
City of Grand Island



Tuesday, April 10, 2012
Council Session Packet

City Council:

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

Mayor:

Jay Vavricek

City Administrator:

Mary Lou Brown

City Clerk:

RaNae Edwards

7:00 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 - Father Richard Piontkowski, St. Mary's Cathedral Catholic Church, 204 South Cedar 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.



City of Grand Island

Tuesday, April 10, 2012

Council Session

Item C1

Proclamation “Barbershop Harmony Week” April 10, 2012

The Barbershop Harmony Society was organized on April 11, 1938 in Tulsa, Oklahoma as the world's largest all-male singing organization. This society is dedicated to spreading harmony for the enjoyment of all people and encourages harmony amongst all people of the world through the universal language of music. Mayor Vavricek has proclaimed the week of April 10, 2012 as "Barbershop Harmony Week".

Staff Contact: Mayor Vavricek

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

PROCLAMATION

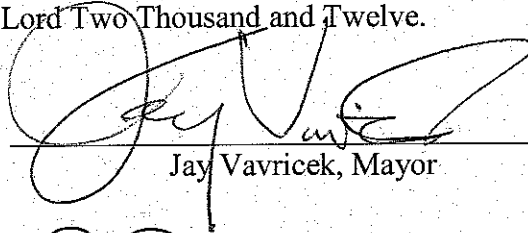
- WHEREAS, the Society for the Preservation and Encouragement of Barber Shop Quartet Singing in America, Inc. known now as The Barbershop Harmony Society - was officially organized April 11, 1938 in Tulsa, Oklahoma; and
- WHEREAS, what began as a small group has steadily blossomed into the world's largest all-male signing organization, an international organization of men from all stations of life; and
- WHEREAS, The Barbershop Harmony Society is dedicated to the spread of harmony for the enjoyment of all people of the world through organizing and encouraging close harmony signing groups; and
- WHEREAS, The Barbershop Harmony Society encourages harmony amongst all people of the world through the universal language of music; and
- WHEREAS, The Barbershop Harmony Society has actively preserved and presented a distinct style of vocal music that originated in North America and is dedicated to sustaining an American tradition, the barbershop quartet; and
- WHEREAS, The Barbershop Harmony Society promotes music education through music scholarships and supports charitable activities; and
- WHEREAS, Barbershoppers are engaged in laudable civic service and enrichment of our cultural life through the fostering of traditional values in entertainment and community endeavors; and
- WHEREAS, the Grand Island Chapter of The Barbershop Harmony Society is an organization dedicated to the beliefs of the Society and harmony among the people of Grand Island since 1984.

NOW, THEREFORE, I, Jay Vavricek, Mayor of the City of Grand Island, Nebraska, do hereby proclaim the week of April 10, 2012 as

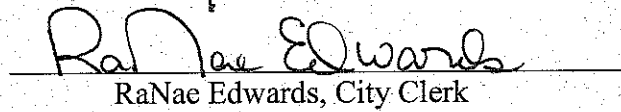
"BARBERSHOP HARMONY WEEK"

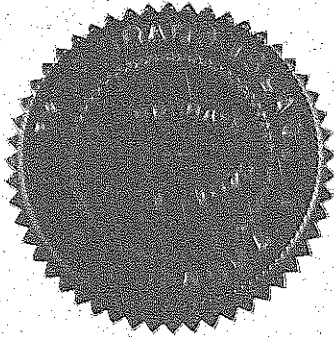
in the City of Grand Island, and extend best wishes to the men of the Conestoga Barbershop Chorus for continued success in promoting barbershop quartet singing in our community.

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


Jay Vavricek, Mayor

Attest:


RaNae Edwards, City Clerk





City of Grand Island

Tuesday, April 10, 2012

Council Session

Item C2

Proclamation "National Library Week" April 8-14, 2012

The Grand Island Public Library will be celebrating National Library Week , April 8-14, 2012. National Library Week is a national observance sponsored by the American Library Association and libraries across the country each April. This year's theme is "You Belong @ Your Library." National Library Week is the perfect time to remember that the place you, your family and everyone you know belongs is @ your library. It is a time to celebrate the contributions of our nation's libraries and librarians and to promote library use and support.

Staff Contact: Steve Fosselman

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

PROCLAMATION

WHEREAS, the mission of the Grand Island Public Library is to be the gateway for the people of our diverse community to achieve a lifetime of learning and literacy; and

WHEREAS, our public library abides by eight guiding principles to carry out this mission:

- 1) Our library supports a lifetime of learning.
- 2) Using the library results in a more literate community.
- 3) Our library specializes in access to materials, information, programming and spaces for learning and literacy.
- 4) Our library serves our entire diverse community.
- 5) Our library has an important community center and community development role.
- 6) Our library enhances quality of life.
- 7) Democracy is in action at the library.
- 8) All of our library's services, service points and resources are continually put into practice to best serve our community; and

WHEREAS, our library's service goals enable the people of our community to create young readers, learn to read and write, succeed in school, get facts fast, connect to an online world, understand how to best use information, make informed decisions, know our community, celebrate diversity, stimulate imagination, be informed citizens, and so much more; and

WHEREAS, activities at the library this week are designed to celebrate the contributions of our nation's libraries and librarians and to promote library use and support; and

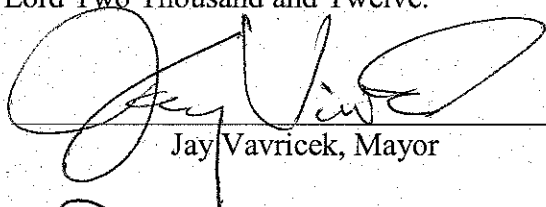
WHEREAS, this year's National Library Week theme is "You Belong @ Your Library".

NOW, THEREFORE, I, Jay Vavricek, Mayor of the City of Grand Island, Nebraska,
do hereby proclaim April 8-14, 2012 as

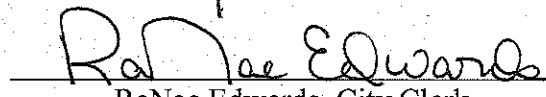
“NATIONAL LIBRARY WEEK”

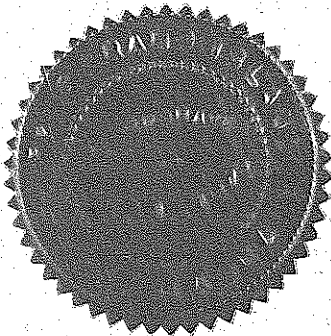
in the City of Grand Island, and encourage all residents to take
advantage of the wonderful library resources available and thank
their librarians for providing these vital services. You belong @
your library.

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


Jay Vavricek, Mayor

Attest:


RaNae Edwards, City Clerk





City of Grand Island

Tuesday, April 10, 2012

Council Session

Item E1

**Public Hearing on Request from Chanh Bandasack dba South
Front Reception, 123 East South Front Street for a Class “I”
Liquor License**

Staff Contact: RaNae Edwards

Council Agenda Memo

From: RaNae Edwards, City Clerk

Meeting: April 10, 2012

Subject: Public Hearing on Request from Chanh Bandasack dba South Front Reception, 123 East South Front Street 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

Chanh Bandasack dba South Front Reception, 123 East South Front Street 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.

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 Chanh Bandasack dba South Front Reception, 123 East South Front Street for a Class "I" Liquor License contingent upon final inspections and completion of a state approved alcohol server/seller training program.

03/27/12

Grand Island Police Department

450

16:12

LAW INCIDENT TABLE

Page: 1

City : Grand Island

Occurred after : 12:39:17 03/20/2012

Occurred before : 12:39:17 03/20/2012

When reported : 08:30:00 03/20/2012

Date disposition declared : 03/20/2012

Incident number : L12032744

Primary incident number :

Incident nature : Liquor Lic Inv Liquor License Investigation

Incident address : 123 South Front St E

State abbreviation : NE

ZIP Code : 68801

Contact or caller :

Complainant name number :

Area location code : PCID Police - CID

Received by : Vitera D

How received : T Telephone

Agency code : GIPD Grand Island Police Department

Responsible officer : Vitera D

Offense as Taken :

Offense as Observed :

Disposition : ACT Active

Misc. number :

Geobase address ID : 11235

Long-term call ID :

Clearance Code : O Open Case
Judicial Status : NCI Non-criminal Incident

= = = = =

INVOLVEMENTS:

Px	Record #	Date	Description	Relationship
NM	62011	03/27/12	Bandasack, Chanh C	Owner
NM	110772	03/27/12	Bandasack, Siphanh	Chanh's Wife
NM	174713	03/27/12	South Front Reception,	Business

LAW INCIDENT CIRCUMSTANCES:

Se	Circu	Circumstance code	Miscellaneous
1	LT03	Bar/Night Club	

LAW INCIDENT NARRATIVE:

I Received a Copy of a Liquor License Application from Chanh Bandasack for South Front Reception.

LAW INCIDENT OFFENSES DETAIL:

Se	Offe	Offense code	Arson Dama
1	AOFF	Alcohol Offense	0.00

LAW INCIDENT RESPONDERS DETAIL:

Se Responding offi Unit n Unit number

1 Vitera D 318 Vitera D

LAW SUPPLEMENTAL NARRATIVE:

Seq Name Date

1 Vitera D 11:19:46 03/27/2012

Grand Island Police Department

Supplemental Report

Date, Time: Tue Mar 27 11:20:00 CDT 2012

Reporting Officer: Vitera

Unit- CID

Chanh Bandasack is applying for a Class I (beer, wine, distilled spirits, on sale only) Individual Liquor License. He is opening a reception hall at the old

City Limits/Empire building. His business is called South Front Reception.

Chanh is married to Siphanh Bandasack. According to the application, they have

lived in Grand Island since 1985. Chanh and Siphanh did not disclose any criminal convictions. Siphanh did not sign a Spousal Affidavit of Non Participation.

I checked Spillman and found an entry for each of them but did not find anything

that would indicate possible convictions. I also checked NCJIS and did not find

any convictions. I ran them for warrants and driver's history. Neither have any arrest warrants, and they each have a valid driver's license. I checked

through a law enforcement-only Internet database and did not find any signs of

financial trouble or anything else alarming. I could not find a facebook entry for either one of them.

Chanh currently has a liquor license at the Vientiane Oriental Market. I

checked the NLCC's web site and did not find any liquor violations at the

market. I did the liquor license investigation on the market when Chanh applied

in 2009, and I didn't find any problems at that time.

On 3/27/12, I spoke to Chanh at 123 E. South Front where he and a couple other

guys were cleaning. Chanh said the business will probably not be open everyday.

It will not be a bar. He anticipates being open on weekends but will also open

it up if people want to rent it during the week. Chanh doesn't plan on serving

food but said he will keep that option open. He has no specific plans for

security but acknowledged he will have to have some if the building is rented

out to numerous people, and he is serving alcohol. Chanh still has his

Vientiane market and advised if the reception hall causes him problems, he will just sell it.

All in all, Chanh and his wife have absolutely no criminal history in the State

of Nebraska after living here for almost thirty years. Chanh currently has a

liquor license and hasn't had any problems. The Grand Island Police Department

has no objection to Chanh Bandasack receiving a liquor license for South Front Reception.





City of Grand Island

Tuesday, April 10, 2012

Council Session

Item E2

Public Hearing on the 2012 Justice Assistance Grant (JAG)

The Grand Island Police Department and Hall County Sheriff's Department are eligible to receive Justice Assistance Grant money from the U.S. Department of Justice under the JAG offering in 2012. The Grand Island Police Department will serve as the fiscal agency on this grant. There is a requirement that the applicant agency (Grand Island Police Department) make the grant application available for review by the governing body not less than 30 days before application. The application deadline is May 14, 2012. There is a federal mandate that requires a public hearing regarding the application process and disbursement of grant funds.

Staff Contact: Steve Lamken, Chief of Police

Council Agenda Memo

From: Chief Steven Lamken, Police Department

Meeting: April 10, 2012

Subject: Edward Byrne Memorial Justice Assistance Grant (JAG)
2012

Item #'s: E-2 & G-5

Presenter(s): Steve Lamken, Chief of Police

Background

The Grand Island Police Department and Hall County Sheriff's Department are eligible to receive Justice Assistance Grant money from the U.S. Department of Justice under the JAG offering in 2012. The total award for Grand Island-Hall County is in the amount of \$29,838.00. The monies may be spent over a four year period. The Grand Island Police Department will serve as the fiscal agency on this grant.

The Hall County Sheriff's Department is a disparate agency and will receive twenty five percent of the award totals. The grant will be shared; \$7,459.00 to Hall County and \$22,379.00 to the City of Grand Island.

Discussion

There is a requirement that the applicant agency (Grand Island Police Department) make the grant application available for review by the governing body not less than 30 days before application. The application deadline is May 14, 2012.

There is a federal mandate that requires a public hearing regarding the application process and disbursement of the JAG funds. This hearing will take place on April 10, 2012.

The grant requires an MOU between the applicant (Grand Island) and any disparate agencies (Hall County). By definition, Hall County is a disparate agency eligible for funds. The MOU will be on the City Council agenda April 10, 2012 and the Hall County Board's agenda on April 10, 2012.

Alternatives

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

1. Approve the application and suggested disbursement of JAG funds and the MOU.
2. Reject the application and use of JAG funds

Recommendation

City Administration recommends that the Council approve the application and suggested disbursement as presented and the MOU.

Sample Motion

Move to approve the application and suggested disbursement of Justice Assistance Grant funding and the MOU between the City of Grand Island and Hall County.

U.S. Department of Justice
Office of Justice Programs
Bureau of Justice Assistance



The [U.S. Department of Justice](#) (DOJ), [Office of Justice Programs](#) (OJP) [Bureau of Justice Assistance](#) (BJA) is pleased to announce that it is seeking applications for funding under the Edward Byrne Memorial Justice Assistance Grant (JAG) Program. This program furthers the Department's mission by assisting state, local, and tribal efforts to prevent or reduce crime and violence.

Edward Byrne Memorial Justice Assistance Grant (JAG) Program FY 2012 Local Solicitation

Eligibility

Applicants are limited to units of local government appearing on the FY 2012 JAG Allocations List. To view this list, go to www.bja.gov/programs/jag/12jagallocations.html. For JAG program purposes, a unit of local government is: a town, township, village, parish, city, county, borough, or other general purpose political subdivision of a state; or, it may also be a federally recognized Indian tribe that performs law enforcement functions (as determined by the Secretary of the Interior). Otherwise a unit of local government may be any law enforcement district or judicial enforcement district established under applicable state law with authority to independently establish a budget and impose taxes. In Louisiana, a unit of local government means a district attorney or parish sheriff. In the District of Columbia or any United States Trust Territory, a unit of local government is any agency of the District of Columbia or federal government performing law enforcement functions for the District of Columbia or Trust Territories of the United States.

Deadline

Applicants must register in [OJP's Grants Management System](#) (GMS) prior to submitting application for this funding opportunity. Select the "Apply Online" button associated with the solicitation title. (See "How To Apply," page 14.) All registrations and applications are due by 8:00 p.m. eastern time on May 14, 2012. (See "Deadlines: Registration and Application," page 4.)

Contact Information

For technical assistance with submitting the application, contact the Grants Management System Support Hotline at 1-888-549-9901, option 3, or via e-mail to GMS.HelpDesk@usdoj.gov.

Note: The [GMS](#) Support Hotline hours of operation are Monday–Friday from 6:00 a.m. to 12 midnight eastern time, except federal holidays.

For assistance with any other requirement of this solicitation, contact the BJA Justice Information Center at 1-877-927-5657, via e-mail to JIC@telesishq.com, or by [live web chat](#). The BJA Justice Information Center hours of operation are 8:30 a.m. to 5:00 p.m. eastern time, and 8:30 a.m. to 8:00 p.m. eastern time, Monday through Friday, on the solicitation close date.

Funding opportunity number assigned to announcement: BJA-2012-3256

Release date: March 28, 2012

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Edward Byrne Memorial Justice Assistance Grant (JAG) Program: Local Solicitation CFDA #16.738

Overview

The Edward Byrne Memorial Justice Assistance Grant (JAG) Program (42 U.S.C. 3751(a)) is the primary provider of federal criminal justice funding to state and local jurisdictions. JAG funds support all components of the criminal justice system, from multijurisdictional drug and gang task forces to crime prevention and domestic violence programs, courts, corrections, treatment, and justice information sharing initiatives. JAG-funded projects may address crime through the provision of services directly to individuals and/or communities and by improving the effectiveness and efficiency of criminal justice systems, processes, and procedures.

Deadlines: Registration and Application

Applicants must register in GMS prior to submitting an application for this funding opportunity. The deadline to register in GMS is 8:00 p.m. eastern time on May 14, 2012, and the deadline to apply for funding under this announcement is 8:00 p.m. eastern time on May 14, 2012. See the "How To Apply" section on page 14 for more details.

Eligibility

Refer to the cover page of this solicitation for eligibility under this program.

JAG Program—Specific Information

Formula

Once each fiscal year's overall JAG Program funding level is determined, BJA partners with the Bureau of Justice Statistics (BJS) to begin a four-step grant award calculation process which consists of:

1. Computing an initial JAG allocation for each state and territory, based on their share of violent crime and population (weighted equally).
2. Reviewing the initial JAG allocation amount to determine if the state or territory allocation is less than the minimum ("de minimus") award amount defined in the JAG legislation (0.25 percent of the total). If this is the case, the state or territory is funded at the minimum level, and the funds required for this are deducted from the overall pool of JAG funds. Each of the remaining states receives the minimum award plus an additional amount based on their share of violent crime and population.
3. Dividing each state's final award amount (except for the territories and District of Columbia) between state and local governments at a rate of 60 and 40 percent, respectively.

4. Determining local unit of government award allocations, which are based on their proportion of the state's three-year violent crime average. If a local eligible award amount is less than \$10,000, the funds are returned to the state to be awarded to these local units of government through the state agency. If the eligible award amount is \$10,000 or more, then the local government is eligible to apply for a JAG award directly from BJA.

Award Amount

Eligible award amounts under JAG are posted annually to BJA's JAG web page: www.bja.gov/ProgramDetails.aspx?Program_ID=59.

All awards are subject to the availability of appropriated funds and to any modifications or additional requirements that may be imposed by law.

Purpose Areas

JAG funds may be used for state and local initiatives, technical assistance, strategic planning, research and evaluation, data collection, training, personnel, equipment, forensic laboratories, supplies, contractual support, and criminal justice information systems that will improve or enhance such areas as:

- Law enforcement programs.
- Prosecution and court programs.
- Prevention and education programs.
- Corrections and community corrections programs.
- Drug treatment and enforcement programs.
- Planning, evaluation, and technology improvement programs.
- Crime victim and witness programs (other than compensation).

JAG funds may also be used to address key statutory requirements that may not be otherwise funded, including requirements from the state and federal level, such as addressing limited English proficiency requirements and other similar mandates.

Responsibilities

The Chief Executive Officer (CEO) of an eligible unit of local government or other officer designated by the CEO must submit the application for JAG funds. A unit of local government receiving a JAG award will be responsible for the administration of the funds including: distributing the funds; monitoring the award; submitting quarterly financial status (SF-425) and performance metrics reports and annual programmatic reports; and providing ongoing oversight and assistance to any subrecipients of the funds.

Length of Awards

Awards are made in the first fiscal year of the appropriation and may be expended during the following 3 years, for a total grant period of 4 years. Extensions beyond this period may be made on a case-by-case basis at the discretion of the Director of BJA and must be requested via the Grants Management System (GMS) **no less than 30 days prior to the grant end date.**

BJA-2012-3256

Administrative Funds

A unit of local government may use up to 10 percent of the award, plus any interest accrued, for costs associated with administering JAG funds.

Disparate Certification

A disparate allocation occurs when a city or municipality is allocated one-and-one-half times (150 percent) more than the county, while the county bears more than 50 percent of the costs associated with prosecution or incarceration of the municipality's Part 1 violent crimes. A disparate allocation also occurs when multiple cities or municipalities are collectively allocated four times (400 percent) more than the county, and the county bears more than 50 percent of the collective costs associated with prosecution or incarceration of each municipality's Part 1 violent crimes.

- ★ Jurisdictions certified as disparate must identify a fiscal agent that will submit a **joint application** for the aggregate eligible allocation to all disparate municipalities. The joint application must determine and specify the award distribution to each unit of local government and the purposes for which the funds will be used. When beginning the JAG application process, a Memorandum of Understanding (MOU) that identifies which jurisdiction will serve as the applicant/fiscal agent for joint funds, must be completed, and signed by the Authorized Representative for each participating jurisdiction. The signed MOU should be attached to the application. For a sample MOU, go to www.bja.gov/Funding/JAGMOU.pdf.

Governing Body Review

The applicant agency (fiscal agent in disparate situations) must make the grant application available for review by the governing body (or to the organization designated by the governing body) not fewer than 30 days before the application is submitted to BJA.

Public Comment

The applicant agency (the fiscal agent in disparate situations) must include a statement that the application was made public and that, to the extent of applicable law or established procedure, an opportunity to comment was provided to citizens and to neighborhood or community-based organizations.

Supplanting

Federal funds must be used to supplement existing funds for program activities and cannot replace or supplant nonfederal funds that have been appropriated for the same purpose. Supplanting is prohibited under JAG. See BJA's [JAG web page](#) and the updated JAG FAQs for examples of supplanting.

Trust Fund

Award recipients may draw down JAG funds in advance. To do so, a trust fund must be established in which to deposit the funds. The trust fund may or may not be an interest-bearing account. If subrecipients draw down JAG funds in advance, they also must establish a trust fund in which to deposit funds. This trust fund requirement only applies to direct JAG award recipients as well as subrecipients that are not on a reimbursement basis.

Match Requirement

While match is not required with the JAG Program, match is as an effective strategy for states and units of local government to expand justice funds and build buy-in for local criminal justice initiatives. If an applicant proposes a voluntary match amount, the match amount incorporated into the OJP-approved budget becomes mandatory and subject to audit.

Prohibited Uses

No JAG funds may be expended outside of JAG purpose areas. Even within these purpose areas, however, JAG funds cannot be used directly or indirectly for security enhancements or equipment for nongovernmental entities not engaged in criminal justice or public safety. Nor may JAG funds be used directly or indirectly to provide for any of the following matters unless BJA certifies* that extraordinary and exigent circumstances exist, making them essential to the maintenance of public safety and good order:

- **Vehicles (excluding police cruisers), vessels (excluding police boats), or aircraft (excluding police helicopters).
- Luxury items.
- Real estate.
- Construction projects (other than penal or correctional institutions).
- Any similar matters.

