this agreement to prospective purchasers, lessee, assigns, or grantees of the Property or any portion of it. Grantor agrees to provide 30 day notice to EPA prior to any transfer of ownership rights to the Property.

Grantor agrees to notify EPA of any existing easement or license granted with respect to the Property prior to the date of the Agreement. EPA agrees not to interfere with said easement or license without the consent of the party who granted the easement or license.

RESTORATION OF PROPERTY. Upon the completion of the activities authorized by this Consent to Access, EPA agrees that reasonable measures will be taken to leave the Property in a condition reasonably similar to the condition the Property was in immediately prior to entry.

LIMITATION OF LIABILITY. EPA shall be liable for damages to the Property or injuries to persons which result from or are caused by the activities on the Property only to the extent provided under the Federal Tort Claims Act, and the Federal Employees Compensation Act (28 U.S.C. Section 2671, et seq., 5 U.S.C. Section 8101, et seq., and 31 U.S.C. Section 3701, et seq.). Nothing in this Agreement shall be construed to transfer title of any Property interest at the Site from Grantor to EPA. In addition, nothing in this Agreement is intended nor shall it be construed to absolve Grantor of any claims or rights that EPA or any other governmental entity may have against Grantor with respect to the Site.

The undersigned Grantor has read this Agreement and understands that it grants permission to the EPA, its employees, authorized representatives, agents and contractors to enter the above-described Property and perform certain activities for purposes of conducting the aforementioned environmental response actions and agrees to its terms and conditions. The undersigned Grantor certifies that he or she is fully authorized to enter into this Agreement, and legally bind Grantor to all terms and conditions of this Agreement.

GRANTOR:

Margaret Hornady  
SIGNATURE

7-14-09  
DATE

Margaret Hornady  
NAME (type or print)

Mayor  
TITLE (type or print)

4/

Bryley W. Vann  
SIGNATURE

7/2/09  
DATE

Bryley W. Vann  
NAME (type or print)

Remedial Project Manager  
TITLE (type or print)

**CONSENT TO ACCESS FOR EPA  
ENVIRONMENTAL RESPONSE ACTION ("AGREEMENT")**

**Amendment #1**

**ENVIRONMENTAL RESPONSE ACTIONS TO BE TAKEN**

The planned environmental response actions to be taken at the Property include, but are not limited to, the following:

- Install new groundwater monitoring wells, and monitor and maintain new and existing monitoring wells, including the periodic collection of groundwater samples from those wells (generally depicted on Drawings C-16, C-19, and Figures 3-2, 3-3, **and as generally shown on drawing titled – 3 Proposed Monitoring Well Locations added in 2010**);

GRANTOR:

Margaret Hornady  
SIGNATURE

May 25, 2010  
DATE

Margaret Hornady  
NAME (type or print)

Mayor  
TITLE (type or print)

DMS 5-18-10

Bradley W. Vann  
SIGNATURE

5/13/2010  
DATE

Bradley W. Vann  
NAME (type or print)

Remedial Project Manager  
TITLE (type or print)

### 3 Proposed Monitoring Well Locations added in 2010

Recommended well locations



Note: Monitoring well locations are approximate and may be relocated to avoid existing utilities. Documentation of well construction and exact GPS survey coordinates shall be provided to the City of Grand Island Public Works Director upon completion.



**CONSENT TO ACCESS FOR EPA  
ENVIRONMENTAL RESPONSE ACTION ("AGREEMENT")**

**Amendment #2**

**ENVIRONMENTAL RESPONSE ACTIONS TO BE TAKEN**

The planned environmental response actions to be taken at the Property include, but are not limited to, the following:

- Install new groundwater monitoring wells, and monitor and maintain new and existing monitoring wells, including the periodic collection of groundwater samples from those wells (generally depicted on Attachment "A"; and as generally shown on drawing titled "Parkview Well Superfund Site – Operable Unit 1; Proposed DPT and Monitoring Well Locations")
- Installation of water pipeline for United States Environmental Protection Agency (USEPA) groundwater cleanup to connect new extraction well located at 804 West Stolley Park Road with the existing treatment system; which is located at 2508 South Blaine Street (generally depicted on Attachment "B"; and as generally shown on drawing titled "Parkview Well Superfund Site – Operable Unit 1; Proposed Utility Routing for New Extraction Well [EX-50])