***For information related to requesting a waiver to use funds for any prohibited item, refer to the updated JAG FAQs on BJA's [JAG web page](#).**

****Police cruisers may include a police pursuit vehicle (PPV) or system support vehicle (SSV). Examples include sedans and sport utility vehicles (SUVs).**

Budget Information

Limitation on Use of Award Funds for Employee Compensation; Waiver

With respect to any award of more than \$250,000 made under this solicitation, federal funds may not be used to pay total cash compensation (salary plus bonuses) to any employee of the award recipient at a rate that exceeds 110 percent of the maximum annual salary payable to a member of the Federal Government's Senior Executive Service (SES) at an agency with a Certified SES Performance Appraisal System for that year. The 2012 salary table for SES employees is available at www.opm.gov/oca/12tables/indexSES.asp. Note: A recipient may compensate an employee at a higher rate, provided the amount in excess of this compensation limitation is paid with non-federal funds. (Any such additional compensation will not be considered matching funds where match requirements apply.)

The limitation on compensation rates allowable under an award may be waived on an individual basis at the discretion of the Assistant Attorney General (AAG) for OJP. An applicant requesting a waiver should include a detailed justification in the budget narrative of its application. Unless the applicant submits a waiver request and justification with the application, the applicant should anticipate that OJP will request the applicant to adjust and resubmit its budget.

The justification should include the particular qualifications and expertise of the individual, the uniqueness of the service being provided, the individual's specific knowledge of the program or project being undertaken with award funds, and a statement explaining that the individual's salary is commensurate with the regular and customary rate for an individual with his/her qualifications and expertise, and for the work to be done.

Minimization of Conference Costs

No OJP funding can be used to purchase food and/or beverages for any meeting, conference, training, or other event. Exceptions to this restriction may be made only in cases where such sustenance is not otherwise available (i.e., extremely remote areas), or where a special presentation at a conference requires a plenary address where there is no other time for sustenance to be obtained. Such an exception would require prior approval from the BJA Director. This restriction does not apply to water provided at no cost, but does apply to any and all other refreshments, regardless of the size or nature of the meeting. Additionally, this restriction does not impact direct payment of per diem amounts to individuals in a travel status under your organization's travel policy.

Updated Department of Justice and OJP guidance on conference planning, minimization of costs, and conference cost reporting will be forthcoming and will be accessible on the OJP web site at www.ojp.usdoj.gov/funding/funding.htm.

Costs Associated with Language Assistance (if applicable)

If an applicant proposes a program or activity that would deliver services or benefits to individuals, the costs of taking reasonable steps to provide meaningful access to those services or benefits by individuals with limited English proficiency may be allowable costs. Reasonable steps to provide meaningful access to services or benefits may include interpretation or translation services where appropriate.

For additional information, see the "Civil Rights Compliance" section of the OJP "Other Requirements for OJP Applications" web page (www.ojp.usdoj.gov/funding/other_requirements.htm).

Updated Requirements

Bulletproof Vest Certification

Bulletproof vests can be funded through two BJA-administered programs: the JAG Program and the Bulletproof Vest Partnership (BVP) Program.

- BVP is a program designed to provide a critical resource to state and local law enforcement through the purchase of ballistic-resistant and stab-resistant body armor. A jurisdiction is able to request up to 50 percent of the cost of a vest with BVP funds. For more information on the BVP Program, including eligibility and application, refer to the [BVP web page](#).

- JAG funds may also be used to purchase vests for an agency, but they may not be used to pay for that portion of the bulletproof vest (50 percent) that is not covered by BVP funds. Unlike BVP, JAG funds used to purchase vests do not require a 50 percent match.
- Bulletproof vests purchased with JAG funds may be purchased at any threat level, make, or model from any distributor or manufacturer, as long as the vests have been tested and found to comply with applicable National Institute of Justice ballistic or stab standards. In addition, bulletproof vests purchased must be American-made. The latest NIJ standard information can be found at: www.nij.gov/topics/technology/body-armor/safety-initiative.htm.
- As is the case in BVP, grantees that wish to purchase vests with JAG funds **must certify** that law enforcement agencies receiving vests have a written "mandatory wear" policy in effect. FAQs related to the mandatory wear policy and certifications can be found at www.bja.gov/Funding/JAGFAQ.pdf. This policy must be in place for at least all uniformed officers before any FY 2012 funding can be used by the agency for vests. There are no requirements regarding the nature of the policy other than it being a mandatory wear policy for all uniformed officers while on duty. A *mandatory wear concept and issues paper* and a *model policy* are available by contacting the BVP Customer Support Center at vests@usdoj.gov or toll free at 1-877-758-3787.
- A copy of the certification related to the mandatory wear can be found at: www.bja.gov/Funding/12JAGBVPcert.pdf.

Interoperable Communications Guidance

- Grantees (including subgrantees) that are using FY 2012 JAG Program funds to support emergency communications activities must comply with the *FY 2012 SAFECOM Guidance for Emergency Communication Grants*, including provisions on technical standards that ensure and enhance interoperable communications. Emergency communications activities include the purchase of Interoperable Communications Equipment and technologies such as voice-over-internet protocol bridging or gateway devices, or equipment to support the build out of wireless broadband networks in the 700 MHz public safety band under the Federal Communications Commission (FCC) Waiver Order. SAFECOM guidance can be found at www.safecomprogram.gov.
- Grantees interested in developing a public safety broadband network in the 700 MHz band in their jurisdictions must adhere to the technical standards set forth in the FCC Waiver Order, or any succeeding FCC orders, rules, or regulations pertaining to broadband operations in the 700 MHz public safety band. The recipient shall also ensure projects support the Statewide Communication Interoperability Plan (SCIP) and are fully coordinated with the full-time Statewide Interoperability Coordinator (SWIC) in the state of the project. As the central coordination point for their state's interoperability effort, the SWIC plays a critical role, and can serve as a valuable resource. SWICs are responsible for the implementation of the SCIP through coordination and collaboration with the emergency response community. The U.S. Department of Homeland Security Office of Emergency Communications maintains a list of SWICs for each of the 56 states and territories. Contact OEC@hq.dhs.gov if you are not familiar with your state or territory's SWIC. If any future regulatory requirement (from the FCC or other governmental entity) results in a material technical or financial change in the project, the recipient should submit associated documentation, and other material, as applicable, for review by the SWIC to ensure

coordination. Grantees (and sub-grantees) must provide a listing of all communications equipment purchased with grant award funding (plus the quantity purchased of each item) to their assigned BJA State Policy Advisor once items are procured during any periodic programmatic progress reports.

DNA Testing of Evidentiary Materials and Upload of DNA Profiles to a Database

If JAG program funds will be used for DNA testing of evidentiary materials, any resulting eligible DNA profiles must be uploaded to the Combined DNA Index System (CODIS), by a government DNA lab with access to CODIS. No profiles generated with JAG funding may be entered into any other non-governmental DNA database without prior express written approval from BJA. For more information, refer to the NIJ FY 2012 DNA Backlog Reduction Program, available at ncjrs.gov/pdffiles1/nij/sl000989.pdf

Reporting Requirements

Once an award is accepted, award recipients must submit quarterly financial status (SF-425) and annual programmatic reports through [GMS](#), quarterly performance metrics reports (see Performance Measures section below) through BJA's Performance Measurement Tool ([PMT](#)), and Federal Funding Accountability and Transparency Act (FFATA) reports through the FFATA Sub-award Reporting System ([FSRS](#)) as necessary (see FFATA section below).

Performance Measures

To assist in fulfilling the Department's responsibilities under the Government Performance and Results Act of 1993 (GPRA), P.L. 103-62, and the GPRA Modernization Act of 2010, Public Law 111-352, applicants who receive funding under this solicitation must provide data that measures the results of their work. Quarterly performance metrics reports must be submitted through BJA's Performance Measurement Tool (PMT) web site: www.bjaperformancetools.org. The performance measure can be found at: www.bjaperformancetools.org/help/ARRAJAGandJAGCombinedIndicatorGrid.pdf.

All JAG recipients should be aware that BJA is currently making changes to the JAG performance reporting processes, including measures. While state administering agencies are playing a role in the process, recipients are advised that the reporting requirements noted above may be subject to modification through this process.

Submission of performance measures data is not required for the application. Instead, applicants should discuss in their application their proposed methods for collecting data for performance measures. Refer to the section "What an Application Should Include" on page 16 for additional information.

Note on Project Evaluations

Applicants that propose to use funds awarded through this solicitation to conduct project evaluations should be aware that certain project evaluations (such as systematic investigations designed to develop or contribute to generalizable knowledge) may constitute "research" for purposes of applicable DOJ human subjects protection regulations. However, project evaluations that are intended only to generate internal improvements to a program or service, or are conducted only to meet OJP's performance measure data reporting requirements likely do

not constitute “research.” Applicants should provide sufficient information for OJP to determine whether the particular project they propose would either intentionally or unintentionally collect and/or use information in such a way that it meets the DOJ regulatory definition of research.

Research, for the purposes of human subjects protections for OJP-funded programs, is defined as, “a systematic investigation, including research development, testing, and evaluation, designed to develop or contribute to generalizable knowledge.” 28 C.F.R. § 46.102(d). For additional information on determining whether a proposed activity would constitute research, see the decision tree to assist applicants on the “Research and the Protection of Human Subjects” section of the OJP Other Requirements for OJP Applications” web page (www.ojp.usdoj.gov/funding/other_requirements.htm). Applicants whose proposals may involve a research or statistical component also should review the “Confidentiality” section on that web page.

Notice of Post-Award FFATA Reporting Requirement

Applicants should anticipate that OJP will require all recipients (other than individuals) of awards of \$25,000 or more under this solicitation, consistent with the Federal Funding Accountability and Transparency Act of 2006 (FFATA), to report award information on any first-tier subawards totaling \$25,000 or more, and, in certain cases, to report information on the names and total compensation of the five most highly compensated executives of the recipient and first-tier subrecipients. Each applicant entity must ensure that it has the necessary processes and systems in place to comply with the reporting requirements should it receive funding. Reports regarding subawards will be made through the FFATA Subaward Reporting System (FSRS), found at www.fsrs.gov.

Note also that applicants should anticipate that no subaward of an award made under this solicitation may be made to a subrecipient (other than an individual) unless the potential subrecipient acquires and provides a Data Universal Numbering System (DUNS) number.

Priorities

BJA recognizes that the downturn in the economy has resulted in significant pressures on state and local criminal justice systems. In these challenging times, shared priorities and leveraged resources can make a significant impact. In light of this, it is important to make SAAs and local JAG recipients aware of several areas of priority that may be of help in maximizing the effectiveness of JAG funding at the state and local level.

As an overall framework for success, we encourage both state and local comprehensive justice planning, bringing all of the system stakeholders together—including law enforcement, courts, prosecutors, defenders, corrections officials, and other stakeholders (including victims and victim advocates)—to create a comprehensive and strategic justice plan to ensure coordination and a more effective justice system.

In addition to our longstanding and unwavering commitment to keeping violent crime at its lowest level in decades, the following priorities represent key areas where we will be focusing nationally and invite each state and local JAG recipient to join us in addressing these challenges as a part of our JAG partnership.

Funding Evidence-Based Programs

BJA strongly encourages state and local planners to fund programs that are evidence-based and have been proven effective. In the current difficult budgetary climate, it is more critical than ever that JAG dollars are spent on programs with proven effectiveness.

Questions often arise about what is meant by evidence-based programs. OJP considers programs and practices to be evidence-based when their effectiveness has been demonstrated by causal evidence (generally obtained through one or more outcome evaluations). Causal evidence documents a relationship between an activity or intervention (including technology) and its intended outcome, including measuring the direction and size of a change, and the extent to which a change may be attributed to the activity or intervention. Causal evidence depends on the use of scientific methods to rule out, to the extent possible, alternative explanations for the documented change. The strength of causal evidence, based on the factors described above, will influence the degree to which OJP considers a program or practice to be evidence-based.

In 2011, OJP made an excellent online tool available to criminal justice practitioners and policy makers to identify evidence based programs that are effective or promising. CrimeSolutions.gov is the OJP online resource about what works in criminal justice, juvenile justice, and crime victim services. Using certified expert reviewers, CrimeSolutions.gov provides detailed information and evidence ratings of programs that may fall within the JAG purpose areas. Launched in June 2011, CrimeSolutions.gov features multiple, user-friendly search options; easy to read program profiles and evaluation summaries from over three decades of research; and recognizable evidence ratings by certified reviewers with research and subject area expertise. CrimeSolutions.gov is intended to increase the use of evidence-based programs in criminal justice, juvenile justice and victim services settings; inform practitioners and policy makers about what works using the best available evidence; and help state and local jurisdictions address crime effectively and efficiently. BJA urges SAAs and local jurisdictions to use information available in CrimeSolutions.gov in making funding decisions.

Criminal Justice Planning

Jurisdictions are strongly encouraged to use JAG funding to support their existing strategic plan. If such a plan does not now exist, jurisdictions are encouraged to develop and undertake a strategic planning process, using a community engagement model, in order to guide spending under this and future fiscal year allocations. Training and technical assistance (TTA) is available from BJA's TTA providers to assist localities with the development of their strategic planning process and their plan to fund evidence-based projects. To ensure that the impact of Byrne JAG funding decisions is considered across the entire criminal justice system, we are redoubling our efforts to encourage state and local jurisdictions to bring all system stakeholders together in the strategic planning process. Our recommended guidelines are that at a minimum, the strategic planning process includes law enforcement, courts, prosecutors, indigent defense providers, victim advocates, and corrections and community corrections officials. BJA will continue to provide valuable technical assistance in 2012 through the National Criminal Justice Association (NCJA) for comprehensive criminal justice planning that includes bringing all criminal justice stakeholders to the table to develop innovative strategies to improve the fair administration of justice. For more information, see the [National Center for Justice Planning web site](http://NationalCenterforJusticePlanning.org).

Recidivism Reduction and Community Corrections

In this time of fiscal austerity and smaller state and local budgets, reducing the overall costs of incarceration in a manner that promotes public safety is a paramount goal. Effective community supervision coupled with evidence-based program interventions can result in significant reductions in recidivism. A priority funding area is the implementation of effective pre-trial services programs and innovative programs and approaches in probation and parole supervision that improve services to offenders and increase collaborative efforts among community supervision agencies with law enforcement and the courts. This includes development and implementation of strategies for the identification, supervision, and treatment of medium- to high-risk offenders that demonstrate the integration, use, and efficacy of evidenced-based practices and principles in the improvement of the delivery of probation and/or parole supervision strategies and practices.

Indigent Defense

Another key priority area is ensuring that justice is truly done in the criminal justice system is support for indigent defense. BJA continues to encourage states and SAAs to use JAG funds to support the vital needs of the indigent defense community. Attorney General Holder has consistently stressed that the crisis in indigent defense reform is a serious concern which must be addressed if true justice is to be achieved in our nation. In 2002, the American Bar Association (ABA) published Ten Principles of a Public Defense Delivery System which represent fundamental building blocks for implementing quality legal representation for indigent defendants. (See [ABA Ten Principles](#).)

Evidence-Based “Smart Policing” Programs

As a result of the current fiscal crisis, many police departments are experiencing unprecedented budget cuts, layoffs and reductions in force. These challenges must be met by making wider use of advancements in the law enforcement field in the last several decades which rely on use of data, crime analysis, crime mapping and other analytic tools, cutting edge technology, and research and evaluations regarding effective policing strategies and programs. A useful matrix of evidence-based policing programs and strategies is available through the [Center for Evidence-Based Policy](#) at George Mason University and provides valuable information on policing strategies and programs that work. BJA encourages states to use JAG funds to support these “smart policing” strategies, including a focus on real time crime analysis centers (CACs), and effective partnerships with universities and research partners and with non-traditional criminal justice partners. Counterterrorism continues to be the number one priority for the Department of Justice. At the state and local level, high functioning, evidence-based, data driven public safety agencies are a critical component of our nation’s “all crimes” strategy. In addition, the JAG Program has long supported effective and collaborative multi-jurisdictional task forces and justice information sharing programs, which continue as a priority in order to maintain our nation’s historic reductions in violent crime.

Officer Safety and Wellness

Law enforcement safety and wellness issues are an important priority for the Department of Justice, have become highly visible as recent trends have shown an increase in law enforcement deaths. According to the National Law Enforcement Officers Memorial Fund, 2011 showed a 16 percent increase in law enforcement fatalities with a 20 percent increase in

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firearms-related fatalities. The Department of Justice is taking a holistic approach to addressing officer safety and wellness by providing training and technical assistance to state and local law enforcement, as well as studying law enforcement injuries. BJA encourages states and local jurisdictions to use JAG funds to support this priority area by providing training—such as paying for tuition and travel expenses related to attending trainings like the VALOR training—as well as providing start-up funding for health and wellness programs to law enforcement agencies.

How To Apply

Applications are submitted through OJP's Grants Management System ([GMS](#)). [GMS](#) is a web-based, data-driven computer application that provides cradle to grave support for the application, award, and management of awards at OJP. Applicants must register in GMS for each specific funding opportunity and should begin the process immediately to meet the GMS registration deadline, especially if this is the first time using the system. Complete instructions on how to register and submit an application in GMS can be found at www.ojp.usdoj.gov/gmscbt/. If the applicant experiences technical difficulties at any point during this process, e-mail GMS.HelpDesk@usdoj.gov or call 888-549-9901 (option 3), Monday–Friday from 6:00 a.m. to midnight eastern time, except federal holidays. OJP highly recommends that applicants start the registration process as early as possible to prevent delays in submitting an application package by the specified application deadline.

All applicants should complete the following steps:

1. **Acquire a Data Universal Numbering System (DUNS) number.** In general, the Office of Management and Budget requires that all applicants (other than individuals) for federal funds include a DUNS number in their application for a new award or renewal of an existing award. A DUNS number is a unique nine-digit sequence recognized as the universal standard for identifying and keeping track of entities receiving federal funds. The identifier is used for tracking purposes and to validate address and point of contact information for federal assistance applicants, recipients, and subrecipients. The DUNS number will be used throughout the grant life cycle. Obtaining a DUNS number is a free, one-time activity. Obtain a DUNS number by calling Dun and Bradstreet at 866-705-5711 or by applying online at www.dnb.com. A DUNS number is usually received within 1-2 business days.
2. **Acquire or renew registration with the Central Contractor Registration (CCR) database.** OJP requires that all applicants (other than individuals) for federal financial assistance maintain current registrations in the CCR database. The CCR database is the repository for standard information about federal financial assistance applicants, recipients, and subrecipients. Organizations that have previously submitted applications via Grants.gov are already registered with CCR, as it is a requirement for Grants.gov registration. Note, however, that applicants must **update or renew their CCR registration annually** to maintain an active status. Information about CCR registration procedures can be accessed at www.ccr.gov.
3. **Acquire a GMS username and password.** A new user must create a GMS profile by selecting the “First Time User” link under the sign-in box of the [GMS](#) home page. For more information on how to register in GMS, go to www.ojp.usdoj.gov/gmscbt/.

4. **Verify the CCR registration in GMS.** OJP requests that all applicants verify their CCR registration in GMS. Once logged into GMS, click the “CCR Claim” link on the left side of the default screen. Click the submit button to verify the CCR registration.
5. **Search for the funding opportunity on GMS.** After logging into GMS or completing the GMS profile for username and password, go to the “Funding Opportunities” link on the left side of the page. Select the Bureau of Justice Assistance and the Edward Byrne Memorial Justice Assistance Grant (JAG) Program—Local Solicitation.
6. **Register by selecting the “Apply Online” button associated with the solicitation title.** The search results from step 5 will display the solicitation title along with the registration and application deadlines for this funding opportunity. Select the “Apply Online” button in the “Action” column to register for this solicitation and create an application in the system.
7. **Complete the Disclosure of Lobbying Activities.** All applicants must complete this information and submit the form in GMS. An applicant that expends any funds for lobbying activities must provide the detailed information requested on the form, *Disclosure of Lobbying Activities*, (SF-LLL). An applicant that does not expend any funds for lobbying activities should enter “N/A” in the required highlighted fields. Access the form at www.ojp.gov/funding/forms/disclosure.pdf.
8. **Submit an application consistent with this solicitation by following the directions in GMS.** Once submitted, GMS will display a confirmation screen stating the submission was successful. **Important:** In some instances, an applicant must wait for GMS approval before submitting an application. Applicants are urged to submit the application **at least 72 hours prior** to the due date of the application.

Note: OJP’s Grants Management System (GMS) does not accept executable file types as application attachments. These disallowed file types include, but are not limited to, the following extensions: “.com,” “.bat,” “.exe,” “.vbs,” “.cfg,” “.dat,” “.db,” “.dbf,” “.dll,” “.ini,” “.log,” “.ora,” “.sys,” and “.zip.”

Note: Duplicate Applications

If an applicant submits multiple versions of an application, BJA will review the most recent version submitted.

Experiencing Unforeseen GMS Technical Issues

If an applicant experiences unforeseen GMS technical issues beyond the applicant's control that prevent submission of its application by the deadline, the applicant must contact the BJA Programs Office staff **within 24 hours after the deadline** and request approval to submit the application. At that time, BJA Programs Office staff will instruct the applicant to submit specific information detailing the technical difficulties. The applicant must e-mail: a description of the technical difficulties, a timeline of submission efforts, the complete grant application, the applicant DUNS number, and GMS Help Desk tracking number(s) received. **Note: Requests are not automatically approved by BJA.** After the program office reviews all of the information submitted, and contacts the GMS Help Desk to validate the technical issues reported, OJP will contact the applicant to either approve or deny the request to submit a late application. If the technical issues reported cannot be validated, the application will be rejected as untimely.

The following conditions are not valid reasons to permit late submissions: (1) failure to begin the registration process in sufficient time, (2) failure to follow GMS instructions on how to register and apply as posted on its Web site, (3) failure to follow all of the instructions in the OJP solicitation, and (4) technical issues experienced with the applicant's computer or information technology (IT) environment, including firewalls.

Notifications regarding known technical problems with GMS, if any, are posted at the top of the OJP funding web page, www.ojp.usdoj.gov/funding/solicitations.htm.

What an Application Should Include

Applicants should anticipate that failure to submit an application that contains all of the specified elements may negatively affect the review of the application and, should a decision be made to make an award, will result in the inclusion of special conditions that preclude access to or use of award funds pending satisfaction of the conditions.

Refer to the BJA Grant Writing and Management Academy and OJP 101 for an overview of what should be included in each application requirement. These trainings can be found at bja.ncjrs.gov/gwma/index.html and www.ojp.gov/grants101/.

OJP strongly recommends use of appropriately descriptive file names (e.g., "Program Narrative," "Budget and Budget Narrative," "Memoranda of Understanding," etc.) for all required attachments.

1. Information to Complete the Application for Federal Assistance (SF-424)

The SF-424 is a standard form required for use as a cover sheet for submission of pre-applications, applications, and related information. Grants.gov and GMS take information from the applicant's profile to populate the fields on this form.

2. Program Narrative

Applicants **must** submit a program narrative that generally describes the proposed program activities for the four year grant period. The narrative must outline the type of programs to be funded by the JAG award and provide a brief analysis of the need for the programs. Narratives must also identify anticipated coordination efforts involving JAG and related justice funds. Certified disparate jurisdictions submitting a **joint application** must specify the funding distribution to each disparate unit of local government and the purposes for which the funds will be used.

Failure to submit this required information will result in an application being returned in the Grants Management System (GMS) for inclusion of the missing information OR the attachment of a withholding of funds special condition at the time of award.

3. Budget and Budget Narrative

Applicants **must** submit a budget and budget narrative outlining how JAG funds, including administrative funds if applicable, will be used to support and implement the program. This narrative should include a full breakdown of administrative costs, as well as an overview of how funds will be allocated across approved JAG purpose areas. Applicants should utilize the following approved budget categories to label the requested expenditures: Personnel, Fringe Benefits, Travel, Equipment, Supplies, Consultants/Contracts, and an Other

category. For informational purposes only, a sample budget form may be found at www.ojp.usdoj.gov/funding/forms/budget_detail.pdf.

Failure to submit this required information will result in an application being returned in the Grants Management System (GMS) for inclusion of the missing information OR the attachment of a withholding of funds special condition at the time of award.

4. Review Narrative

Applicants **must** submit information documenting that the date the JAG application was made available for review to the governing body, or to an organization designated by that governing body, on a date not less than 30 days before the application was submitted to BJA. The attachment must also specify that an opportunity to comment was provided to citizens to the extent applicable law or established procedures make such opportunity available.

Failure to submit this required information will result in an application being returned in the Grants Management System (GMS) for inclusion of the missing information OR the attachment of a withholding of funds special condition at the time of award.

5. Abstract

Applicants **must** provide an abstract that includes the applicant's name, title of the project, goals of the project, and a description of the strategies to be used. In addition, above or below the abstract narrative, applicants **must identify up to five project identifiers** that would be associated with proposed project activities. The list of all identifiers can be found at www.bja.gov/programs/jag/jag12/12JAGIdentifiers.pdf. The abstract **should not** exceed a half-page, or 400-500 words.

Failure to submit this required information will result in an application being returned in the Grants Management System (GMS) for inclusion of the missing information OR the attachment of a withholding of funds special condition at the time of award.

6. Tribal Authorizing Resolution (if applicable)

If an application is being submitted by either (1) a tribe or tribal organization or (2) a third party proposing to provide direct services or assistance to residents on tribal lands, then a current authorizing resolution of the governing body of the tribal entity or other enactment of the tribal council or comparable governing body authorizing the inclusion of the tribe or tribal organization and its membership should be included with the application. In those instances when an organization or consortium of tribes proposes to apply for a grant on behalf of a tribe or multiple specific tribes, then the application should include a resolution (or comparable legal documentation, as may be applicable) from all tribes that will be included as a part of the services/assistance provided under the grant. A consortium of tribes for which existing consortium bylaws allow action without support from all tribes in the consortium (i.e., without authorizing resolution or other enactment of each tribal governing body) may submit a copy of its consortium bylaws with the application in lieu of tribal resolutions (or comparable legal documentation).

If an applicant is unable to obtain and submit with its application a fully-executed (i.e., signed) copy of a tribal resolution or other, comparable legal documentation as may be consistent with the tribe's governance structure, then, at minimum, the applicant should submit an unsigned, draft version of such legal documentation as part of its application

(except in cases where, with respect to a tribal consortium applicant, consortium bylaws allow action without the support of all consortium member tribes). If selected for funding, use of and access to funds will be contingent on receipt of the fully-executed tribal resolution or other, comparable legal documentation.

7. Additional Attachments (if applicable)

Jurisdictions certified as disparate **must** identify a fiscal agent that will submit a **joint application** for the aggregate eligible allocation to all disparate municipalities. The joint application **must** determine and specify the award distribution to each unit of local government and the purposes for which the funds will be used. When beginning the JAG application process, a Memorandum of Understanding (MOU) that identifies which jurisdiction will serve as the applicant/fiscal agent for joint funds, **must** be completed, and signed by the Authorized Representative for each participating jurisdiction. The signed MOU **must** be attached to the application. For a sample MOU, go to www.bja.gov/Funding/JAGMOU.pdf.

Failure to submit this required information will result in an application being change requested in the Grants Management System (GMS) for inclusion of the missing information OR the attachment of a withholding special condition at the time of award if time does not permit for a change request process.

8. Other Standard Forms

Additional forms that may be required in connection with an award are available on OJP's funding page at www.ojp.usdoj.gov/funding/forms.htm. For successful applicants, receipt of funds may be contingent upon submission of all necessary forms. Note in particular the following forms:

- a. [Standard Assurances](#)
Applicants must read, certify, and submit this form in GMS prior to the receipt of any award funds.
- b. [Certifications Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and Drug-Free Workplace Requirements](#)
Applicants must read, certify and submit in GMS prior to the receipt of any award funds.
- c. [Accounting System and Financial Capability Questionnaire](#) (required for any applicant other than an individual that is a non-governmental entity and that has not received any award from OJP within the past 3 years; this form must be downloaded, completed, and submitted)

Review Process

OJP is committed to ensuring a fair and open process for awarding grants. BJA reviews the application to make sure that the information presented is reasonable, understandable, measurable, and achievable, as well as consistent with the solicitation. Applications for formula awards will be reviewed to ensure statutory requirements have been met.

Absent explicit statutory authorization or written delegation of authority to the contrary, all final grant award decisions will be made by the Assistant Attorney General (AAG).

Additional Requirements

Applicants selected for awards must agree to comply with additional legal requirements upon acceptance of an award. OJP strongly encourages applicants to review the information pertaining to these additional requirements prior to submitting your application. Additional information for each requirement can be found at www.ojp.usdoj.gov/funding/other_requirements.htm.

- Civil Rights Compliance
- Faith-Based and Other Community Organizations
- Confidentiality
- Research and the Protection of Human Subjects
- Anti-Lobbying Act
- Financial and Government Audit Requirements
- National Environmental Policy Act (NEPA)
- DOJ Information Technology Standards (if applicable)
- Single Point of Contact Review
- Nonsupplanting of State or Local Funds
- Criminal Penalty for False Statements
- Compliance with [Office of Justice Programs Financial Guide](#)
- Suspension or Termination of Funding
- Nonprofit Organizations
- For-Profit Organizations
- Government Performance and Results Act (GPRA)
- Rights in Intellectual Property
- Federal Funding Accountability and Transparency Act (FFATA) of 2006
- Awards in excess of \$5,000,000 – federal taxes certification requirement
- Active CCR Registration

Provide Feedback to OJP on This Solicitation

To assist OJP in improving its application and award processes, we encourage applicants to provide feedback on this solicitation, application submission process, and/or the application review/peer review process. Feedback can be provided to OJPSolicitationFeedback@usdoj.gov.

Application Checklist

FY 2012 Edward Byrne Memorial Justice Assistance Grant (JAG) Program: Local Solicitation

The application checklist has been created to assist in developing an application.

Eligibility Requirement:

- _____ The jurisdiction listed as the legal name on the application corresponds with the eligible jurisdiction listed on BJA's JAG web page
- _____ The federal amount requested is within the allowable limit of the FY 2012 JAG Allocations List as listed on BJA's JAG web page

What an Applications Should Include:

- _____ Standard 424 Form (see page 16)
- _____ Program Narrative (see page 16)
- _____ Budget and Budget Narrative (see page 16)
- _____ Review Narrative (the date the JAG application was made available to the governing body for review and that it was provided to the public for comment) (see page 17)
- _____ Abstract (see page 17)
- _____ Tribal Authorizing Resolution (if applicable) (see page 17)
- _____ Disclosure of Lobbying Activities (SF-LLL) (see page 15)
- _____ Additional Attachments (if applicable) (see page 18);
- _____ Other Standard Forms as applicable (see page 18), including:
 - _____ Accounting System and Financial Capability Questionnaire (if applicable)
- _____ DUNS Number (see page 14)
- _____ CCR Registration (see page 14)

Justice Assistance Grant Budget Detail Worksheet

City of Grand Island

Funding Opportunity CFDA # 16.738

Grant Period: 10-1-12 to 9-30-16

Total Direct Award: \$29,838.00

The City of Grand Island Police Department: \$22,379.00

Hall County Sheriff's Department: \$7,459.00

TOTAL: \$29,838.00

City of Grand Island, Police Department.

- \$22,379.00 toward police equipment

Hall County Sheriff's Department

- \$7,459.00 toward police equipment

TOTAL: \$29,838.00

Edward Byrne Memorial Justice Assistance Grant Program

CFDA NUMBER: 16.738

THE STATE OF NEBRASKA

COUNTY OF HALL

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE CITY OF GRAND ISLAND, NEBRASKA
AND COUNTY OF HALL, NEBRASKA**

2012 BYRNE JUSTICE ASSISTANCE GRANT (JAG) PROGRAM AWARD

This agreement is made and entered into this 10th day of April, 2012, by and between The County of Hall, acting by and through its governing body, The Hall County Board of Supervisors, hereinafter referred to as COUNTY, and the CITY of Grand Island, acting by and through its governing body, the City Council, hereinafter referred to as CITY, both of Hall County, State of Nebraska, witnesseth:

WHEREAS, the City and County may apply for a direct award from the Justice Assistance Grant Program in the amount of \$29,838.00 and the City shall act as fiscal agent for this award and file the joint application on behalf of the City and County: and

WHEREAS, each governing body, in performing governmental functions or in paying for the performance of governmental functions hereunder, shall make that performance or those payments from current revenues legally available to that party: and

WHEREAS, each governing body finds that the performance of this agreement is in the best interests of both parties, that the undertaking will benefit the public, and that the division of costs fairly compensates the performing party for the services or functions under this agreement: and

WHEREAS, the CITY agrees to provide the COUNTY 25% of the award; \$7,459.00 from the \$29,838.00 JAG award: and

WHEREAS, the CITY and COUNTY believe it to be in their best interests to reallocate the JAG funds.

NOW THEREFORE, the COUNTY and City agree as follows:

Section 1.

CITY agrees to pay COUNTY a total of 25% (\$7,459.00) of the 2012 JAG funds (\$29,838.00).

CFDA NUMBER: 16.738

Section 2.

COUNTY agrees to use the \$7,459.00 of 2012 JAG funds by 9-30-2016.

Section 3.

Each party to this agreement will be responsible for its own actions in providing services under this agreement and shall not be liable for any civil liability that may arise from the furnishing of the services by the other party.

CITY OF GRAND ISLAND, NEBRASKA

COUNTY OF HALL, NEBRASKA

Mayor

Board Chairperson

ATTEST:

City Clerk

County Clerk

Page 2 of 2

Justice Assistance Grant Program Narrative

City of Grand Island
Funding Opportunity CFDA # 16.738

Grant Period: 10-1-12 to 9-30-16

Program #1: Law Enforcement Equipment Purchase – City of Grand Island, Police Department.

The City of Grand Island is proposing to purchase equipment for use in by the Grand Island Police Department to improve effectiveness and safety.

Program #2: Law Enforcement Equipment Purchase – Hall County Sheriff's Department (Disparate Agency).

The City of Grand Island is proposing to allocate 25% of the total grant to the Hall County Sheriff's Department, who proposes the purchase of police equipment to improve effectiveness and safety.

REVIEW NARRATIVE

Edward Byrne Memorial Justice Assistance Grant Program

CFDA NUMBER: 16.738

- The JAG application was made available for review by the governing body on April 10, 2012 as Council Agenda Item
- The application was made public and opportunity for comment was made available to citizens on the City Council meeting of April 10, 2012 as Council Agenda Item
- MOU is attached as a separate document

2012 NEBRASKA JAG ALLOCATIONS

Listed below are all jurisdictions in the state that are eligible for FY 2012 JAG funding, as determined by the JAG formula. If your jurisdiction is listed with another city or county government in a shaded area, you are in a funding disparity. In this case, the units of local government must develop a Memorandum of Understanding (MOU) and apply for an award with a single, joint application.

Finding your jurisdiction: (1) Disparate jurisdictions are listed in shaded groups below, in alphabetic order by county. (2) Eligible individual allocations are listed alphabetically below the shaded, disparate groupings.

Counties that have an asterisk (*) under the "Eligible Individual Allocation" column did not submit the level of violent crime data to qualify for a direct award from BJA, but are in the disparate grouping indicated by the shaded area. The JAG legislation requires these counties to remain a partner with the local jurisdictions receiving funds and must be a signatory on the required Memorandum of Understanding (MOU). A sample MOU is provided online at:

<https://www.bja.gov/Funding/JAGMOU.pdf>. Disparate jurisdictions do not need to abide by the listed individual allocations, which are provided for information only. Jurisdictions in a funding disparity are responsible for determining individual amounts within the Eligible Joint Allocation and for documenting individual allocations in the MOU. For additional details regarding the JAG formula and award calculation process, with examples, please refer to the updated JAG Technical report: <https://www.bja.gov/Publications/JAGTechRpt.pdf>.

For JAG Frequently Asked Questions, please refer to BJA's JAG webpage: <https://www.bja.gov/Funding/JAGFAQ.pdf>.

State	Jurisdiction Name	Government Type	Eligible Individual Allocation	Eligible Joint Allocation
NE	DOUGLAS COUNTY	County	\$26,699	
NE	OMAHA CITY	Municipal	\$374,769	\$401,468
NE	HALL COUNTY	County	*	
NE	GRAND ISLAND CITY	Municipal	\$29,838	\$29,838
NE	LANCASTER COUNTY	County	*	
NE	LINCOLN CITY	Municipal	\$190,600	\$190,600
NE	SARPY COUNTY	County	*	
NE	BELLEVUE CITY	Municipal	\$10,855	\$10,855
NE	OMAHA TRIBE	Tribal	\$12,861	
Local total			\$645,622	

ABSTRACT

City of Grand Island – Grand Island Police Department

TITLE: GIPD and HCSO 2012 JAG Equipment

Goal: Purchase police equipment toward improving police services and safety

Strategy: Purchase police equipment that will help officer's effectiveness and/or safety.

The top five project identifiers are:

- Community Policing
- Gangs
- Officer Safety
- Policing
- Court Security



City of Grand Island

Tuesday, April 10, 2012

Council Session

Item E3

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

Staff Contact: Lisa Willman, Chairman

Council Agenda Memo

From: Mary Lou Brown, City Administrator

Meeting: April 10, 2012

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

Item #'s: E-3 & G-16

Presenter(s): Mary Lou Brown, City Administrator
Lisa Willman, Chairman,
Citizen's Advisory Review Committee

Background

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

Discussion

The Citizens Advisory Review Committee has been conducting regular meetings during the last six months as required by the City Code and the Nebraska Statutes. The committee looks forward to receiving and reviewing meritorious applications for consideration in the future. The committee received the semi-annual report from the Economic Development Corporation at its meeting of April 3, 2012, and voted to forward it on to the City Council for its review and acceptance.

Alternatives

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

1. Accept the semi-annual report of the Citizens' Advisory Review Committee.

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

Recommendation

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

Sample Motion

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

2012 Mid-year LB-840 Report

Prepared by: Marlan Ferguson, President

Look around Grand Island today. Through past leadership, visioning, listening, hard work, and planning Grand Island has and will continue to grow. Strong leadership is the secret to our success. Grand Island is very fortunate to have a large manufacturing sector of jobs. Almost 20% of all jobs in our community are manufacturing. With the rest of the nation experiencing a depressed economy, the number of firms outside of Grand Island area looking to locate here is very limited. Thus, the best opportunities for growth lie within our existing community. In 2011 there were over 700 new jobs created. We saw major expansion from Case IH, Standard Iron, Hornady Manufacturing, Global Industries, and of course Chief Industries. We also are experiencing additional growth in the secondary job market with the expansion of Olive Garden, Buffalo Wings, Panera Bread, Freddy's, Road House, Napoli's and Fed-X, just to name a few. It is encouraging to see this positive growth continue.

It is no secret that thousands of new jobs have been created as a result of performance-based incentives, tax increment financing, job training funds, and other programs. These new and growing businesses have led to increased construction, new buildings, and more employees who are investing in homes, buying cars, and supporting local retailers. This strong business activity means more money coming into our community, broadening our tax base – which means there are more businesses and residents to help share the tax load. This is why the LB-840 economic development program is so important to everyone living in Grand Island.

In fact, our top 2012 goal for the EDC is to make sure voters again approve the passage of LB-840. The basic idea behind the current economic development program was for our community to grow, we need new businesses in the area and we need existing businesses to expand. There have been over 3,300 new jobs created in Grand Island since 2003. These jobs have an estimated payroll of more than \$36 million every year. Over \$3.9 million in total real estate taxes from 2003 to 2011 alone; and over \$26 million in real estate valuation during that same time.

In almost every way, Grand Island is definitely on a roll! We've become a major destination city with the Nebraska State Fair and the Heartland Event Center. Our status as a regional trade center is underscored by our quality health care, excellent educational opportunities, and the recent growth of new retail establishments, restaurants and hotel facilities.

As we approach the final year of the current program, many of our LB-840 projects have fulfilled some or all of their contractual obligations. During the past six (6) months seven (7) companies were notified of their compliance: Ace Machine Shop, Standard Iron, Case IH #1, Heritage Disposal and Storage, Love Signs, O'Neill Wood Resources, and Rogue Mfg.

2012 is an important year for Grand Island Area Economic Development Corporation and our community. You can be assured that our board and staff will be rolling up our sleeves to guarantee the renewal of LB-840 and with your help, we'll continue to add good full time jobs to our community. Working together we can help take Grand Island to the next level!

2012 Board of Trustees

Ann Martin, Chairman
Idea Bank Marketing

Tom Pirnie, Vice Chairman
G.I. Express

Tom Gdowski, Secretary/Treasurer
Equitable Bank

Roger Bullington
Chief Buildings

KC Hehnke
Jerry's Sheetmetal, Inc.

Jay Kaspar
INSUR, Inc.

Galen Stehlik
Lauritsen, Brownell, Brostrom & Stehlik

William "Bill" Westering
Westering Enterprises

Advisory Board Members

Mayor Jay Vavricek

Peg Gilbert

Mary Lou Brown

Pam Lancaster

Dr. Lynn Black

Dr. Rob Winter

Cindy Johnson

Terry Pfeifer

Jim Hartman

Randy Kissinger

Mike Olson

Grand Island Area Economic Development Corporation

Recap of the LB-840 Program

April 10, 2012

LB840 ECONOMIC DEVELOPMENT FUND RECONCILIATION

Contribution by the City for Economic Development

Fund 238-A/C #23811402

DATE	RECEIPTS	PAYMENTS	DETAIL
FISCAL 2004			City transfer to LB-840 Fund
10/31/2003	400,000.00		City transfer to LB-840 Fund
11/17/2003	76,305.00		Grant received for paving
12/09/2003		(76,305.00)	GIAEDC, for Gold Core Road paving
02/11/2004	38,005.00		Grant received for paving
06/08/2004		(38,005.00)	GIAEDC, for Gold Core Road paving
08/10/2004		(200,000.00)	GIAEDC, for Standard Iron
2004	2,403.00		Interest earned
2004		(22,500.00)	City administrative fee
FISCAL 2005			
10/12/2004		(100,000.00)	GIAEDC, for Heritage Disposal
03/01/2005	400,000.00		City transfer to LB-840 Fund
04/12/2005		(42,000.00)	GIAEDC, for Love Signs
05/10/2005		(200,000.00)	GIAEDC, for CXT
2005	10,434.81		Interest earned
2005		(22,500.00)	City administrative fee
FISCAL 2006			
10/31/2005	750,000.00		City transfer to LB-840 Fund
10/31/2005		(22,500.00)	City administrative fee
11/08/2005		(350,000.00)	GIAEDC Annual Funding Request
05/31/2006		(13.16)	Grand Island Independent, Public Notice
08/30/2006		(13,992.58)	Interest earned
Grand Island	13,992.58		

FISCAL 2007

10/1/2006	750,000.00	City transfer to LB-840 Fund
10/10/2006	(350,000.00)	GIAEDC Annual Funding Request
10/1/2006	(22,500.00)	City administrative fee
11/28/2006	(45,000.00)	O'Neill Wood Resources
11/28/2006	(325,000.00)	CNH America, LLC expansion
05/22/2007	(154,000.00)	Hornady Manufacturing, Inc.
05/22/2007	(330,000.00)	Principal Life Insurance Co.
9/20/2007	27,259.19	Interest earned YTD

FISCAL 2008

11/30/2007	750,000.00	City transfer to LB-840 Fund
11/13/2007	(350,000.00)	GIAEDC Annual Funding Request
11/13/2007	(22,500.00)	City administrative fee
3/11/2008	(160,000.00)	Nova Tech, Inc.
3/11/2008	(70,000.00)	Hastings Foods, Inc.
09/30/2008	19,015.70	Interest earned YTD

FISCAL 2009

10/31/2008	750,000.00	City transfer to LB-840 Fund
10/31/2008	(22,500.00)	City administrative fee
10/31/2008	(350,000.00)	GIAEDC Annual Funding Request
12/23/2008	300,000.00	Principal Life Insurance Co.-Paid back loan
02/24/2009	(32,500.00)	Ace Machine Shop & Sales
09/30/2009	14,854.36	Interest earned YTD
09/30/2009	0.41	Adjust to actual cash balance

FISCAL 2010

10/13/2009	750,000.00	City transfer to LB-840 Fund
10/13/2009	(350,000.00)	GIAEDC Annual Funding Request
10/13/2009	(22,500.00)	City administrative fee
12/29/2009	(600,000.00)	Stuctured Solutions
05/19/2010	14,000.00	Love Signs-pay back loan
08/31/2010	11,767.12	Interest earned thru 8/31/10
09/28/2010	(200,000.00)	Hornady Manufacturing, Inc.
09/30/2010	432.91	Interest earned