**IMPORTANT UTILITY COMMENTS TO NOTE**

- Coordination of all utility locations will be the responsibility of the Environmental Protection Agency (EPA)
- There are 36", 42" & 48" storm sewer main lines on Stolley Park Road
- Sanitary sewer main lines run on Pioneer Boulevard; Stolley Park Road; east of Riverview Drive and cross August Street in the easement
- A ten (10') foot separation must be maintained from existing and proposed new water lines
- Water pipeline in connection with the proposed EPA project must be identified and marked as "Non-Potable"
- A Building permit must be obtained for the proposed well house
- While the City of Grand Island and EPA prefer the most direct route for the proposed water pipeline, which is north on Pioneer Boulevard and east on Stolley Park Road, costs associated with this route are significantly higher to the taxpayer; requiring placement of the proposed water pipeline through the impacted neighborhood West on Stolley Park Roads, south on August Street, west on Hagge Ave, south on William Street, west beneath city utility easement, under city parcel 2211 Pioneer Boulevard, and south on Pioneer Boulevard

GRANTOR:

GRANTEE:

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SIGNATURE

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

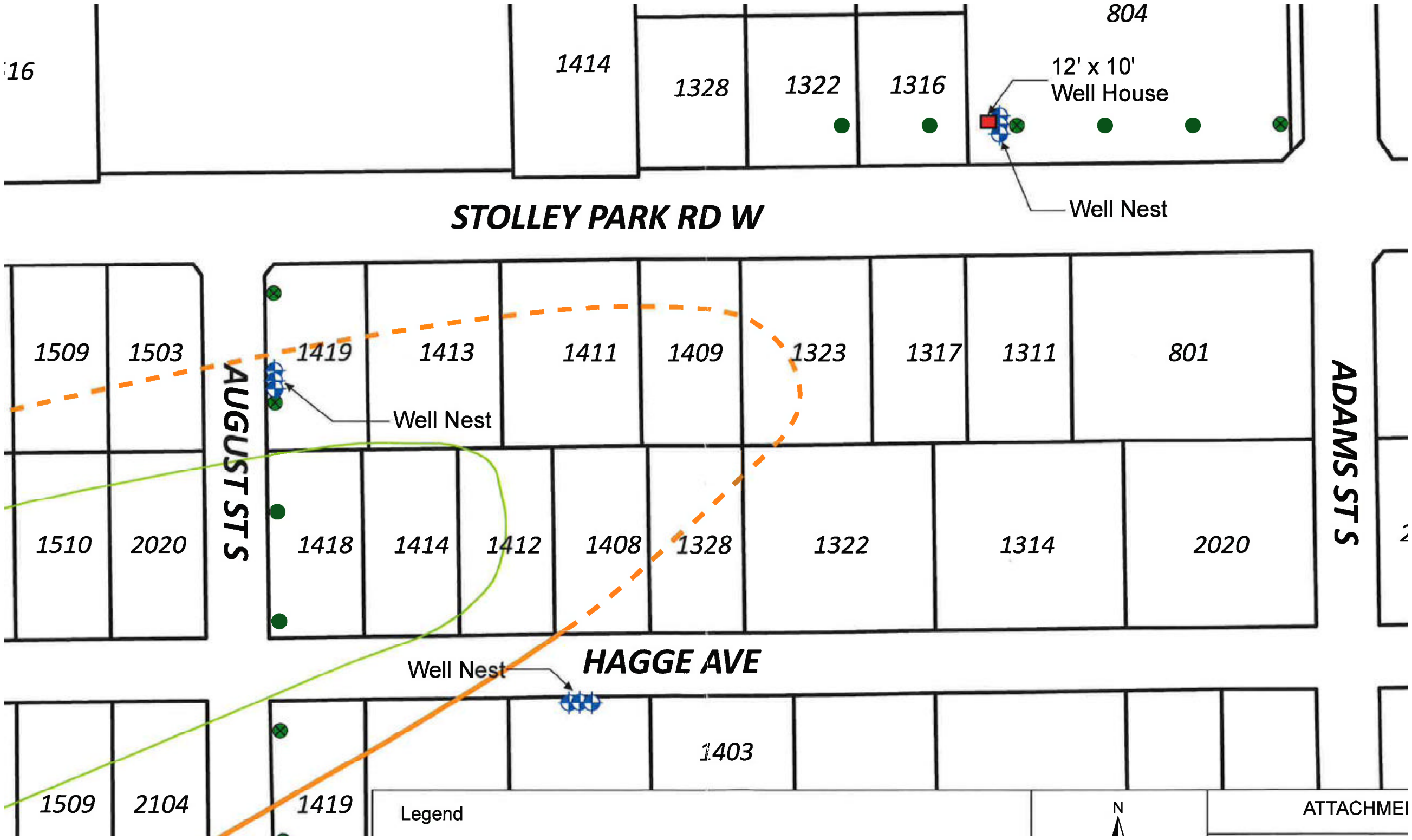
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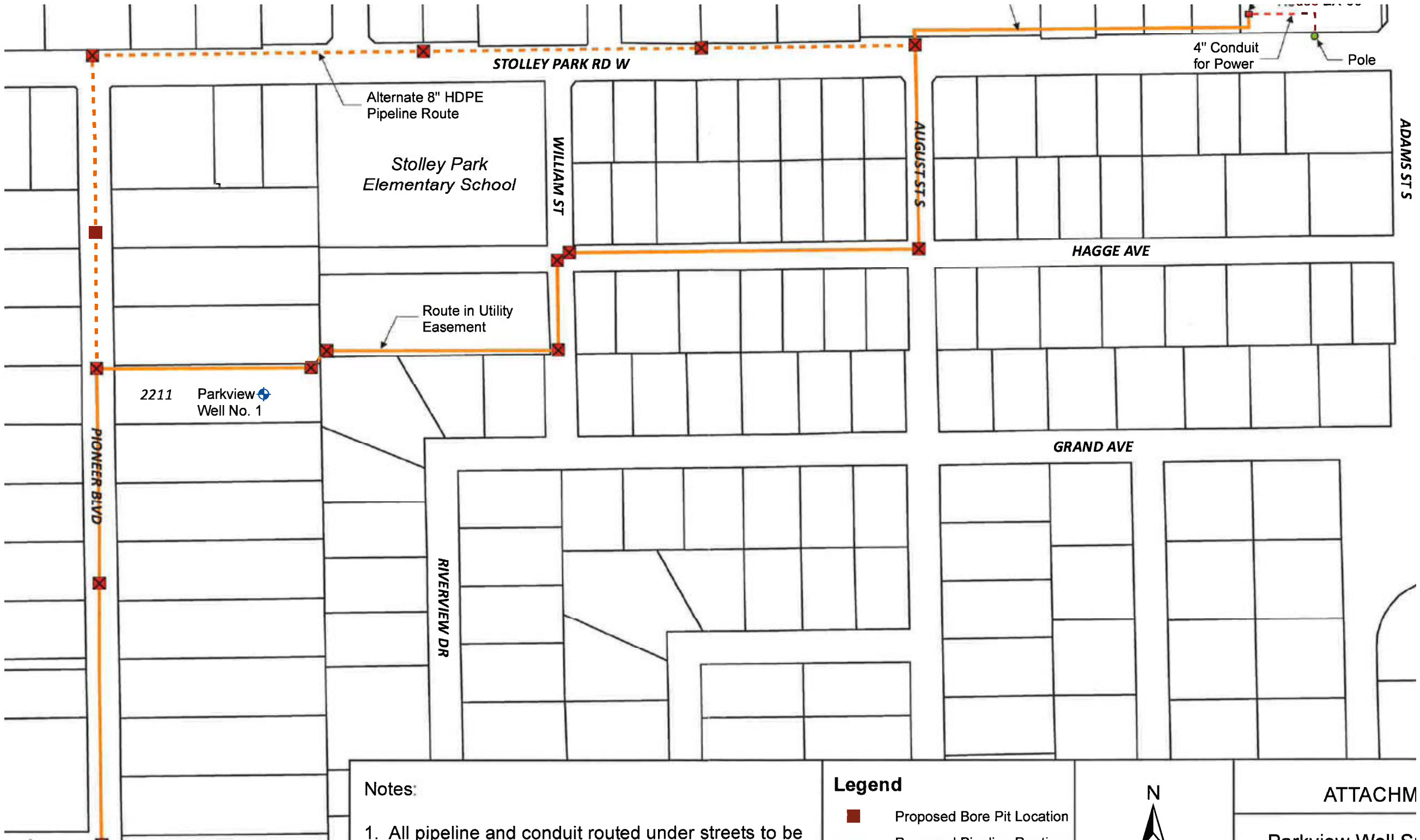
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Notes:

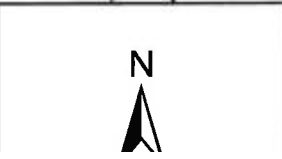
1. All pipeline and conduit routed under streets to be

**Legend**

■ Proposed Bore Pit Location

— Proposed Pipeline Routing

--- Alternate Pipeline Routing



ATTACHM

Parkview Well No. 1

RESOLUTION 2012-49

WHEREAS, on July 14, 2009 the City entered into an agreement with EPA to allow utilization of City right-of-way for the installation of several of the components of the remediation system and the installation groundwater monitoring wells to be used to measure the effectiveness of the remediation system; and

WHEREAS, on May 25, 2010 the City entered into Amendment #1 to allow for the installation of additional monitoring wells; and

WHEREAS, as time has passed the groundwater contamination plume has continued to move in the aquifer; and

WHEREAS, EPA wishes to install a new extraction well, as well as a water pipeline for groundwater cleanup to connect the new extraction well with the treatment system.

WHEREAS, Amendment #2 to the original Consent to Access for EPA Environmental Response Action ("Agreement") is recommended to allow the project to proceed.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that Amendment #2 to the Consent to Access for EPA Environmental Response Action ("Agreement") 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, February 28, 2012.

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

Attest:

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RaNae Edwards, City Clerk