FISCAL 2011

10/01/2010	750,000.00	City transfer to LB-840 Fund
10/01/2010	(22,500.00)	City administrative fee
10/13/2010	(350,000.00)	GIAEDC Annual Funding Request
10/22/2010	20.86	Interest earned
12/29/2010	(50,000.00)	Rogue Manufacturing
01/31/2011	916.75	Interest earned Nov-Jan 2011
05/25/2011	(225,000.00)	Standard Iron
05/25/2011	(100,000.00)	CNH America, LLC expansion
06/30/2011	1,807.57	Interest earned Feb-June 2011
08/31/2011	1,626.77	Interest earned July-Aug 2011
09/30/2011	193.86	Interest earned Sept 2011

ISCAL 2012

10/01/2011	750,000.00	City transfer to LB-840 Fund
10/12/2011	(350,000.00)	GIAEDC Annual Funding Request
10/12/2011	(22,500.00)	City administrative fee
10/12/2011	(119,000.00)	CNH America, LLC
10/31/2011	29.43	Interest earned Oct 2011
11/30/2011	513.12	Interest earned Nov 2011
12/31/2011	228.08	Interest earned Dec 2011
01/31/2012	6.58	Interest earned Jan 2012
02/28/2012	160.79	Interest earned Feb 2012
03/31/2012	88.20	Interest earned Mar 2012
04/10/2012	(575,000.00)	Platte Valley Industrial Park

LB-840 projects under current

Year	Applicant	\$ Amount Approved	\$ Amount Forgiven	Jobs Created/ Retained	Status of
2004	Standard Iron	200,000	200,000	100	All obligations fulfilled
2004	Heritage Disposal	100,000	100,000	18	All obligations fulfilled
2005	Love Signs	42,000	42,000	20	All obligations fulfilled
2005	CXT, Inc.	200,000	200,000	55	All obligations fulfilled
2006	J.C. Doyle	20,000	20,000	21	All obligations fulfilled
2007	O'Neill Wood Rec.	45,000	45,000	15	All obligations fulfilled
2007	Case IH #1	325,000	325,000	80	All obligations fulfilled
2007	Hornady Mfg. #1	154,000	106,666	77	2/3 job creation fulfilled final report due 1/10/12
2007	Principal Financial	30,000	30,000	550	All obligations fulfilled
2008	Hastings Foods	70,000		35	Have created 90 jobs 1st forgiveness year
2008	Nova-Tech	160,000	100,000 20,000	50	Infrastructure completed Next report due 1/10/12
2009	Ace Machine Shop	32,500	15,000 17,500	7	Infrastructure fulfilled job creation fulfilled
2009	Structured Solutions	600,000			in default
2010	Hornady Mfg. #2	200,000	75,000 41,666	50	Infrastructure fulfilled 1/3 Job Creation fulfilled report due in July 2012
2010	Platte Valley Ind. Pk.	575,000			Project bids received
2010	Rogue Manufacturing	50,000	35,000	12	Infrastructure fulfilled FTE report due 1/10/12
2011	Standard Iron #2	225,000	150,000	25	Infrastructure fulfilled FTE report due 1/10/12
2011	Case IH #2	219,000		73	First reporting period October of 2012

Grand Island Workforce 2002 thru 2011

Annual Not Seasonally Adjusted Labor Force, Employment and Unemployment data in Grand Island

Civilian Labor Force	Employment	Unemployment	Unemployment Rate
22,924	21,966	958	

Source: Nebraska Dept. of Labor, Labor Market Information, Local Area Unemployment Statistics

Annual Not Seasonally Adjusted Labor Force, Employment and Unemployment data in Grand Island

Civilian Labor Force	Employment	Unemployment	Unemployment Rate
26,296	25,240	1,056	

Source: Nebraska Dept. of Labor, Labor Market Information, Local Area Unemployment Statistics

Impact of LB-840 investment

- 3,274 new jobs in 10 years (NE Dept. of Labor)
- 1,188 direct jobs created with estimated payroll of \$36,048,313 per year.
- Direct jobs created reflect what was stated in the application.

(Every dollar spent turns over 7 times (\$890 million) in our community)



City of Grand Island

Tuesday, April 10, 2012

Council Session

Item F1

#9377 - Consideration of Amending Chapter 16 of the Grand Island City Code Relative to Fireworks

Staff Contact: Tim Hiemer, Fire Division Chief

Council Agenda Memo

From: Robert J. Sivick, City Attorney
Meeting: April 10, 2012
Subject: Fireworks
Item #'s: F-1
Presenter(s): Tim Hiemer, Fire Operations Division Chief

Background

The topic of fireworks was discussed at Study Session meetings of the Grand Island City Council (Council) held on October 18, 2011 and April 3, 2012.

At each Study Session referenced above City staff presented and the Council discussed among other things, the following topics:

1. Limiting the dates of sale of fireworks.
2. Limiting the permissible dates and times for the discharge of fireworks.
3. Insuring the Fire Department is aware of fireworks storage locations in the City.
4. The need to protect the City's interests by requiring adequate insurance coverage for fireworks vendors.
5. Limiting the total number of fireworks stands.
6. Insuring changes do not go into effect until 2013 to allow fireworks vendors adequate time to adjust their business practices.
7. Increasing the fee for fireworks vendor permits to cover the City's expenses in administering and enforcing its fireworks laws.

Discussion

The proposed ordinance generally makes the following changes to the Chapter 16, Article II of the Grand Island City Code regarding fireworks:

1. Beginning in 2013 fireworks vendors must disclose fireworks storage locations within the City.
2. Beginning in 2013 fireworks vendors must maintain a liability policy of no less than one million dollars listing the City as an additional insured.
3. Beginning in 2013 fireworks sales will be limited from June 28 to July 4. In 2014 and

- subsequent years, fireworks sales will be limited from June 29 to July 4.
4. Beginning in 2013 the total number of fireworks stands in the City will be limited to forty. Permits to sell fireworks will be issued on a first come – first served basis.
 5. Beginning in 2013 the discharge of fireworks will be limited to 8 AM to 10 PM for June 28 to July 2, 8 AM to 11 PM for July 3, and 8 AM to midnight for July 4. Signage requirements at fireworks stands will incorporate the new discharge date and time limits when they take effect.
 6. The State statute listing permissible fireworks has been added for reference.
 7. The fee for obtaining a permit to sell fireworks is not listed in this Ordinance. City staff believes waiting to adjust the fee until the 2012-13 fiscal year budget is drafted will allow the compilation of additional data as to the costs borne by the City related to the sale and discharge of fireworks.

Alternatives

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

1. Move to approve the proposed amended Ordinance.
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 the Council approve Ordinance No. 9377 amending Chapter 16, Article II of the Grand Island City Code related to fireworks.

Sample Motion

Move to approve Ordinance No. 9377 amending Chapter 16, Article II of the Grand Island City Code related to fireworks.

ORDINANCE NO. 9377

WHEREAS, the Grand Island City Council finds it necessary to amend Chapter 16, Article II of the Grand Island City Code, its laws regulating fireworks, to reflect existing community standards,

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

I. That Chapter 16, Article II of the Grand Island City Code be amended to read as follows:

Article II. Fireworks

§16-12. Generally

It shall be unlawful for any person to possess, sell, offer for sale, bring into this City, or discharge any pyrotechnics, commonly known as fireworks other than permissible fireworks; provided, that the provisions of this section shall not apply to:

- (1) Any fireworks for purposes of public exhibitions or displays purchased from a licensed distributor or the holder of a display license to be issued by the State Fire Marshal, which license shall be good only for the calendar year in which issued and which shall not authorize the holder to sell or hold for sale any permissible fireworks as defined in §16-20 or any firecrackers of any description, whether soft shell or hard shell;
- (2) Any public exhibition or display under the auspices of the City of Grand Island;
- (3) Any fireworks brought into this state for storage by a licensed distributor and held for sale outside of this State;
- (4) Any fireworks furnished for agricultural purposes pursuant to written authorization from the State Fire Marshal to any holder of a distributor's license; or
- (5) Toy cap pistols or toy caps each of which does not contain more than twenty-five hundredths of a grain of explosive material.

§16-13. Permit to Sell Fireworks

It shall be unlawful for any person to sell or offer for sale permissible fireworks in the City without first having made application to the Fire Administration Office (City Hall) for a permit and received ing a permit to do so from the ~~Fire Prevention~~ Life Safety Division. Beginning in 2013, such permits shall require that applicants disclose any location within the geographic boundaries of the City where they are storing fireworks for sale. Beginning in 2013 such permits shall require applicants to offer proof of a valid liability insurance policy of at least one million dollars (\$1,000,000.00) naming the City as an additional insured party. This policy must be in full force and effect for the entire period of lawful fireworks sales as set forth in §16-15. Such permits shall be in accordance with the City of Grand Island Fee Schedule and shall be valid for the calendar year in which issued, and shall at all times be displayed at the place of business of the holder thereof. Such permits shall not be transferable.

Amended by Ord. No. 8895, effective 5-12-2004

§16-14. Repealed by Ordinance No. 8895

§16-15. Dates of Lawful Sale

Permissible fireworks may be sold or offered for sale in the City of Grand Island on June 27 through and including July 4 of each year. Beginning in 2013, permissible fireworks may be sold or offered for sale in the City of Grand Island on June 28 through and including July 4 and June 29 through and including July 4 of each year thereafter.

§16-16. Temporary Fireworks Stands

Any person having obtained a permit to sell permissible fireworks may sell or offer for sale such fireworks only from a temporary stand or enclosure erected or placed on real estate for that purpose. No fireworks shall be sold from permanent buildings or structures in the City. If fireworks are to be sold from a temporary stand or enclosure, such stand or enclosure shall be of wood or steel frame construction covered with metal or wood. Any temporary enclosure or stand shall be permitted only in those areas of the City zoned for business or manufacturing, and only after a permit is obtained

ORDINANCE NO. 9377 (Cont.)

from the ~~Fire Prevention~~ Life Safety Division for the erection or placement of such temporary enclosures or stands. Such temporary enclosures or stands shall be permitted to remain on real estate where permissible fireworks are sold for only the period beginning on June 22 through and including July 9 of each year. Any such temporary stand or enclosure shall not be located closer than twenty-five feet from any building, and at least one hundred feet from any station where gasoline and oil for motor vehicles is sold. Such temporary stand or enclosure shall not exceed five hundred square feet in size. Beginning in 2013 the total number of fireworks stands permitted in the City will not exceed forty (40). Permits to operate stands will be issued to qualified applicants on a first come – first served basis.

Amended by Ord. No. 8895, effective 5-12-2004

§16-16.1. Signage Required

Smoking shall not be permitted inside or within 50 feet of the temporary fireworks stand or sales area. At least one sign that reads as follows, in letters at least 2 inches in height on a contrasting background, shall be conspicuously posted on the exterior of each side of the fireworks stand:

NO SMOKING OR
DISCHARGE OF FIREWORKS
ON THE PREMISES

In addition to the "no smoking" sign, at least one sign, 2 foot by 3 foot in size, on a contrasting background, shall be posted on the exterior of the fireworks stand that reads as follows:

THE GRAND ISLAND CITY CODE ALLOWS
FIREWORKS TO BE DISCHARGED ONLY ON THE
FOLLOWING DATES AND TIMES:

June 27 through July 3 – 8:00 a.m. to 11:00 p.m.
July 4 – 8:00 a.m. to midnight

Beginning in 2013 and each year thereafter the language of the sign listed immediately above shall be altered to read as follows:

THE GRAND ISLAND CITY CODE ALLOWS
FIREWORKS TO BE DISCHARGE ONLY ON THE
FOLLOWIN DATES AND TIMES:
June 28 through July 2 – 8:00 a.m. to 10:00 p.m.
July 3 – 8:00 a.m. to 11:00 p.m.
July 4 – 8:00 a.m. to midnight

Added by Ord. No. 8895, effective 5-12-2004

§16-17. Age Limitation for Selling Fireworks

Retail sales establishments shall, at all times, be supervised by a person of at least sixteen (16) years of age. Failure to comply with this regulation may result in immediate revocation of the retail license.

§16-18. Discharging Fireworks Where Sold

It shall be unlawful for any person to discharge fireworks in or upon the premises where fireworks are sold.

Amended by Ord. No. 8895, effective 5-12-2004

§16-19. Explosives; Throwing Prohibited

It shall be unlawful for any person to throw any firecracker, or any object which explodes upon contact with another object: (1) from, at, or into a motor vehicle; (2) onto any street, highway, or sidewalk; (3) at or near any person; (4) into any building; or (5) into or at any group of persons.

§16-20. Definitions

Permissible fireworks shall mean only sparklers, vesuvius fountains, spray fountains, torches, color fire cones, star and comet type color aerial shells without explosive charge for the purpose of making a noise, firecrackers not to exceed two inches in length and three-eighths of an inch in diameter, total pyrotechnic composition not to exceed 50.0 milligrams each in weight, color wheels, and any other fireworks approved under Sections 28-1241(7) and 28-1247 of the ~~State Fire Marshal's Act Book~~ Nebraska Revised Statutes. See also *Rules and Regulations concerning fireworks in the State of Nebraska Administrative Code, Title 157.*

Person as used in this Article shall include any person, firm, partnership, association of persons, or corporation.

Sale shall include barter, exchange, or gift or offer therefor, and each such transaction made by any person whether as principal, proprietor, agent, servant, or employee.

Amended by Ord. No. 8895, effective 5-12-2004

ORDINANCE NO. 9377 (Cont.)

§16-21. Repealed by Ordinance No. 8895

§16-22. Discharge of Fireworks

Permissible fireworks may be discharged, exploded, or used in the City of Grand Island on June 27 through and including July 4 of each year; provided that on such days the discharge and explosion of fireworks shall be permitted during the following times:

June 27 through July 3 8 a.m. to 11 p.m.
July 4 8 a.m. to midnight

Beginning in 2013 and each year thereafter, the following fireworks discharge schedule shall be in effect:

June 27 through July 2 – 8:00 a.m. to 10:00 p.m.

July 3 – 8:00 a.m. to 11:00 p.m.

July 4 – 8:00 a.m. to midnight

The discharge of fireworks within the City of Grand Island on any dates or times other than as set out in this section shall require a permit from the ~~Fire Prevention~~ Life Safety Division. Public exhibition applications shall be accompanied by documentation of a display license issued by the State Fire Marshal. Private party display applications will not require a State Fire Marshal license, but displays will be limited to permissible fireworks as described in §16-20 of this Article. Applicant shall also show that there will not be any substantial danger to people or property. Factors that will be considered when reviewing an application will include, but not be limited to, where the fireworks will be discharged, the procedures used to discharge the fireworks and the qualifications of the individuals discharging the fireworks.

Amended by Ord. No. 8895, effective 5-12-2004

II. Any ordinances or parts of ordinances in conflict are hereby repealed.

III. This ordinance shall be in full force and will take effect from and after its passage and publication pursuant to law.

Enacted: April 10, 2012.

Jay Vavricek, Mayor

ATTEST:

RaNae Edwards, City Clerk



City of Grand Island

Tuesday, April 10, 2012

Council Session

Item G1

Approving Minutes of March 26, 2012 City Council Regular Meeting

Staff Contact: RaNae Edwards

CITY OF GRAND ISLAND, NEBRASKA

MINUTES OF CITY COUNCIL REGULAR MEETING

March 26, 2012

Pursuant to due call and notice thereof, a Regular Meeting of the City Council of the City of Grand Island, Nebraska was conducted in the Council Chambers of City Hall, 100 East First Street, on March 26, 2012. Notice of the meeting was given in *The Grand Island Independent* on March 21, 2012.

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, Mitch Nickerson, Linna Dee Donaldson, and John Gericke. Councilmembers Scott Dugan and Randy Gard were 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 Finance Director Jaye Monter.

INVOCATION was given by Pastor Jason Warriner, Abundant Life Christian Church, 3411 West Faidley Avenue followed by the PLEDGE OF ALLEGIANCE.

Mayor Vavricek introduced Community Youth Council member Emma Kruetzer and Board member Craig Garrett.

PRESENTATIONS AND PROCLAMATIONS:

Proclamation "April as Month of the Military Child" 2012. Mayor Vavricek proclaimed the month of April 2012 as "April as Month of the Military Child". Beth Kaiser with NE Operation: Military Kids Coordinator was present for the presentation.

PUBLIC HEARINGS:

Public Hearing on Amendment to the Redevelopment Plan for CRA Area #1 located in East Grand Island at the Existing Lincoln Park, North of 7th Street and East of Beal Street. Regional Planning Director Chad Nabity reported that an amendment to the Redevelopment Plan for CRA Area #1 was needed in order for the CRA to issue bonds for the redevelopment of the Lincoln Park Pool. Staff recommended approval. No public testimony was heard.

Public Hearing on Adoption of a Blight Study & Generalized Redevelopment Plan for CRA Blight & Substandard Area #8. Regional Planning Director Chad Nabity reported that CRA had commissioned a Blight/Substandard Study and Generalized Redevelopment Plan for approximately 92.77 acres located south of Anna Street along Adams Street in south central Grand Island. The Hall County Regional Planning commission recommended this area be declared blighted and substandard. Staff recommended approval. No public testimony was heard.

ORDINANCES:

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

#9376 – Consideration of Amendment to Chapter 16 of the Grand Island City Code Relative to Burning Regulations

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

Fire Operations Division Chief Tim Hiemer reported that Ordinance No. 9376 would amend Chapter 16 of the Grand Island City Code to correct errors and insure certain activities common and accepted in the community were not deemed illegal.

Discussion was held regarding DEQ permits which were for larger fires such as construction, controlled burns, etc. The process of acquiring burn permits were explained by Mr. Hiemer.

Motion by Gilbert, second by Ramsey to approve Ordinance #9376.

City Clerk: Ordinance #9376 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 #9376 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 #9376 is declared to be lawfully adopted upon publication as required by law.

RESOLUTION:

#2012-84 – Consideration of Amending the Fee Schedule Relative to Burning Regulations. This item related to the aforementioned Ordinance No. 9376 which would add a \$10.00 burn permit fee to the fee schedule.

Motion by Ramsey, second by Niemann to approve Resolution #2012-84. Upon roll call vote, all voted aye. Motion adopted.

CONSENT AGENDA: Consent Agenda item G-11 was pulled from the agenda. Motion by Ramsey, second by Niemann to approve the Consent Agenda excluding item G-11. Upon roll call vote, all voted aye. Motion adopted.

Approving Minutes of March 13, 2012 City Council Regular Meeting.

Approving Minutes of March 20, 2012 City Council Study Session.

#2012-73 – Approving Amendment to the Redevelopment Plan for CRA Area #1 Located in East Grand Island at the Existing Lincoln Park, North of 7th Street and East of Beal Street.

#2012-74 – Approving Adoption of a Blight Study for CRA Blight and Substandard Area #8.

#2012-75 – Approving Generalized Redevelopment Plan for CRA Blight and Substandard Area #8.

#2012-76 – Approving a Six Month Agreement for Five City Hall Copiers Maintenance & Supplies with Capital Business Systems, Inc./Modern Methods.

#2012-77 – Approving Bid Award for Continuous Emissions Monitoring Systems (CEMS) at Platte Generating Station with Monitoring Solutions of Exton, PA in an Amount of \$55,775.00.

#2012-78 – Approving Proposal for the Air Quality Control System Engineering Services at Platte Generating Station with Kiewit Power Engineers of Lenexa, Kansas in an Amount not-to-exceed \$432,032.00.

#2012-79 – Approving Supplemental Agreement No. 1 with NDOR and Olsson Associates for Engineering Consulting Services Related to Grand Island Resurfacing – Various Locations.

#2012-80 – Approving Change Order No. 3 for Grand Island Quiet Zone Project No. 2012-QZ-1 with The Diamond Engineering Company of Grand Island, Nebraska for an Increase of \$806.74 and a Revised Contract Amount of \$248,524.99.

#2012-81 – Approving Correction to Resolution No. 2010-361; Acquisition of Landscape Easements Located in Business Improvement District No. 6 (Second Street). This item was pulled from the agenda.

#2012-82 – Approving the Adoption of the Resolution to Comply with Local Public Agency Guidelines Manual by Updating the Financial Management Systems Certification.

REQUESTS AND REFERRALS:

Referral of Blight and Substandard Study for Proposed Redevelopment Area #9 to Regional Planning. Regional Planning Director Chad Nabity reported that Gordman Properties LLC had submitted a Substandard and Blight Study for approximately 72 acres of property in northwest Grand Island between Capital Avenue and State Street and U.S. Highway 281 and Webb Road. Once an area had been declared substandard and blighted the CRA could accept redevelopment proposals for the area that might or might not include an application for Tax Increment Financing.

Ron Depue, 308 North Locust Street representing Gordman Properties LLC spoke in support. Comments were made by Council regarding the importance of this project and moving it forward. Mr. Depue stated future redevelopment in this area was possible contingent upon Tax Increment Financing (TIF).

Motion by Haase, second by Donaldson to refer the Blight and Substandard Study for proposed Redevelopment Area #9 to the Regional Planning Commission. Upon roll call vote, all voted aye. Motion adopted.

Approving Appointment of Vaughn Minton as City Councilmember for Ward 1. Mayor Vavricek submitted the name of Vaughn Minton as City Councilmember for Ward 1.

Motion by Gilbert, second by Niemann to approve the appointment of Vaughn Minton as City Councilmember for Ward 1. Upon roll call vote, all voted aye. Motion adopted.

Mr. Winton was present and stated he looked forward to working with the Councilmembers.

RESOLUTIONS:

#2012-83 – Consideration of Authorization to Solicit Proposals to Lease the Ashton Street Ball Field. Parks and Recreation Director Steve Paustian reported that a Study Session was held on March 20, 2012 to discuss the request that had been made to lease the ball field located at Ashton and Oak Streets. This Resolution, as approved would authorize the Parks and Recreation Department to proceed with a request for proposals to allow any interested citizen or group to submit a proposal.

Motion by Haase, second by Donaldson to approve Resolution #2012-83. Upon roll call vote, all voted aye. Motion adopted.

PAYMENT OF CLAIMS:

Motion by Gericke, second by Niemann to approve the Claims for the period of March 14, 2012 through March 26, 2012, for a total amount of \$3,665,224.74. Unanimously approved.

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

RaNae Edwards
City Clerk



City of Grand Island

Tuesday, April 10, 2012

Council Session

Item G2

Approving Minutes of April 3, 2012 City Council Study Session

Staff Contact: RaNae Edwards

CITY OF GRAND ISLAND, NEBRASKA

MINUTES OF CITY COUNCIL STUDY SESSION

April 3, 2012

Pursuant to due call and notice thereof, a Study Session 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 April 3, 2012. Notice of the meeting was given in the *Grand Island Independent* on March 28, 2012.

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

INVOCATION was given by Community Youth Council member AnnaJean Scarborough followed by the PLEDGE OF ALLEGIANCE.

Mayor Vavricek introduced Community Youth Council member AnnaJean Scarborough and Board member Liz Mayfield.

OTHER ITEMS:

Administration of Oath of Office to Vaughn Minton City Councilmember for Ward 1. City Clerk RaNae Edwards administered the oath of office to Vaughn Minton – City Councilmember for Ward 1. Vaughn Minton's wife LaNae Minton was also present.

Discussion on Mosquito Abatement. Mayor Vavricek mentioned that about a year ago a citizen made a future agenda item request regarding mosquitoes. Introduced was Jeremy Collinson with the Central District Health Department who explained the process used to mitigate the hazards presented by mosquito populations. A PowerPoint was presented explaining what the Health Department provided regarding mosquito abatement.

A brief review was made of mosquito biology. Two types of mosquitoes, floodwater and permanent water were mentioned and explained. There were approximately 50 species in Nebraska. Only female mosquitoes required a blood meal or bite. Depending on the species they could travel up to three miles. Wet weather and standing water draws mosquitoes.

Explained were the processes of larval control, surveillance activities, trap counts, and adult mosquito control. Mosquito control was determined by surveillance activities and spraying occurred during dawn & dusk when the mosquitoes were most active. Wind and weather determine if control could happen.

All products used were EPA approved and all staff was Certified Pesticide Applicators by the Nebraska Department of Ag. All equipment was calibrated yearly and staff followed all labels when applying chemicals.

Discussion was held regarding electric bug zappers. Mr. Collinson stated they had limited control. Costs of spraying depended on the weather but were around \$5,000 to \$6,000 for chemicals and staff time yearly.

Presentation Regarding Automated Meter Reading. Utilities Director Tim Luchsinger gave a PowerPoint presentation on AMR/AMI technologies. Automated Meter Reading (AMR) had been used by utilities to allow reading of consumption meters for electricity, water and natural gas by mobile or remote sites. Its successor, Advanced Metering Infrastructure (AMI), allowed remote meter reading along with additional communication to the utility and the consumer.

AMR was a one way communication and AMI was a two way communication. AMR was a radio that was used either in a walk-by or drive-by process. This would replace the manual meter reading. Lincoln and Fremont used AMR with installation at a cost of \$12,000,000 and \$2,500,000 respectively.

AMI was a two way communication that used radio, cable, fiber optics, Internet, or cellular phone. It had “Smart Grid” functionality with remote meter reading by utility and customer, disconnect and connect from a central location with a remote outage indication and pre-pay billing. Boulder, CO and Naperville, IL used AMI with an estimated cost of \$45,000,000 and \$22,000,000, respectively. Mentioned were issues with AMI of data security, data privacy, no standard protocol, and electric systems limited experience, usually funded by DOE grants.

Grand Island currently had 25,000 electric meters and 15,000 water meters. Capital cost would be \$8,000,000 to \$10,000,000 with a \$2,000,000 installation cost and a three year completion to allow meter reading benefits. Additional IT staff would be needed.

The following Cost/Benefits were presented:

Costs:

- \$8,000,000 capital cost
- Installation cost – contractor/in-house
- Additional IT staff – network provider/in-house
- Annual meter replacement

Benefits:

- \$325,000 meter reader staff reduction annual savings
- Connect/disconnect functionality – reduce account receivables
- Outage duration reduction – keep customers on

Cost/Benefit = 25 year payback

The following conclusions by staff for AMR/AMI were the conversion to automated metering was not solely supported by meter reading cost/benefit. Customer demand for AMI applications could be a primary driver. AMI standard platform was likely in the near term. There was a need

to monitor market and evaluate cost/benefit periodically. The City needed to evaluate technology starting with substations and large industrial customers.

Presented was the Merrick County Pilot Program:

- Approximately 180 customers
- Upgrade existing electric meters
- Water meters included with UPRR project
- Communication network to be determined
- Cost estimates have been requested

Discussion was held concerning cutting costs, being more efficient, effective and giving better service. Mentioned was the possibility of partnering with the gas company. Mr. Luchsinger suggested they could create a specification for bids to work with the Merrick County Pilot Program. Comments were made concerning the changing technology and not moving too fast.

Mr. Luchsinger commented that other cities had implemented automated meter reading through grants. Benefits to the consumer would be to better plan for the use of electricity during lower usage times in order to save money. Mentioned was that in the next three to five years we would see platforms becoming more standard and more cities moving toward the automated meter reading.

Mentioned was the next step would be to proceed with bids for the Merrick County Pilot Program and bring it back to Council for approval.

Discussion of City Property for Commercial Lease. Building Department Director Craig Lewis reported that in the past the City had been approached about private enterprises leasing city property for commercial uses. Currently there was no specific policy addressing these requests. The most recent requests had been to utilize a City park and a City fire station property to locate and construct a cell phone tower for coverage of a local cellular service provider.

Currently the zoning restrictions would apply as if privately owned property. Legal considerations would not limit the City's ability to lease these properties.

The following city properties were mentioned:

City Hall	Parks
Drainage	Trails
Fire Stations	Utility
Lift Stations	Well Sites
City Parking	Others

Chris Riha representing Viaero Wireless spoke in support of leasing property at Stolley Park for a mono-pole cell tower.

Mentioned was that the current procedure of treating each request on a case-by-case basis had worked and gave Council the flexibility to decide specific issues. A suggestion was presented to have City owned towers to lease space to limit the number of towers in the City.

Discussion on Fireworks. Fire Operations Division Chief Tim Hiemer reported that at the October 18, 2011 Study Session the following four main topics were discussed: 1) no New Year sales or discharge 2) review the current fee schedule for recovery of costs 3) shorten sales period and discharge times and 4) control the quantity of stands.

A PowerPoint was presented comparing five Nebraska cities with regards to: permit fees, days of sales, discharge times, and average number of stands. Grand Island had 39 stands in 2011. The City regulates the sale of fireworks through temporary stand by City Code. There was no limit on the number of stands. Inspections occurred several times during operation: when stocked, daily spot inspections during the selling period and after July 4 to insure the stands were properly removed.

Mentioned was the additional workload for the Fire Department, Police Department, Communications Center and Public Works Department along with approximately \$20,400 in related costs.

The following proposed changes were presented:

- Raise permit fee to \$650 (This will cover the additional cost to the city related to fireworks)
- Shorten sales to six days, June 29 through July 4
- Cap number of stands at 40 (previous permit holder given preference)
- Set application period deadline May 1st
- Shorten discharge times from 8 a.m. to 11 p.m. to 8 a.m. to 10 p.m. except on the 4th leave as is from 8 a.m. to 12 a.m.
- Require \$1 million liability policy with City as additional insured
- Enforce NFPA 1124 code for storage of fireworks (will keep stored fireworks out of residential areas)

These changes resulted in fewer days and shorter hours for discharge of fireworks, a cap on the number of stands to 40, and adjusts revenue to offset additional cost incurred by the City.

The following people spoke:

- Marvin Kohler, 1739 Ingalls Street - opposed
- LexAnn Roach, 917 West 10th Street - support
- Tom Towne, 1609 Meadow Road – opposed shortening the days of sale
- Kenneth Enck, 4174 New York Avenue – opposed
- Dennis Berggren, 721 “B” Street, Central City – representing the Elks Lodge – opposed
- Margie Kohler, 1739 Ingalls Street - opposed

Comments were made by Council regarding constituent’s complaints as to the number of days fireworks were sold, noise, and trash. Number of stands at 40 was mentioned as being too many. Fees, insurance, inspections, and cost to the Fire Department were discussed along with non-profit organizations.

City Attorney Bob Sivick commented there was a liability to the City which was why the insurance requirement was proposed.

Safety was mentioned with regards to shortening the days of sale and discharge times. It was recommended that the number of stands be reduced to 30, no more than 35. Mr. Hiemer stated an inspection would take approximately 15 minutes by the Fire Prevention Chief.

Mayor commented on notifying those involved with fireworks stands regarding further issues to come before Council. Marvin Kohler stated the reason for the number of stands was due to location and clientele. The May 1st deadline would not be a problem. Mentioned was commercial displays would not be affected by the time change.

Police Chief Steve Lamken answered questions regarding the penalty for shooting fireworks illegally. Mentioned was any changes would take place in 2013.

ADJOURNMENT: The meeting was adjourned at 10:10 p.m.

RaNae Edwards
City Clerk



City of Grand Island

Tuesday, April 10, 2012

Council Session

Item G3

**Approving Request from Paul Younes, 6 West 21st Avenue Place,
Kearney, Nebraska for Liquor Manager Designation for Fairfield
Inn & Suites, 805 Allen Drive**

Staff Contact: RaNae Edwards

Council Agenda Memo

From: RaNae Edwards, City Clerk

Meeting: April 10, 2012

Subject: Request from Paul Younes, 6 West 21st Avenue Place, Kearney, Nebraska for Liquor Manager Designation for Fairfield Inn & Suites, 805 Allen Drive

Item #'s: G-3

Presenter(s): RaNae Edwards, City Clerk

Background

Paul Younes, 6 West 21st Avenue Place, Kearney has submitted an application with the City Clerk's Office for a Liquor Manager Designation in conjunction with the Class "I-90911" Liquor License for Fairfield Inn & Suites, 805 Allen Drive.

This application has been reviewed by the Police Department and City Clerk's Office.

Discussion

City Council action is required and forwarded to the Nebraska Liquor Control Commission for issuance of all liquor manager designations. All departmental reports have been received. See attached Police Department report.

Alternatives

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

1. Approve the request.
2. Forward the request with no recommendation.
3. Take no action on the request.

Recommendation

City Administration recommends that the Council approve the request for Liquor Manager Designation.

Sample Motion

Move to approve the request from Paul Younes, 6 West 21st Avenue Place, Kearney, Nebraska for Liquor Manager Designation in conjunction with the Class "I-90911" Liquor License for Fairfield Inn & Suites, 805 Allen Drive with the stipulation that Mr. Younes complete a state approved alcohol server/seller training program.

04/05/12

Grand Island Police Department

450

11:31

LAW INCIDENT TABLE

Page: 1

City : Grand Island

Occurred after : 12:18:12 03/30/2012

Occurred before : 12:18:12 03/30/2012

When reported : 12:18:12 03/30/2012

Date disposition declared : 03/30/2012

Incident number : L12034201

Primary incident number :

Incident nature : Liquor Lic Inv Liquor License
Investigation

Incident address : 805 Allen Dr

State abbreviation : NE

ZIP Code : 68803

Contact or caller :

Complainant name number :

Area location code : PCID Police - CID

Received by : Vitera D

How received : T Telephone

Agency code : GIPD Grand Island Police Department

Responsible officer : Vitera D

Offense as Taken :

Offense as Observed :

Disposition : ACT Active

Misc. number : RaNae

Geobase address ID : 483

Long-term call ID :
Clearance Code : CL Case Closed
Judicial Status : NCI Non-criminal Incident

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INVOLVEMENTS:

Px	Record #	Date	Description	Relationship
NM	158314	04/05/12	Younes, Paul J	Liquor Manganer
NM	158315	04/05/12	Younes, Linda M	Paul's Wife
NM	158316	04/05/12	Fairfield Inn and Suites, Involved	Business

LAW INCIDENT CIRCUMSTANCES:

Se Circu	Circumstance code	Miscellaneous
1	LT14	Hotel/Motel/Etc.

LAW INCIDENT NARRATIVE:

I Received a Copy of a Liquor Manager Application from Paul Younes for the
Fairfield Inn & Suites.

LAW INCIDENT OFFENSES DETAIL:

Se Offe	Offense code	Arson Dama
1	AOFF Alcohol Offense	0.00

LAW INCIDENT RESPONDERS DETAIL:

Se Responding offi	Unit n	Unit number
1	Vitera D	318 Vitera D

LAW SUPPLEMENTAL NARRATIVE:

Seq	Name	Date
1	Vitera D	10:39:47 04/05/2012

318

Grand Island Police Department

Supplemental Report

Date, Time: Thu Apr 05 10:40:00 CDT 2012

Reporting Officer: Vitera

Unit- CID

Paul Younes has ten liquor licenses in the State of Nebraska. I did a liquor

license investigation involving Paul and his wife about a year and a half ago

when they applied for a liquor license for the Fairfield Inn & Suites. They had

a few minor undisclosed traffic convictions but nothing that prevented them from

receiving a license.

Paul's current liquor manager application states that he and his wife have lived

in Kearney, NE for the last 22 years. They still didn't disclose any convictions, and Linda signed a Spousal Affidavit of Non Participation.

I checked Paul and Linda in Spillman and NCJIS. Their only two entries in Spillman are the entries I made for the past and current liquor license investigation. According to NCJIS, neither one of them have any new convictions

since my last investigation. I also checked them through a law enforcement only

data base that includes a lot of personal, business, and civil information.

Nothing detrimental was located.

Based on the fact that Paul Younes has several liquor licenses, I did a background check on him 1.5 years ago with no negative results, and nothing

apparently changing since then, the Grand Island Police Department has no objection to Paul Younes being the liquor manager at the Fairfield Inn & Suites.



City of Grand Island

Tuesday, April 10, 2012

Council Session

Item G4

#2012-85 - Approving 2012 VOCA Grant Application

Staff Contact: Steve Lamken

Council Agenda Memo

From: Captain Peter Kortum, Police Department
Meeting: April 10, 2012
Subject: 2012 VOCA Grant Application
Item #'s: G-4
Presenter(s): Steve Lamken, Chief of Police

Background

The Grand Island Police Department has managed the victim assistance program for Grand Island-Hall County since 2004. Primary funding is from the Victims Of Crime Act (VOCA). Grants are awarded through the Nebraska Crime Commission. Historically, the City matches the grant with cash support and in kind services near the 20% level. The estimated budget for the grant period of 10-1-2012 to 9-30-13 is \$65,066.00. The estimated match is \$13,084.00. This match includes volunteer time, police staff, and in kind services from the City and County.

This agenda item seeks approval to submit the application.

Discussion

A requirement for the grant application is that the grant application must be signed by the agency executive officer for the City of Grand Island.

Alternatives

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

1. Do not approve the application
2. Approve the application

Recommendation

City Administration recommends that the Council approve the application of the award. Any award based on this application will come to council for acceptance.

Sample Motion

Move to approve the application for 2012 Victims of Crime Act grant funding for the Grand Island-Hall County Victim Assistance Program.

RESOLUTION 2012-85

WHEREAS, the Police Department of the City of Grand Island received notification of the grant application period for the 2012 Victims of Crime Act from the Nebraska Crime Commission; and

WHEREAS, the grants awarded are for local victim assistance programs; and

WHEREAS, this application covers October 1, 2012 through September 30, 2013;
and

WHEREAS, any grant award will be brought to council for acceptance; and

WHEREAS, the Mayor of the City of Grand Island is required to sign the grant application as the City's Executive Officer.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the grant application prepared by the police department for submission to the Nebraska Crime Commission is hereby approved.

BE IT FURTHER RESOLVED, that the Mayor is hereby authorized and directed to execute such grant application on behalf of the City of Grand Island.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, April 10, 2012.

Jay Vavricek, Mayor

Attest:

RaNae Edwards, City Clerk



City of Grand Island

Tuesday, April 10, 2012

Council Session

Item G5

#2012-86 - Approving 2012 Justice Assistance Grant Application and Memorandum of Understanding with Hall County

This item relates to the aforementioned Public Hearing item E-2.

Staff Contact: Steve Lamken, Chief of Police

RESOLUTION 2012-86

WHEREAS, the Grand Island Police Department has received notification that they are eligible to apply for \$29,838.00 in grant funds under the 2012 Byrne Justice Assistance (JAG) Program and the Hall County Sheriff's Department has been named as a disparate agency; and

WHEREAS the Grand Island Police Department as the applicant will act as the fiscal agent; and

WHEREAS, the Grand Island Police Department will be allocated \$22,379.00 of the grant funds; and

WHEREAS the Hall County Sheriff's Department will be allocated \$7,459.00 of the grant funds; and

WHEREAS, a public hearing was held on April 10, 2012, as required to discuss the proposed use of such funds; and

WHEREAS, a memorandum of understanding between the City of Grand Island and Hall County is required as part of the grant application.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that approval is hereby granted to enter into a memorandum of understanding (MOU) with Hall County for the application of 2012 Justice Assistance Grant (JAG) funding.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, April 10, 2012.

Jay Vavricek, Mayor

Attest:

RaNae Edwards, City Clerk



City of Grand Island

Tuesday, April 10, 2012

Council Session

Item G6

#2012-87 - Approving Bid Award - Water Main District 458T and Sanitary Sewer District 527T - Platte Valley Industrial Park

Staff Contact: Tim Luchsinger, John Collins, Jason Eley

Council Agenda Memo

From: Terry Brown, Manager of Engineering Services
Tim Luchsinger, Utilities Director
Jason Eley, Assistant City Attorney/Purchasing

Meeting: April 10, 2012

Subject: Approving Bid Award in Platte Valley Industrial Park (PVIP)
East; Water Main District 458T, and Sanitary Sewer District
527T for the City of Grand Island

Item #'s: G-6

Presenter(s): Tim Luchsinger, Utilities Director
John Collins, Public Works Director

Background

This is a combined project of the City's Utilities and Public Works Departments for the installation of water main, and sanitary sewer lines to provide municipal utility infrastructure to the Platte Valley Industrial Park Site. The project is located in Platte Valley Industrial Park-East, located between Gold Core Drive and Blaine Street, and between Schimmer Drive and Wildwood Drive. Attached for reference is a map showing the construction area.

Funding assistance has been allocated to the improvement project from the 2010 Community Development Block Grant (CDBG) Disaster Recovery Program in the amount of \$935,000. This Block Grant requires a City's matching fund of \$1,275,000. Public hearing for grant funding was published on October 16, 2010 in the *Grand Island Daily Independent*. The public hearing was conducted on October 26, 2010 at City Council's regular meeting, and Council approved Resolution 2010-292 authorizing the application for the Economic Development Grant from the Nebraska Department of Economic Development. Additionally, \$575,000 in Local Area Economic Development LB 840 funds has been allocated to the project.

On November 23, 2010, Water Main District 458T and Sanitary Sewer District 527T were created to allow construction of this project. These are tap districts, which provide for costs to be assessed against the property by the Council sitting as the Board of Equalization, and paid for at the time utility services are requested by the property owner.

Discussion

On March 5, 2012, the Utilities and Waste Water Divisions advertised for bids in the *Grand Island Daily Independent*. The contract specifications were sent to ten construction firms, five material suppliers/subcontractors, and six information service plan rooms. In order to more efficiently manage project costs, the water main and sanitary sewer districts construction contract was proposed to be awarded to a single bidder, based on the least total cost for the entire project (water main plus sanitary sewer).

On March 21, 2012, bids were received from the following three contractors.

<u>Bidder:</u>	<u>Diamond Engineering</u>	<u>General Excavation</u>	<u>Judds Brothers</u>
Exceptions:	None	None	None
Bid Prices			
Water Main	\$ 778,524.96	\$ 1,029,163.00	\$ 1,249,367.00
Sanitary Sewer	\$ 484,384.60	\$ 626,552.50	\$ 997,501.00
Total Bid	\$ 1,262,909.56	\$ 1,655,715.50	\$ 2,246,868.00

The Utilities Department, Waste Water Division of the Public Works Department and the Purchasing Division of the City Attorney's Office have reviewed the bids and all were compliant with the specifications. The bid of \$1,262,909.56 from Diamond Engineering Company is under the Engineer's Estimate of \$1,849,522.00, and recommended as the low compliant bid. There are sufficient funds budgeted in Water Fund 525 and Sanitary Sewer Fund 530 for this contract award.

The project will provide extended City water and sanitary sewer services to a currently undeveloped portion of the Platte Valley Industrial Park East in order to promote growth and development and expand recruitment potential in the area. For this project phase and use of requested block grant funds, the water and sewer extensions are identified as the highest priority for development, with drainage and paving to be phased in at a later date.

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

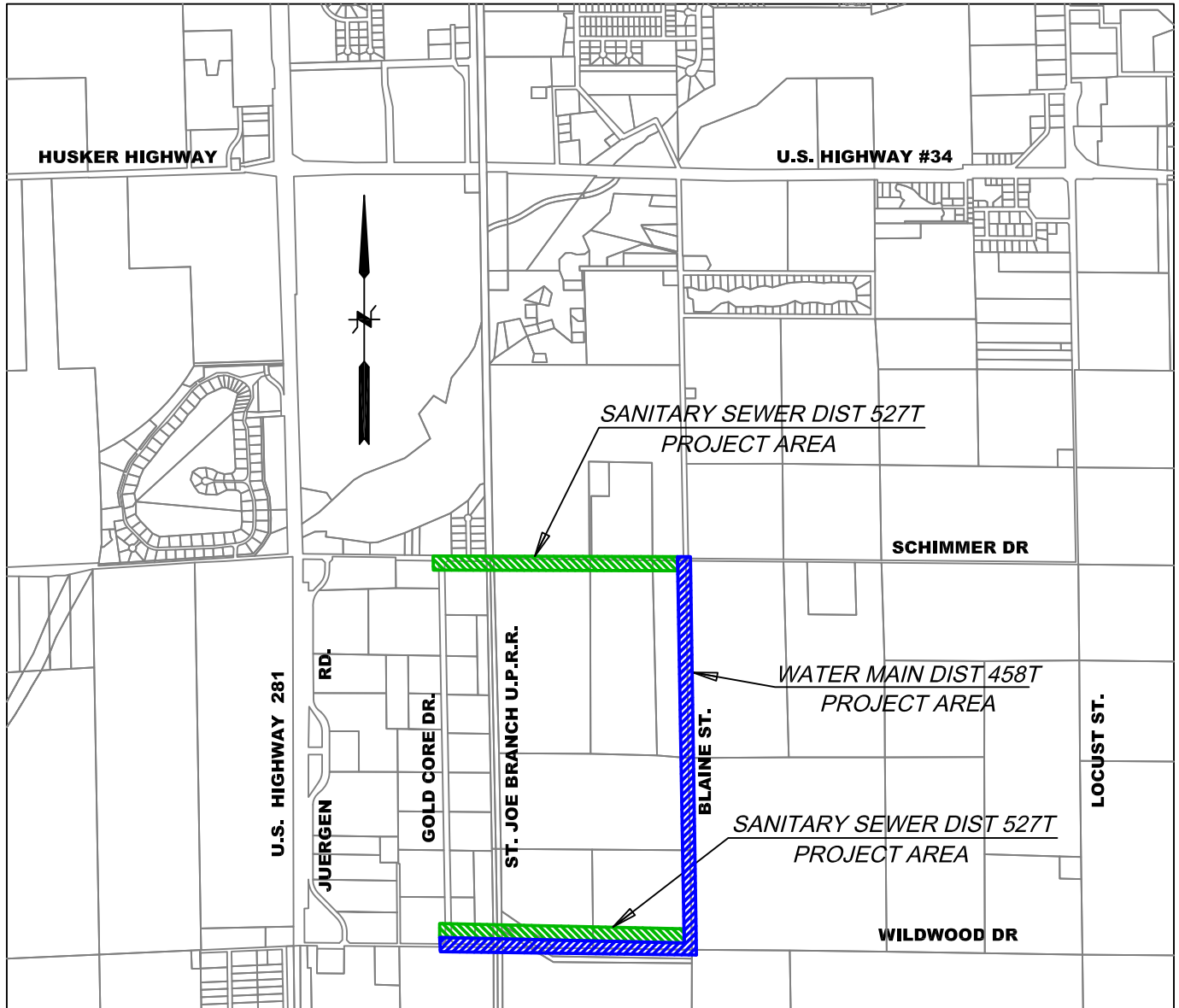
Recommendation

City Administration recommends that the Council approve the bid, and award the contract to The Diamond Engineering Company of Grand Island, Nebraska in the amount of \$1,262,909.56 for Platte Valley Industrial Park East; Water Main District 458T, and Sanitary Sewer District 527T.

Sample Motion

Move to approve the bid of The Diamond Engineering Company of Grand Island, Nebraska in the amount of \$1,262,909.56 for Platte Valley Industrial Park East; Water Main District 458T, and Sanitary Sewer District 527T.

LOCATION MAP





Jason Eley, Purchasing Agent

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Better Tomorrow, Today*

BID OPENING

BID OPENING DATE: March 21, 2012 at 2:00 p.m.

FOR: Water Main District 458T & Sanitary Sewer District 527T

DEPARTMENT: Public Works

ESTIMATE: \$754,522.00 – 458T (Wastewater)
\$1,095,000.00 – 527T (Utilities)

FUND/ACCOUNT: 53030055-85213-53042
525

PUBLICATION DATE: March 5, 2012

NO. POTENTIAL BIDDERS: 12

SUMMARY

Bidder:	<u>Diamond Engineering Co.</u> Grand Island, NE	<u>General Excavating</u> Lincoln, NE
Bid Security:	Universal Surety Company	Universal Surety Company
Exceptions:	None	None

Bid Price:		
Water Main:	\$778,524.96	\$1,029,163.00
Sanitary Sewer:	\$484,384.60	\$ 626,552.50
Total:	\$1,262,909.56	\$1,655,715.50

Bidder:	<u>Judds Brothers Construction Co.</u> Lincoln, NE
Bid Security:	International Fidelity Company
Exceptions:	None

Bid Price:	
Water Main:	\$1,249,367.00
Sanitary Sewer:	\$ 997,501.00
Total:	\$2,246,868.00

Jason Eley, Purchasing Agent
Mary Lou Brown, City Administrator
Catrina DeLosh, PW Admin. Assist.
Vicki Tylkowski, WWTP Clerk

Bob Smith, Assist. Utilities Director
Pat Gericke, Utilities Admin. Assist.
Roger Scott, Eng. Tech.

P1544

RESOLUTION 2012-87

WHEREAS, Advertisement to Bidders for Water Main District 458T, and Sanitary Sewer District 458T was published in the Grand Island Daily Independent on March 5, 2012; and

WHEREAS, the City of Grand Island invited sealed bids for Water Main District 458T, and Sanitary Sewer District 458T according to plans and specifications on file with the City Clerk; and

WHEREAS, on March 21, 2012, 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 \$1,262,909.56; and

WHEREAS, the sum of the low bids for project is below the estimate of such project; and

WHEREAS, such Bid is reasonable and acceptable.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the bid of \$1,262,909.56 of The Diamond Engineering Company of Grand Island, Nebraska, is hereby approved as the lowest responsible bid.

BE IT FURTHER RESOLVED, that the Mayor is hereby authorized and directed to execute a contract for such project on behalf of the City of Grand Island.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, April 10, 2012.

Jay Vavricek, Mayor

Attest:

RaNae Edwards, City Clerk

Approved as to Form
April 9, 2012

City Attorney



City of Grand Island

Tuesday, April 10, 2012

Council Session

Item G7

#2012-88 - Approving Bid Award - Turbine Generator Inspection and Repair

Staff Contact: Tim Luchsinger, Jason Eley

Council Agenda Memo

From: Timothy G. Luchsinger, Utilities Director
Jason Eley, Assistant City Attorney

Meeting: April 10, 2012

Subject: Turbine Generator Inspection and Repair

Item #'s: G-7

Presenter(s): Timothy G. Luchsinger, Utilities Director

Background

A major inspection and overhaul of the turbine generator at the Platte Generating Station is performed every five years. The next overhaul is scheduled for the fall of this year. During this inspection, the turbine generator is completely disassembled and all components are cleaned, inspected, repaired or replaced as necessary. Specifications were developed by the plant maintenance staff to include all labor to open, inspect, clean, and close the turbine and the generator, with the City to supply all parts and materials. Included in the bid are technical support and 800 hours of repair labor for bearings, steam nozzles, turbine rotor blades, and generator parts. The specifications include a composite hourly rate for additions or reductions in the repair labor amount as the amount of actual work is not known until the unit is disassembled and inspected.

Discussion

The specifications for the Turbine Generator Inspection and Repair were issued for bid and responses were received from the following bidders. The engineer's estimate for this project was \$700,000.00.

Bidder	Bid Price
NAES Turbine Services	\$673,799.00
General Electric Co.	\$978,599.00
Power Generation Service, Inc.	\$985,640.00
Magnetech Industrial Services	\$496,338.00
Power Plant Field Services	\$1,003,340.86
TurbinePROs	\$868,570.00
S.T. Cotter Turbine Services, Inc.	\$719,334.83
HPI, LLC	\$825,419.00

Plant staff reviewed the bids for compliance with the City's detailed specifications. The bid of Magnetech is compliant with those specifications and has no exceptions. The Magnetech listed bid of \$456,338.00 was found to have a calculation error and listed additional repair as a separate line item that is to be included in the bid. Their bid with the corrected calculation and repair is \$496,338.00, and is the lowest compliant bidder.

Alternatives

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

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

Recommendation

City Administration recommends that the Council award the bid to Magnetech Industrial Services of Saraland, AL as the low responsive bidder, with the bid price of \$496,338.00.

Sample Motion

Move to approve the bid of \$496,338.00, from Magnetech Industrial Services for the Turbine Generator Inspection and Repair as submitted.



Jason Eley, Purchasing Agent

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BID OPENING

BID OPENING DATE: March 7, 2012 at 2:00 p.m.
FOR: Turbine Generator Inspection & Repair
DEPARTMENT: Utilities
ESTIMATE: \$700,000.00
FUND/ACCOUNT: 520
PUBLICATION DATE: January 24, 2012
NO. POTENTIAL BIDDERS: 14

SUMMARY

Bidder:	<u>Magnetech Industrial Services</u> Saraland, AL	<u>General Electric Co.</u> Omaha, NE
Bid Security:	\$22,816.90	Fidelity & Deposit Co.
Exceptions:	None	Noted
Bid Price:		
Material:	\$ 35,000.00	---
Labor:	\$390,485.00	\$914,578.00
Sales Tax:	\$ 29,853.00	\$ 64,021.00
Total Bid:	\$456,338.00	\$978,599.00
Bidder:	<u>North American Energy Services</u> Houston, TX	<u>Power Plant Field Services</u> Ball Ground, GA
Bid Security:	Western Surety Co.	\$50,000.00
Exceptions:	Noted	None
Bid Price:		
Material:	\$ 66,460.00	\$ 378,485.39
Labor:	\$607,339.00	\$ 559,216.34
Sales Tax:	\$ 420.00	\$ 65,639.13
Total Bid:	\$673,799.00	\$1,003,340.86

Bidder:	<u>TurbinePROs</u>	<u>Power Generation Service, Inc.</u>
	Rogers, MN	Anoka, MN
Bid Security:	National Union Fire Ins. Co.	RLI Insurance Co.
Exceptions:	Noted	Noted
Bid Price:		
Material:	---	\$ 7,000.00
Labor:	\$868,570.00	\$977,800.00
Sales Tax:	---	\$ 840.00
Total Bid:	\$868,570.00	\$985,640.00

Bidder:	<u>S.T. Cotter Turbine Services, Inc.</u>	<u>HPI, LLC</u>
	Clearwater, MN	Houston, TX
Bid Security:	International Fidelity Ins. Co.	\$42,000.00
Exceptions:	Noted	Noted
Bid Price:		
Material:	---	\$ 41,568.00
Labor:	\$719,334.83	\$729,852.00
Sales Tax:	\$ ---	\$ 53,999.00
Total Bid:	\$719,334.83	\$825,419.00

cc: Tim Luchsinger, Utilities Director
Jason Eley, Purchasing Agent
Mary Lou Brown, City Administrator
Karen Nagel, Utilities Secretary

Bob Smith, Assist. Utilities Director
Pat Gericke, Utilities Admin. Assist.
Lynn Mayhew, Utility Eng.

P1533

RESOLUTION 2012-88

WHEREAS, the City of Grand Island invited sealed bids for Turbine Generator Inspection and Repair at Platte Generating Station, according to plans and specifications on file with the Utilities Department; and

WHEREAS, on March 7, 2012, bids were received, opened and reviewed; and

WHEREAS, Magnetech Industrial Service of Saraland, Alabama 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 \$496,338.00; and

WHEREAS, the bid of Magnetech Industrial Services is less than the estimate for the Turbine Generator Inspection and Repair.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the bid of Magnetech Industrial Services in the amount of \$496,338.00 for Turbine Generator Inspection and Repair is hereby approved as the lowest responsible bid.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, April 10, 2012.

Jay Vavricek, Mayor

Attest:

RaNae Edwards, City Clerk



City of Grand Island

Tuesday, April 10, 2012

Council Session

Item G8

**#2012-89 - Approving Bid Award - 2013 Truck with Digger
Derrick Unit - Utilities Line Division**

Staff Contact: Tim Luchsinger, Jason Eley

Council Agenda Memo

From: Timothy Luchsinger, Utilities Director
Jason Eley, Assistant City Attorney/Purchasing

Meeting: April 10, 2012

Subject: 2013 Truck with Digger Derrick Unit – Line Division

Item #'s: G-8

Presenter(s): Timothy Luchsinger, Utilities Director

Background

The three construction crews of the Utilities Line Division maintain approximately 400 miles of overhead line in the Grand Island area; rebuilding older lines as needed, re-locating lines to accommodate projects such as the widening of Capital Avenue, and building new lines as the City expands and new development occurs. Each of these crews has a digger/derrick truck and a bucket truck as basic equipment. The digger/derrick units are heavy trucks used to dig the holes for power poles and to handle and place the poles for line construction and repair. The boom, hydraulic auger, outriggers and auxiliary equipment used for line construction are powered from the truck engine when the unit is in service.

The Department's Unit #59 is a 14 year old digger/derrick truck. Since the truck engine provides the power for the hydraulic construction equipment on the truck, each truck is equipped with an hour meter to schedule maintenance and monitor usage. Unit #59 has about 8,000 hours on it, which is the equivalent of about 240,000 miles at an average 30 mph engine speed.

To ensure safe operation under heavy loads and near energized power lines, line construction trucks are tested and inspected annually to ensure structural integrity and to ensure dielectric strength is retained. These tests are conducted by firms specializing in this specific type of equipment. At the last inspection of Unit #59, the inspector noted that many components were approaching their replacement life. Because of concerns about the continued reliable operation of this unit, it was included for replacement in the current Electric Department budget.

Discussion

Specifications for replacement of Unit #59 were prepared by department staff, advertised in accordance with the City Purchasing Code, sent to six potential bidders, and posted on the City's Web Site. The bids were publicly opened on March 20, 2012. Five bids were received as tabulated below. The budgeted amount for this replacement vehicle was \$225,000.

Terex Utilities – Watertown, SD

Base Price	\$	Terex digger
Truck	+\$ 224,283.00	Four Star Freightliner M2-106
	- \$ 15,000.00	Trade-In
<hr/>		
TOTAL BID	\$209,283.00	

Altec Industries, St. Joseph, MO

Base Price	\$	Altec digger
Truck	+\$226,818.00	Hansen International, Grand Island, NE
	- \$ 15,000.00	Trade-In
<hr/>		
TOTAL BID	\$211,818.00	

Altec Industries – St. Joseph, MO

Base Price	\$	Altec digger
Truck	+\$215,941.00	Altec Industries Freightliner
	- \$ 15,000.00	Trade-In
<hr/>		
TOTAL BID	\$200,941.00	

Altec Industries – St. Joseph, MO

Base Price	\$	Altec digger
	+\$218,969.00	Nebraska Peterbilt, Grand Island, NE
	- \$ 15,000.00	Trade-In
<hr/>		
TOTAL BID	\$203,969.00	

Altec Industries – St. Joseph, MO

Base Price	\$	Altec digger
	+\$220,204.00	North American Truck & Trailer Kenworth
	- \$ 15,000.00	Trade-In
<hr/>		
TOTAL BID	\$205,204.00	

The bids were reviewed by Utility Department staff. All of the bids included exceptions; a few do materially affect the ability of the bid equipment to meet the job requirements as specified.

- 1) Terex bid a 2013 Freightliner M2-106 with exceptions to the maintenance free bushings instead of auxiliary springs which will cause a problem when hauling poles. The exceptions of providing two batteries instead of three will be a problem in cold weather when auxiliary power requirements are needed.
- 2) Altec Industries bid a 2013 International 7500 chassis. The major exception is the bid of an Allison 3000 RDS transmission instead of the Allison 3500 RDS transmission as specified. The difference being that the 3000 does not have a low first gear which is crucial in soft conditions when the truck is required to get in and out of road ditches and low areas. No chassis manuals for maintenance were included.
- 3) Altec Industries bid a 2013 Freightliner M2-106 chassis with the same Allison 3000 RDS transmission. That is not acceptable, as stated above in #2.
- 4) Altec Industries bid a 2013 Peterbilt 348 chassis with no major exceptions.
- 5) Altec Industries bid a 2013 Kenworth T370. The major exception is the transmission is not the Allison 3500 ADS as specified. The batteries are inside the truck cab, not outside, and the truck has only one air ride seat for the driver instead of two as specified.

Utility line staff recommends that the 2013 Peterbilt Digger Derrick Unit from Altec Industries in the amount of \$203,969.00 is the low responsive bid for the replacement digger derrick unit for the Line Division's Unit 59.

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 2013 Peterbilt truck with Digger Derrick Unit from Altec Industries of St. Joseph, Missouri, in the amount of \$203,969.00, net price with trade-in of the old unit.

Sample Motion

Move to approve the purchase of a 2013 Truck with Digger Derrick Unit from Altec Industries of St. Joseph, Missouri, in the amount of \$203,969.00.

Purchasing Division of Legal Department
INTEROFFICE MEMORANDUM



Jason Eley, Purchasing Agent

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BID OPENING

BID OPENING DATE: March 20, 2012 at 2:00 p.m.
FOR: 2012 Truck with Digger Derrick Unit
DEPARTMENT: Utilities
ESTIMATE: \$225,000.00
FUND/ACCOUNT: 520
PUBLICATION DATE: February 28, 2012
NO. POTENTIAL BIDDERS: 8

SUMMARY

Bidder:	<u>Terex Utilities</u> San Antonio, TX	<u>Altec Industries</u> St. Joseph, MO
Exceptions:	Noted	Noted
Bid Price:	\$224,283.00	\$215,941.00
Trade In:	<u>\$ 15,000.00</u>	<u>\$ 15,000.00</u>
Total Cost:	\$209,283.00	\$200,941.00

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. Supt.

P1538

RESOLUTION 2012-89

WHEREAS, the City of Grand Island invited sealed bids for a 2013 Truck with Digger Derrick Unit, according to plans and specifications on file with the Utilities Department; and

WHEREAS, on March 20, 2012, bids were received, opened and reviewed; and

WHEREAS, Altec Industries of St. Joseph, Missouri, 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 \$203,969.00; and

WHEREAS, the bid of Altec Industries is less than the budgeted amount for the 2013 Truck with Digger Derrick Unit.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the bid of Altec Industries in the amount of \$203,969.00 for a 2013 Truck with Digger Derrick Unit is hereby approved as the lowest responsible bid.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, April 10, 2012.

Jay Vavricek, Mayor

Attest:

RaNae Edwards, City Clerk



City of Grand Island

Tuesday, April 10, 2012

Council Session

Item G9

#2012-90 - Approving Supplemental Agreements with Burlington Northern Santa Fe Railroad - Double Track Project

Staff Contact: Tim Luchsinger;John Collins;Robert Sivick

Council Agenda Memo

From: Timothy Luchsinger, Utilities Director
John Collins, Public Works Director
Robert Sivick, City Attorney

Meeting: April 10, 2012

Subject: Burlington North Santa Fe Supplemental Agreements –
Double Track Project

Item #'s: G-9

Presenter(s): Timothy Luchsinger, Utilities Director

Background

Burlington Northern Santa Fe (BNSF) is in the process of constructing a second track through Grand Island. To facilitate that construction and as a result of the Agreement entered into between the City and BNSF on December 6, 2011, a number of supplemental agreements will need to be approved.

The next five agreements to come before City Council for approval are as follows:

1. MP 95.15 water line crossing for the 30" transmission line along Stuhr Road.
2. MP 97.14 water line crossing and extension of casing of the 10" line north of 18th Street.
3. MP 97.96 water line crossing and extension of casing on the 6" line along Broadwell Avenue.
4. MP 97.96 sewer line crossing and extension of casing on the 8" sewer line along Broadwell Avenue.
5. MP 99.06 water line crossing and extension of casing of the 20" line along Webb Road.

Discussion

The extension of the sanitary sewer line and water line casings are to be done and paid for by BNSF. The supplemental agreements also include insurance requirements and working conditions for parties performing activities on railroad property.

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 five supplemental agreements with BNSF for the water and sewer crossings.

Sample Motion

Move to approve the five supplemental agreements with BNSF for the Double Track Project.

SUPPLEMENTAL AGREEMENT

This **SUPPLEMENTAL AGREEMENT**, made this _____ day of _____, 2012, subject to the terms and conditions set forth in the original agreement, between **BNSF RAILWAY COMPANY**, a Delaware corporation, its successors and assigns, (hereinafter called "Licensor") and **CITY OF GRAND ISLAND** (hereinafter called "Licensee").

RECITALS:

Licensor and Licensee are now parties to an agreement dated February 25, 1963, Licensor's Contract No. Q47518, together with any and all modifications, supplements and amendments thereto (hereinafter called "Original Contract"), relating to an underground water pipeline.

AGREEMENT:

It is mutually agreed that the following modification(s) will be made to the Original Contract:

1. PREMISES. That property at or near the station of Grand Island, County of Hall, State of Nebraska, Line Segment 0004, Mile Post 95.15, shown by bold line upon the print No. 1-53211, dated November 10, 2011, marked "Exhibit A", attached hereto and made a part hereof ("Premises").

2.(a) Licensee agrees to reimburse Licensor (within thirty (30) days after receipt of bills therefor) for all costs and expenses incurred by Licensor in connection with Licensee's use of the Premises or the presence, construction, maintenance, and use of the Pipeline, including but not limited to the furnishing of Licensor's Flagman and any vehicle rental costs incurred. The cost of flagger services provided by the Railway, when deemed necessary by the Railway's representative, will be borne by the Licensee. The estimated cost for one (1) flagger is \$800.00 for an eight (8) hour basic day with time and one-half or double time for overtime, rest days and holidays. The estimated cost for each flagger includes vacation allowance, paid holidays, Railway and unemployment insurance, public liability and property damage insurance, health and welfare benefits, transportation, meals, lodging and supervision. Negotiations for Railway labor or collective bargaining agreements and rate changes authorized by appropriate Federal authorities may increase actual or estimated flagging rates. The flagging rate in effect at the time of performance by the Contractor hereunder will be used to calculate the actual costs of flagging pursuant to this paragraph.

(b) Prior to entering the Premises, Licensee shall and shall cause its contractor to comply with all Licensor's applicable safety rules and regulations. Prior to commencing any work on the Premises, Licensee shall complete and shall require its contractor to complete the safety-orientation program at the following Internet Website "<http://contractororientation.com>". This program must be completed no more than one year in advance of Licensee's entry on the Premises.

(c) Licensee shall notify Licensor's Roadmaster at telephone 402-362-5501, at least five (5) business days prior to installation of the Pipeline and prior to entering the Premises for any subsequent maintenance thereon.

3. The following new Section shall be added to the Original Contract:

Licensee shall, at its sole cost and expense, procure and maintain during the life of this Agreement the following insurance coverage:

- A. Commercial General Liability Insurance. This insurance shall contain broad form contractual liability with a combined single limit of a minimum of \$5,000,000 each occurrence and an aggregate limit of at least \$10,000,000 but in no event less than the amount otherwise carried by the Licensee. Coverage must be purchased on a post 1998 ISO occurrence or equivalent and include coverage for, but not limited to, the following:
- ◆ Bodily Injury and Property Damage
 - ◆ Personal Injury and Advertising Injury
 - ◆ Fire legal liability
 - ◆ Products and completed operations

This policy shall also contain the following endorsements, which shall be indicated on the certificate of insurance:

- ◆ The definition of insured contract shall be amended to remove any exclusion or other limitation for any work being done within 50 feet of railroad property.
- ◆ Waiver of subrogation in favor of and acceptable to **Licensor**.
- ◆ Additional insured endorsement in favor of and acceptable to **Licensor and Jones, Lang, LaSalle Global Services RR, Inc.**
- ◆ Separation of insureds.
- ◆ The policy shall be primary and non-contributing with respect to any insurance carried by **Licensor**.

It is agreed that the workers' compensation and employers' liability related exclusions in the Commercial General Liability insurance policy(s) required herein are intended to apply to employees of the policy holder and shall not apply to **Licensor** employees.

No other endorsements limiting coverage may be included on the policy.

- B. Business Automobile Insurance. This insurance shall contain a combined single limit of at least \$1,000,000 per occurrence, and include coverage for, but not limited to the following:
- ◆ Bodily injury and property damage
 - ◆ Any and all vehicles owned, used or hired
 - ◆ Waiver of subrogation in favor of and acceptable to **Licensor**.
 - ◆ Additional insured endorsement in favor of and acceptable to **Licensor**.
 - ◆ Separation of insureds.
 - ◆ The policy shall be primary and non-contributing with respect to any insurance carried by **Licensor**.

- C. Workers Compensation and Employers Liability Insurance. This insurance shall include coverage for, but not limited to:
- ◆ Licensee's statutory liability under the worker's compensation laws of the state(s) in which the work is to be performed. If optional under State law, the insurance must cover all employees anyway.
 - ◆ Employers' Liability (Part B) with limits of at least \$500,000 each accident, \$500,000 by disease policy limit, \$500,000 by disease each employee. This policy shall also contain the following endorsements or language, which shall be indicated on the certificate of insurance:
 - ◆ Waiver of subrogation in favor of and acceptable to **Licensors**.
- D. If further maintenance of the Pipeline is needed at a later date, a Railroad Protective Liability Insurance Policy shall be required. The policy shall be issued on a standard ISO form CG 00 35 10 93 and include the following:
- ◆ Endorsed to include the Pollution Exclusion Amendment (ISO form CG 28 31 10 93)
 - ◆ Endorsed to include the Limited Seepage and Pollution Endorsement.
 - ◆ Endorsed to include Evacuation Expense Coverage Endorsement.
 - ◆ No other endorsements restricting coverage may be added.
 - ◆ The original policy must be provided to the Licensors prior to performing any work or services under this Agreement

Other Requirements:

Where allowable by law, all policies (applying to coverage listed above) shall contain no exclusion for punitive damages and certificates of insurance shall reflect that no exclusion exists.

Licensee agrees to waive its right of recovery against Licensors for all claims and suits against Licensors. In addition, its insurers, through policy endorsement, waive their right of subrogation against Licensors for all claims and suits. The certificate of insurance must reflect waiver of subrogation endorsement. Licensee further waives its right of recovery, and its insurers also waive their right of subrogation against Licensors for loss of its owned or leased property or property under its care, custody or control.

Licensee is not allowed to self-insure without the prior written consent of Licensors. If granted by Licensors, any deductible, self-insured retention or other financial responsibility for claims shall be covered directly by Licensee in lieu of insurance. Any and all Licensors liabilities that would otherwise, in accordance with the provisions of this Agreement, be covered by Licensee's insurance will be covered as if Licensee elected not to include a deductible, self-insured retention, or other financial responsibility for claims.

Prior to commencing the Work, Licensee shall furnish to Licensors an acceptable certificate(s) of insurance including an original signature of the authorized representative evidencing the required coverage, endorsements, and amendments. The policy(ies) shall contain a provision that obligates the insurance company(ies) issuing such policy(ies) to notify Licensors in writing at least 30 days prior to any cancellation, non-

renewal, substitution or material alteration. This cancellation provision shall be indicated on the certificate of insurance. Upon request from Licensors, a certified duplicate original of any required policy shall be furnished.

Any insurance policy shall be written by a reputable insurance company acceptable to Licensors or with a current Best's Guide Rating of A- and Class VII or better, and authorized to do business in the state(s) in which the service is to be provided.

If coverage is purchased on a "claims made" basis, Licensee hereby agrees to maintain coverage in force for a minimum of three years after expiration, cancellation or termination of this contract. Annually, Licensee agrees to provide evidence of such coverage as required hereunder.

Licensee represents that this License has been thoroughly reviewed by Licensee's insurance agent(s)/broker(s), who have been instructed by Licensee to procure the insurance coverage required by this Agreement. Allocated Loss Expense shall be in addition to all policy limits for coverages referenced above.

Not more frequently than once every five years, Licensors may reasonably modify the required insurance coverage to reflect then-current risk management practices in the railroad industry and underwriting practices in the insurance industry.

If any portion of the operation is to be subcontracted by Licensee, Licensee shall require that the subcontractor shall provide and maintain insurance coverages as set forth herein, naming Licensors as an additional insured, and shall require that the subcontractor shall release, defend and indemnify Licensors to the same extent and under the same terms and conditions as Licensee is required to release, defend and indemnify Licensors herein.

Failure to provide evidence as required by this section shall entitle, but not require, Licensors to terminate this License immediately. Acceptance of a certificate that does not comply with this section shall not operate as a waiver of Licensee's obligations hereunder.

The fact that insurance (including, without limitation, self-insurance) is obtained by Licensee shall not be deemed to release or diminish the liability of Licensee including, without limitation, liability under the indemnity provisions of this License. Damages recoverable by Licensors shall not be limited by the amount of the required insurance coverage.

For purposes of this section, Licensors shall mean "Burlington Northern Santa Fe Corporation", "BNSF Railway Company" and the subsidiaries, successors, assigns and affiliates of each.

- 3. (a) TO THE FULLEST EXTENT PERMITTED BY LAW, LICENSEE SHALL, AND SHALL CAUSE ITS CONTRACTOR TO, RELEASE, INDEMNIFY, DEFEND AND HOLD HARMLESS LICENSOR AND LICENSOR'S AFFILIATED COMPANIES, PARTNERS, SUCCESSORS, ASSIGNS, LEGAL REPRESENTATIVES, OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES AND AGENTS (COLLECTIVELY, "INDEMNITEES") FOR, FROM**

AND AGAINST ANY AND ALL CLAIMS, LIABILITIES, FINES, PENALTIES, COSTS, DAMAGES, LOSSES, LIENS, CAUSES OF ACTION, SUITS, DEMANDS, JUDGMENTS AND EXPENSES (INCLUDING, WITHOUT LIMITATION, COURT COSTS, ATTORNEYS' FEES AND COSTS OF INVESTIGATION, REMOVAL AND REMEDIATION AND GOVERNMENTAL OVERSIGHT COSTS) ENVIRONMENTAL OR OTHERWISE (COLLECTIVELY "LIABILITIES") OF ANY NATURE, KIND OR DESCRIPTION OF ANY PERSON OR ENTITY DIRECTLY OR INDIRECTLY ARISING OUT OF, RESULTING FROM OR RELATED TO (IN WHOLE OR IN PART):

- (i) THIS LICENSE, INCLUDING, WITHOUT LIMITATION, ITS ENVIRONMENTAL PROVISIONS,
- (ii) ANY RIGHTS OR INTERESTS GRANTED PURSUANT TO THIS LICENSE,
- (iii) LICENSEE'S OCCUPATION AND USE OF THE PREMISES,
- (iv) THE ENVIRONMENTAL CONDITION AND STATUS OF THE PREMISES CAUSED BY OR CONTRIBUTED BY LICENSEE, OR
- (v) ANY ACT OR OMISSION OF LICENSEE OR LICENSEE'S OFFICERS, AGENTS, INVITEES, EMPLOYEES, OR CONTRACTORS, OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY ANY OF THEM, OR ANYONE THEY CONTROL OR EXERCISE CONTROL OVER,

EVEN IF SUCH LIABILITIES ARISE FROM OR ARE ATTRIBUTED TO, IN WHOLE OR IN PART, ANY NEGLIGENCE OF ANY INDEMNITEE. THE ONLY LIABILITIES WITH RESPECT TO WHICH LICENSEE'S OBLIGATION TO INDEMNIFY THE INDEMNITEES DOES NOT APPLY ARE LIABILITIES TO THE EXTENT PROXIMATELY CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF AN INDEMNITEE.

- (b) FURTHER, TO THE FULLEST EXTENT PERMITTED BY LAW, NOTWITHSTANDING THE LIMITATION IN SECTION 21(a), LICENSEE SHALL AND SHALL CAUSE ITS CONTRACTOR TO NOW AND FOREVER WAIVE ANY AND ALL CLAIMS, REGARDLESS WHETHER BASED ON THE STRICT LIABILITY, NEGLIGENCE OR OTHERWISE, THAT RAILROAD IS AN "OWNER", "OPERATOR", "ARRANGER", OR "TRANSPORTER" WITH RESPECT TO THE PIPELINE FOR THE PURPOSES OF CERCLA OR OTHER ENVIRONMENTAL LAWS. LICENSEE WILL INDEMNIFY, DEFEND AND HOLD THE INDEMNITEES HARMLESS FROM ANY AND ALL SUCH CLAIMS REGARDLESS OF THE NEGLIGENCE OF THE INDEMNITEES. LICENSEE FURTHER AGREES THAT THE USE OF THE PREMISES AS CONTEMPLATED BY THIS LICENSE SHALL NOT IN ANY WAY SUBJECT LICENSOR TO CLAIMS THAT LICENSOR IS OTHER THAN A COMMON CARRIER FOR PURPOSES OF ENVIRONMENTAL LAWS AND EXPRESSLY AGREES TO INDEMNIFY, DEFEND, AND HOLD THE INDEMNITEES HARMLESS FOR ANY AND ALL SUCH CLAIMS. IN NO EVENT SHALL

LICENSOR BE RESPONSIBLE FOR THE ENVIRONMENTAL CONDITION OF THE PREMISES.

- (c) **TO THE FULLEST EXTENT PERMITTED BY LAW, LICENSEE FURTHER AGREES, AND SHALL CAUSE ITS CONTRACTOR TO REGARDLESS OF ANY NEGLIGENCE OR ALLEGED NEGLIGENCE OF ANY INDEMNITEE, TO INDEMNIFY, AND HOLD HARMLESS THE INDEMNITEES AGAINST AND ASSUME THE DEFENSE OF ANY LIABILITIES ASSERTED AGAINST OR SUFFERED BY ANY INDEMNITEE UNDER OR RELATED TO THE FEDERAL EMPLOYERS' LIABILITY ACT ("FELA") WHENEVER EMPLOYEES OF LICENSEE OR ANY OF ITS AGENTS, INVITEES, OR CONTRACTORS CLAIM OR ALLEGE THAT THEY ARE EMPLOYEES OF ANY INDEMNITEE OR OTHERWISE. THIS INDEMNITY SHALL ALSO EXTEND, ON THE SAME BASIS, TO FELA CLAIMS BASED ON ACTUAL OR ALLEGED VIOLATIONS OF ANY FEDERAL, STATE OR LOCAL LAWS OR REGULATIONS, INCLUDING BUT NOT LIMITED TO THE SAFETY APPLIANCE ACT, THE LOCOMOTIVE INSPECTION ACT, THE OCCUPATIONAL SAFETY AND HEALTH ACT, THE RESOURCE CONSERVATION AND RECOVERY ACT, AND ANY SIMILAR STATE OR FEDERAL STATUTE.**
- (d) Upon written notice from Licensor, Licensee agrees to assume the defense of any lawsuit or other proceeding brought against any Indemnatee by any entity, relating to any matter covered by this License for which Licensee has an obligation to assume liability for and/or save and hold harmless any Indemnatee. Licensee shall pay all costs incident to such defense, including, but not limited to, attorneys' fees, investigators' fees, litigation and appeal expenses, settlement payments, and amounts paid in satisfaction of judgments.

PERSONAL PROPERTY WAIVER

- 4. **ALL PERSONAL PROPERTY OF LICENSEE, INCLUDING, BUT NOT LIMITED TO, FIXTURES, EQUIPMENT, OR RELATED MATERIALS UPON THE PREMISES WILL BE AT THE RISK OF LICENSEE ONLY, AND NO INDEMNITEE WILL BE LIABLE FOR ANY DAMAGE THERETO OR THEFT THEREOF, WHETHER OR NOT DUE IN WHOLE OR IN PART TO THE NEGLIGENCE OF ANY INDEMNITEE.**

Except as herein modified, the Original Contract shall continue in full force and effect.

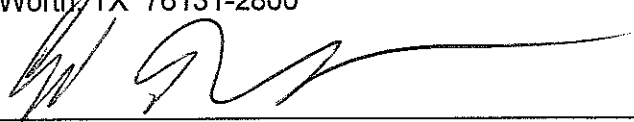
Staubach Global Services, Inc. is acting as representative for BNSF Railway Company.

IN WITNESS WHEREOF, this Supplemental Agreement has been duly executed in duplicate by the parties hereto as of the day and year first above written.

BNSF RAILWAY COMPANY

Jones Lang LaSalle Global Services RR, Inc.,
Its Attorney in Fact
3017 Lou Menk Drive, Suite 100
Fort Worth, TX 76131-2800

By: _____

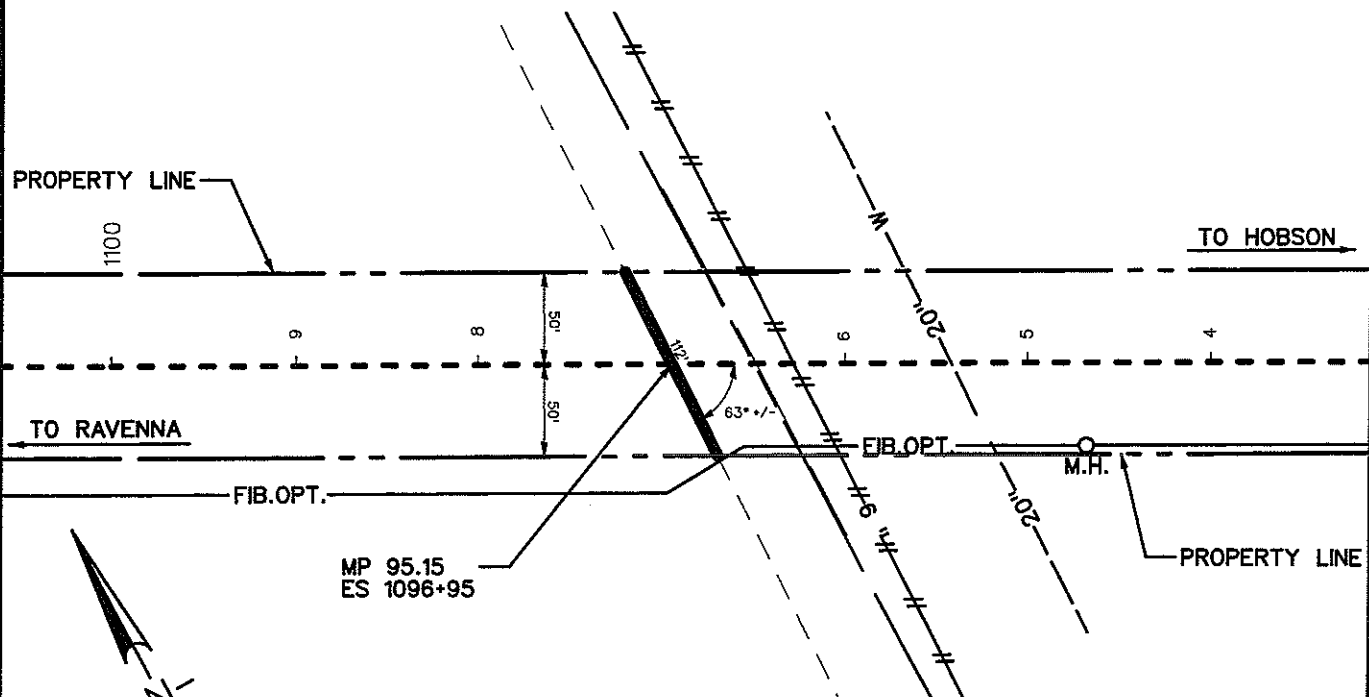

Ed Darter,
Vice President – National Accounts

CITY OF GRAND ISLAND

By: _____

Title: _____

CITY OF GRAND ISLAND



	CARRIER PIPE	CASING PIPE		CARRIER PIPE	CASING PIPE
SIZE:	30"	—	LENGTH ON R/W:	112'	—
CONTENTS:	WATER	—	WORKING PRESSURE:	—	—
PIPE MATERIAL:	DIP	—	BURY: BASE/RAIL TO TOP OF PIPE	—	—
SPECIFICATION/GRADE:	—	—	BURY: NATURAL GROUND	—	—
WALL THICKNESS:	—	—	BURY: ROADWAY DITCHES	—	—
COATING:	—	—	CATHODIC PROTECTION	—	—

NOTE: PIPE IS EXISTING IN PLACE

STATE OF NE

SUPPLEMENTAL AGREEMENT

This **SUPPLEMENTAL AGREEMENT**, made this _____ day of _____, 2012, subject to the terms and conditions set forth in the original agreement, between **BNSF RAILWAY COMPANY**, a Delaware corporation, its successors and assigns, (hereinafter called "Licensor") and **CITY OF GRAND ISLAND** (hereinafter called "Licensee").

RECITALS:

Licensor and Licensee are now parties to an agreement dated April 29, 1935, Licensor's Contract No. Q-200787, together with any and all modifications, supplements and amendments thereto (hereinafter called "Original Contract"), relating to an underground water pipeline.

AGREEMENT:

It is mutually agreed that the following modification(s) will be made to the Original Contract:

1. PREMISES. That property at or near the station of Grand Island, County of Hall, State of Nebraska, Line Segment 0004, Mile Post 97.14, shown by bold line upon the print No. 1-53257, dated November 14, 2011, marked "Exhibit A", attached hereto and made a part hereof ("Premises").

2.(a) Licensee agrees to reimburse Licensor (within thirty (30) days after receipt of bills therefor) for all costs and expenses incurred by Licensor in connection with Licensee's use of the Premises or the presence, construction, maintenance, and use of the Pipeline, including but not limited to the furnishing of Licensor's Flagman and any vehicle rental costs incurred. The cost of flagger services provided by the Railway, when deemed necessary by the Railway's representative, will be borne by the Licensee. The estimated cost for one (1) flagger is \$800.00 for an eight (8) hour basic day with time and one-half or double time for overtime, rest days and holidays. The estimated cost for each flagger includes vacation allowance, paid holidays, Railway and unemployment insurance, public liability and property damage insurance, health and welfare benefits, transportation, meals, lodging and supervision. Negotiations for Railway labor or collective bargaining agreements and rate changes authorized by appropriate Federal authorities may increase actual or estimated flagging rates. The flagging rate in effect at the time of performance by the Contractor hereunder will be used to calculate the actual costs of flagging pursuant to this paragraph.

(b) Prior to entering the Premises, Licensee shall and shall cause its contractor to comply with all Licensor's applicable safety rules and regulations. Prior to commencing any work on the Premises, Licensee shall complete and shall require its contractor to complete the safety-orientation program at the following Internet Website "<http://contractororientation.com>". This program must be completed no more than one year in advance of Licensee's entry on the Premises.

(c) Licensee shall notify Licensor's Roadmaster at telephone 402-362-5501, at least five (5) business days prior to installation of the Pipeline and prior to entering the Premises for any subsequent maintenance thereon.

3. The following new Section shall be added to the Original Contract:

Licensee shall, at its sole cost and expense, procure and maintain during the life of this Agreement the following insurance coverage:

- A. Commercial General Liability Insurance. This insurance shall contain broad form contractual liability with a combined single limit of a minimum of \$5,000,000 each occurrence and an aggregate limit of at least \$10,000,000 but in no event less than the amount otherwise carried by the Licensee. Coverage must be purchased on a post 1998 ISO occurrence or equivalent and include coverage for, but not limited to, the following:
- ◆ Bodily Injury and Property Damage
 - ◆ Personal Injury and Advertising Injury
 - ◆ Fire legal liability
 - ◆ Products and completed operations

This policy shall also contain the following endorsements, which shall be indicated on the certificate of insurance:

- ◆ The definition of insured contract shall be amended to remove any exclusion or other limitation for any work being done within 50 feet of railroad property.
- ◆ Waiver of subrogation in favor of and acceptable to **Licensor**.
- ◆ Additional insured endorsement in favor of and acceptable to **Licensor and Jones, Lang, LaSalle Global Services RR, Inc.**
- ◆ Separation of insureds.
- ◆ The policy shall be primary and non-contributing with respect to any insurance carried by **Licensor**.

It is agreed that the workers' compensation and employers' liability related exclusions in the Commercial General Liability insurance policy(s) required herein are intended to apply to employees of the policy holder and shall not apply to **Licensor** employees.

No other endorsements limiting coverage may be included on the policy.

- B. Business Automobile Insurance. This insurance shall contain a combined single limit of at least \$1,000,000 per occurrence, and include coverage for, but not limited to the following:
- ◆ Bodily injury and property damage
 - ◆ Any and all vehicles owned, used or hired
 - ◆ Waiver of subrogation in favor of and acceptable to **Licensor**.
 - ◆ Additional insured endorsement in favor of and acceptable to **Licensor**.
 - ◆ Separation of insureds.
 - ◆ The policy shall be primary and non-contributing with respect to any insurance carried by **Licensor**.

- C. Workers Compensation and Employers Liability Insurance. This insurance shall include coverage for, but not limited to:
- ◆ Licensee's statutory liability under the worker's compensation laws of the state(s) in which the work is to be performed. If optional under State law, the insurance must cover all employees anyway.
 - ◆ Employers' Liability (Part B) with limits of at least \$500,000 each accident, \$500,000 by disease policy limit, \$500,000 by disease each employee. This policy shall also contain the following endorsements or language, which shall be indicated on the certificate of insurance:
 - ◆ Waiver of subrogation in favor of and acceptable to **Licensors**.
- D. If further maintenance of the Pipeline is needed at a later date, a Railroad Protective Liability Insurance Policy shall be required. The policy shall be issued on a standard ISO form CG 00 35 10 93 and include the following:
- ◆ Endorsed to include the Pollution Exclusion Amendment (ISO form CG 28 31 10 93)
 - ◆ Endorsed to include the Limited Seepage and Pollution Endorsement.
 - ◆ Endorsed to include Evacuation Expense Coverage Endorsement.
 - ◆ No other endorsements restricting coverage may be added.
 - ◆ The original policy must be provided to the Licensors prior to performing any work or services under this Agreement

Other Requirements:

Where allowable by law, all policies (applying to coverage listed above) shall contain no exclusion for punitive damages and certificates of insurance shall reflect that no exclusion exists.

Licensee agrees to waive its right of recovery against Licensors for all claims and suits against Licensors. In addition, its insurers, through policy endorsement, waive their right of subrogation against Licensors for all claims and suits. The certificate of insurance must reflect waiver of subrogation endorsement. Licensee further waives its right of recovery, and its insurers also waive their right of subrogation against Licensors for loss of its owned or leased property or property under its care, custody or control.

Licensee is not allowed to self-insure without the prior written consent of Licensors. If granted by Licensors, any deductible, self-insured retention or other financial responsibility for claims shall be covered directly by Licensee in lieu of insurance. Any and all Licensors liabilities that would otherwise, in accordance with the provisions of this Agreement, be covered by Licensee's insurance will be covered as if Licensee elected not to include a deductible, self-insured retention, or other financial responsibility for claims.

Prior to commencing the Work, Licensee shall furnish to Licensors an acceptable certificate(s) of insurance including an original signature of the authorized representative evidencing the required coverage, endorsements, and amendments. The policy(ies) shall contain a provision that obligates the insurance company(ies) issuing such policy(ies) to notify Licensors in writing at least 30 days prior to any cancellation, non-

renewal, substitution or material alteration. This cancellation provision shall be indicated on the certificate of insurance. Upon request from Licensor, a certified duplicate original of any required policy shall be furnished.

Any insurance policy shall be written by a reputable insurance company acceptable to Licensor or with a current Best's Guide Rating of A- and Class VII or better, and authorized to do business in the state(s) in which the service is to be provided.

If coverage is purchased on a "claims made" basis, Licensee hereby agrees to maintain coverage in force for a minimum of three years after expiration, cancellation or termination of this contract. Annually, Licensee agrees to provide evidence of such coverage as required hereunder.

Licensee represents that this License has been thoroughly reviewed by Licensee's insurance agent(s)/broker(s), who have been instructed by Licensee to procure the insurance coverage required by this Agreement. Allocated Loss Expense shall be in addition to all policy limits for coverages referenced above.

Not more frequently than once every five years, Licensor may reasonably modify the required insurance coverage to reflect then-current risk management practices in the railroad industry and underwriting practices in the insurance industry.

If any portion of the operation is to be subcontracted by Licensee, Licensee shall require that the subcontractor shall provide and maintain insurance coverages as set forth herein, naming Licensor as an additional insured, and shall require that the subcontractor shall release, defend and indemnify Licensor to the same extent and under the same terms and conditions as Licensee is required to release, defend and indemnify Licensor herein.

Failure to provide evidence as required by this section shall entitle, but not require, Licensor to terminate this License immediately. Acceptance of a certificate that does not comply with this section shall not operate as a waiver of Licensee's obligations hereunder.

The fact that insurance (including, without limitation, self-insurance) is obtained by Licensee shall not be deemed to release or diminish the liability of Licensee including, without limitation, liability under the indemnity provisions of this License. Damages recoverable by Licensor shall not be limited by the amount of the required insurance coverage.

For purposes of this section, Licensor shall mean "Burlington Northern Santa Fe Corporation", "BNSF Railway Company" and the subsidiaries, successors, assigns and affiliates of each.

- 3. (a) TO THE FULLEST EXTENT PERMITTED BY LAW, LICENSEE SHALL, AND SHALL CAUSE ITS CONTRACTOR TO, RELEASE, INDEMNIFY, DEFEND AND HOLD HARMLESS LICENSOR AND LICENSOR'S AFFILIATED COMPANIES, PARTNERS, SUCCESSORS, ASSIGNS, LEGAL REPRESENTATIVES, OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES AND AGENTS (COLLECTIVELY, "INDEMNITEES") FOR, FROM**

AND AGAINST ANY AND ALL CLAIMS, LIABILITIES, FINES, PENALTIES, COSTS, DAMAGES, LOSSES, LIENS, CAUSES OF ACTION, SUITS, DEMANDS, JUDGMENTS AND EXPENSES (INCLUDING, WITHOUT LIMITATION, COURT COSTS, ATTORNEYS' FEES AND COSTS OF INVESTIGATION, REMOVAL AND REMEDIATION AND GOVERNMENTAL OVERSIGHT COSTS) ENVIRONMENTAL OR OTHERWISE (COLLECTIVELY "LIABILITIES") OF ANY NATURE, KIND OR DESCRIPTION OF ANY PERSON OR ENTITY DIRECTLY OR INDIRECTLY ARISING OUT OF, RESULTING FROM OR RELATED TO (IN WHOLE OR IN PART):

- (i) THIS LICENSE, INCLUDING, WITHOUT LIMITATION, ITS ENVIRONMENTAL PROVISIONS,
- (ii) ANY RIGHTS OR INTERESTS GRANTED PURSUANT TO THIS LICENSE,
- (iii) LICENSEE'S OCCUPATION AND USE OF THE PREMISES,
- (iv) THE ENVIRONMENTAL CONDITION AND STATUS OF THE PREMISES CAUSED BY OR CONTRIBUTED BY LICENSEE, OR
- (v) ANY ACT OR OMISSION OF LICENSEE OR LICENSEE'S OFFICERS, AGENTS, INVITEES, EMPLOYEES, OR CONTRACTORS, OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY ANY OF THEM, OR ANYONE THEY CONTROL OR EXERCISE CONTROL OVER,

EVEN IF SUCH LIABILITIES ARISE FROM OR ARE ATTRIBUTED TO, IN WHOLE OR IN PART, ANY NEGLIGENCE OF ANY INDEMNITEE. THE ONLY LIABILITIES WITH RESPECT TO WHICH LICENSEE'S OBLIGATION TO INDEMNIFY THE INDEMNITEES DOES NOT APPLY ARE LIABILITIES TO THE EXTENT PROXIMATELY CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF AN INDEMNITEE.

- (b) FURTHER, TO THE FULLEST EXTENT PERMITTED BY LAW, NOTWITHSTANDING THE LIMITATION IN SECTION 21(a), LICENSEE SHALL AND SHALL CAUSE ITS CONTRACTOR TO NOW AND FOREVER WAIVE ANY AND ALL CLAIMS, REGARDLESS WHETHER BASED ON THE STRICT LIABILITY, NEGLIGENCE OR OTHERWISE, THAT RAILROAD IS AN "OWNER", "OPERATOR", "ARRANGER", OR "TRANSPORTER" WITH RESPECT TO THE PIPELINE FOR THE PURPOSES OF CERCLA OR OTHER ENVIRONMENTAL LAWS. LICENSEE WILL INDEMNIFY, DEFEND AND HOLD THE INDEMNITEES HARMLESS FROM ANY AND ALL SUCH CLAIMS REGARDLESS OF THE NEGLIGENCE OF THE INDEMNITEES. LICENSEE FURTHER AGREES THAT THE USE OF THE PREMISES AS CONTEMPLATED BY THIS LICENSE SHALL NOT IN ANY WAY SUBJECT LICENSOR TO CLAIMS THAT LICENSOR IS OTHER THAN A COMMON CARRIER FOR PURPOSES OF ENVIRONMENTAL LAWS AND EXPRESSLY AGREES TO INDEMNIFY, DEFEND, AND HOLD THE INDEMNITEES HARMLESS FOR ANY AND ALL SUCH CLAIMS. IN NO EVENT SHALL

LICENSOR BE RESPONSIBLE FOR THE ENVIRONMENTAL CONDITION OF THE PREMISES.

- (c) **TO THE FULLEST EXTENT PERMITTED BY LAW, LICENSEE FURTHER AGREES, AND SHALL CAUSE ITS CONTRACTOR TO REGARDLESS OF ANY NEGLIGENCE OR ALLEGED NEGLIGENCE OF ANY INDEMNITEE, TO INDEMNIFY, AND HOLD HARMLESS THE INDEMNITEES AGAINST AND ASSUME THE DEFENSE OF ANY LIABILITIES ASSERTED AGAINST OR SUFFERED BY ANY INDEMNITEE UNDER OR RELATED TO THE FEDERAL EMPLOYERS' LIABILITY ACT ("FELA") WHENEVER EMPLOYEES OF LICENSEE OR ANY OF ITS AGENTS, INVITEES, OR CONTRACTORS CLAIM OR ALLEGE THAT THEY ARE EMPLOYEES OF ANY INDEMNITEE OR OTHERWISE. THIS INDEMNITY SHALL ALSO EXTEND, ON THE SAME BASIS, TO FELA CLAIMS BASED ON ACTUAL OR ALLEGED VIOLATIONS OF ANY FEDERAL, STATE OR LOCAL LAWS OR REGULATIONS, INCLUDING BUT NOT LIMITED TO THE SAFETY APPLIANCE ACT, THE LOCOMOTIVE INSPECTION ACT, THE OCCUPATIONAL SAFETY AND HEALTH ACT, THE RESOURCE CONSERVATION AND RECOVERY ACT, AND ANY SIMILAR STATE OR FEDERAL STATUTE.**
- (d) Upon written notice from Licensor, Licensee agrees to assume the defense of any lawsuit or other proceeding brought against any Indemnatee by any entity, relating to any matter covered by this License for which Licensee has an obligation to assume liability for and/or save and hold harmless any Indemnatee. Licensee shall pay all costs incident to such defense, including, but not limited to, attorneys' fees, investigators' fees, litigation and appeal expenses, settlement payments, and amounts paid in satisfaction of judgments.

PERSONAL PROPERTY WAIVER

- 4. **ALL PERSONAL PROPERTY OF LICENSEE, INCLUDING, BUT NOT LIMITED TO, FIXTURES, EQUIPMENT, OR RELATED MATERIALS UPON THE PREMISES WILL BE AT THE RISK OF LICENSEE ONLY, AND NO INDEMNITEE WILL BE LIABLE FOR ANY DAMAGE THERETO OR THEFT THEREOF, WHETHER OR NOT DUE IN WHOLE OR IN PART TO THE NEGLIGENCE OF ANY INDEMNITEE.**

Except as herein modified, the Original Contract shall continue in full force and effect.

Staubach Global Services, Inc. is acting as representative for BNSF Railway Company.

IN WITNESS WHEREOF, this Supplemental Agreement has been duly executed in duplicate by the parties hereto as of the day and year first above written.

BNSF RAILWAY COMPANY

Jones Lang LaSalle Global Services RR, Inc.,
Its Attorney in Fact
3017 Lou Menk Drive, Suite 100
Fort Worth, TX 76131-2800

By:



Ed Darter,
Vice President – National Accounts

CITY OF GRAND ISLAND

By: _____

Title: _____

EXHIBIT "A"

ATTACHED TO CONTRACT BETWEEN
BNSF RAILWAY COMPANY
 AND

CITY OF GRAND ISLAND

SCALE: 1 IN. = 400 FT.

NEBRASKA DIV.

RAVENNA SUBDIV. L.S. 0004

DATE 11/14/2011

SECTION: 09

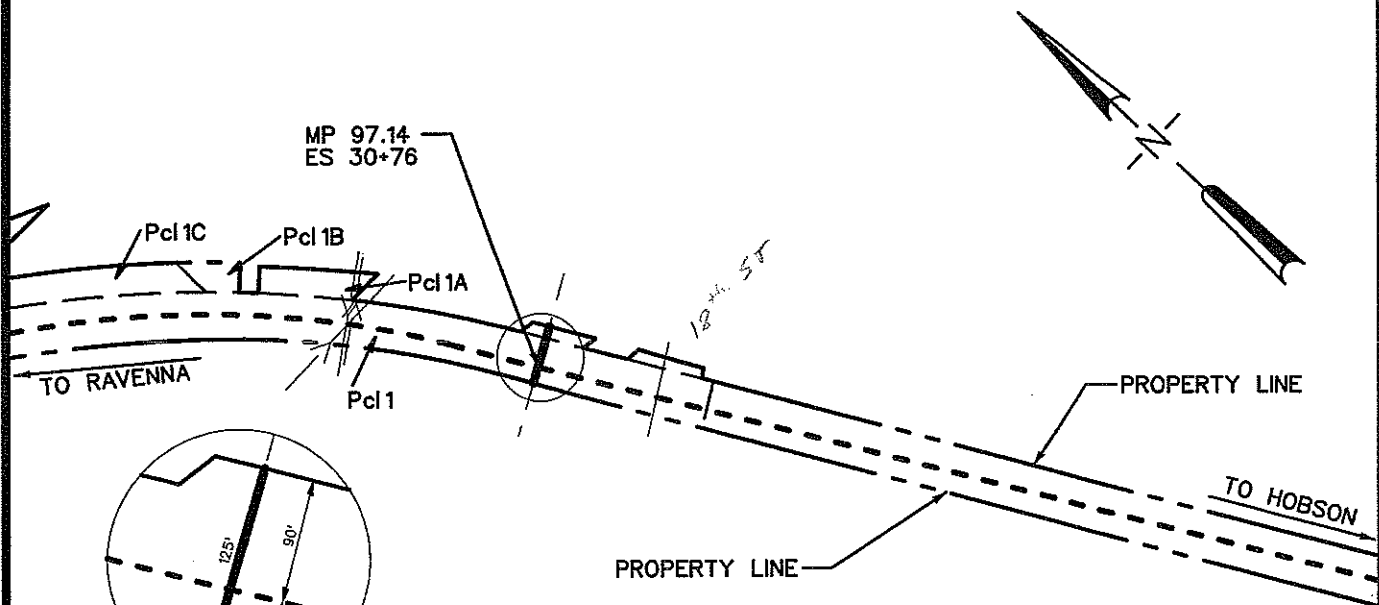
TOWNSHIP: 11N

RANGE: 09W

MERIDIAN: 6PM



MAP REF. R77094



DESCRIPTION OF PIPELINE
PIPELINE SHOWN BOLD

	CARRIER PIPE	CASING PIPE		CARRIER PIPE	CASING PIPE
SIZE:	10"	-	LENGTH ON R/W:	125'	-
CONTENTS:	WATER	-	WORKING PRESSURE:	-	-
PIPE MATERIAL:	DIP	-	BURY: BASE/RAIL TO TOP OF PIPE	-	-
SPECIFICATION/GRADE:	-	-	BURY: NATURAL GROUND	-	-
WALL THICKNESS:	-	-	BURY: ROADWAY DITCHES	-	-
COATING:	-	-	CATHODIC PROTECTION	-	-

VENTS: NUMBER - SIZE - HEIGHT OF VENT ABOVE GROUND -

NOTE: PIPE IS EXISTING IN PLACE

AT GRAND ISLAND

SUPPLEMENTAL AGREEMENT

This SUPPLEMENTAL AGREEMENT, made this _____ day of _____, 2012, subject to the terms and conditions set forth in the original agreement, between **BNSF RAILWAY COMPANY**, a Delaware corporation, its successors and assigns, (hereinafter called "Licensor") and **CITY OF GRAND ISLAND** (hereinafter called "Licensee").

RECITALS:

Licensor and Licensee are now parties to an agreement dated November 23, 1948, Licensor's Contract No. Q-30322, together with any and all modifications, supplements and amendments thereto (hereinafter called "Original Contract"), relating to an underground water pipeline.

AGREEMENT:

It is mutually agreed that the following modification(s) will be made to the Original Contract:

1. PREMISES. That property at or near the station of Grand Island, County of Hall, State of Nebraska, Line Segment 0004, Mile Post 97.96, shown by bold line upon the print No. 1-53255, dated November 14, 2011, marked "Exhibit A", attached hereto and made a part hereof ("Premises").

2.(a) Licensee agrees to reimburse Licensor (within thirty (30) days after receipt of bills therefor) for all costs and expenses incurred by Licensor in connection with Licensee's use of the Premises or the presence, construction, maintenance, and use of the Pipeline, including but not limited to the furnishing of Licensor's Flagman and any vehicle rental costs incurred. The cost of flagger services provided by the Railway, when deemed necessary by the Railway's representative, will be borne by the Licensee. The estimated cost for one (1) flagger is \$800.00 for an eight (8) hour basic day with time and one-half or double time for overtime, rest days and holidays. The estimated cost for each flagger includes vacation allowance, paid holidays, Railway and unemployment insurance, public liability and property damage insurance, health and welfare benefits, transportation, meals, lodging and supervision. Negotiations for Railway labor or collective bargaining agreements and rate changes authorized by appropriate Federal authorities may increase actual or estimated flagging rates. The flagging rate in effect at the time of performance by the Contractor hereunder will be used to calculate the actual costs of flagging pursuant to this paragraph.

(b) Prior to entering the Premises, Licensee shall and shall cause its contractor to comply with all Licensor's applicable safety rules and regulations. Prior to commencing any work on the Premises, Licensee shall complete and shall require its contractor to complete the safety-orientation program at the following Internet Website "<http://contractororientation.com>". This program must be completed no more than one year in advance of Licensee's entry on the Premises.

(c) Licensee shall notify Licensor's Roadmaster at telephone 402-362-5501, at least five (5) business days prior to installation of the Pipeline and prior to entering the Premises for any subsequent maintenance thereon.

3. The following new Section shall be added to the Original Contract:

Licensee shall, at its sole cost and expense, procure and maintain during the life of this Agreement the following insurance coverage:

- A. Commercial General Liability Insurance. This insurance shall contain broad form contractual liability with a combined single limit of a minimum of \$5,000,000 each occurrence and an aggregate limit of at least \$10,000,000 but in no event less than the amount otherwise carried by the Licensee. Coverage must be purchased on a post 1998 ISO occurrence or equivalent and include coverage for, but not limited to, the following:
- ◆ Bodily Injury and Property Damage
 - ◆ Personal Injury and Advertising Injury
 - ◆ Fire legal liability
 - ◆ Products and completed operations

This policy shall also contain the following endorsements, which shall be indicated on the certificate of insurance:

- ◆ The definition of insured contract shall be amended to remove any exclusion or other limitation for any work being done within 50 feet of railroad property.
- ◆ Waiver of subrogation in favor of and acceptable to **Licensor**.
- ◆ Additional insured endorsement in favor of and acceptable to **Licensor and Jones, Lang, LaSalle Global Services RR, Inc.**
- ◆ Separation of insureds.
- ◆ The policy shall be primary and non-contributing with respect to any insurance carried by **Licensor**.

It is agreed that the workers' compensation and employers' liability related exclusions in the Commercial General Liability insurance policy(s) required herein are intended to apply to employees of the policy holder and shall not apply to **Licensor** employees.

No other endorsements limiting coverage may be included on the policy.

- B. Business Automobile Insurance. This insurance shall contain a combined single limit of at least \$1,000,000 per occurrence, and include coverage for, but not limited to the following:
- ◆ Bodily injury and property damage
 - ◆ Any and all vehicles owned, used or hired
 - ◆ Waiver of subrogation in favor of and acceptable to **Licensor**.
 - ◆ Additional insured endorsement in favor or and acceptable to **Licensor**.
 - ◆ Separation of insureds.
 - ◆ The policy shall be primary and non-contributing with respect to any insurance carried by **Licensor**.

- C. Workers Compensation and Employers Liability Insurance. This insurance shall include coverage for, but not limited to:
- ◆ Licensee's statutory liability under the worker's compensation laws of the state(s) in which the work is to be performed. If optional under State law, the insurance must cover all employees anyway.
 - ◆ Employers' Liability (Part B) with limits of at least \$500,000 each accident, \$500,000 by disease policy limit, \$500,000 by disease each employee. This policy shall also contain the following endorsements or language, which shall be indicated on the certificate of insurance:
 - ◆ Waiver of subrogation in favor of and acceptable to **Licensor**.
- D. If further maintenance of the Pipeline is needed at a later date, a Railroad Protective Liability Insurance Policy shall be required. The policy shall be issued on a standard ISO form CG 00 35 10 93 and include the following:
- ◆ Endorsed to include the Pollution Exclusion Amendment (ISO form CG 28 31 10 93)
 - ◆ Endorsed to include the Limited Seepage and Pollution Endorsement.
 - ◆ Endorsed to include Evacuation Expense Coverage Endorsement.
 - ◆ No other endorsements restricting coverage may be added.
 - ◆ The original policy must be provided to the Licensor prior to performing any work or services under this Agreement

Other Requirements:

Where allowable by law, all policies (applying to coverage listed above) shall contain no exclusion for punitive damages and certificates of insurance shall reflect that no exclusion exists.

Licensee agrees to waive its right of recovery against Licensor for all claims and suits against Licensor. In addition, its insurers, through policy endorsement, waive their right of subrogation against Licensor for all claims and suits. The certificate of insurance must reflect waiver of subrogation endorsement. Licensee further waives its right of recovery, and its insurers also waive their right of subrogation against Licensor for loss of its owned or leased property or property under its care, custody or control.

Licensee is not allowed to self-insure without the prior written consent of Licensor. If granted by Licensor, any deductible, self-insured retention or other financial responsibility for claims shall be covered directly by Licensee in lieu of insurance. Any and all Licensor liabilities that would otherwise, in accordance with the provisions of this Agreement, be covered by Licensee's insurance will be covered as if Licensee elected not to include a deductible, self-insured retention, or other financial responsibility for claims.

Prior to commencing the Work, Licensee shall furnish to Licensor an acceptable certificate(s) of insurance including an original signature of the authorized representative evidencing the required coverage, endorsements, and amendments. The policy(ies) shall contain a provision that obligates the insurance company(ies) issuing such policy(ies) to notify Licensor in writing at least 30 days prior to any cancellation, non-

renewal, substitution or material alteration. This cancellation provision shall be indicated on the certificate of insurance. Upon request from Licensors, a certified duplicate original of any required policy shall be furnished.

Any insurance policy shall be written by a reputable insurance company acceptable to Licensors or with a current Best's Guide Rating of A- and Class VII or better, and authorized to do business in the state(s) in which the service is to be provided.

If coverage is purchased on a "claims made" basis, Licensee hereby agrees to maintain coverage in force for a minimum of three years after expiration, cancellation or termination of this contract. Annually, Licensee agrees to provide evidence of such coverage as required hereunder.

Licensee represents that this License has been thoroughly reviewed by Licensee's insurance agent(s)/broker(s), who have been instructed by Licensee to procure the insurance coverage required by this Agreement. Allocated Loss Expense shall be in addition to all policy limits for coverages referenced above.

Not more frequently than once every five years, Licensors may reasonably modify the required insurance coverage to reflect then-current risk management practices in the railroad industry and underwriting practices in the insurance industry.

If any portion of the operation is to be subcontracted by Licensee, Licensee shall require that the subcontractor shall provide and maintain insurance coverages as set forth herein, naming Licensors as an additional insured, and shall require that the subcontractor shall release, defend and indemnify Licensors to the same extent and under the same terms and conditions as Licensee is required to release, defend and indemnify Licensors herein.

Failure to provide evidence as required by this section shall entitle, but not require, Licensors to terminate this License immediately. Acceptance of a certificate that does not comply with this section shall not operate as a waiver of Licensee's obligations hereunder.

The fact that insurance (including, without limitation, self-insurance) is obtained by Licensee shall not be deemed to release or diminish the liability of Licensee including, without limitation, liability under the indemnity provisions of this License. Damages recoverable by Licensors shall not be limited by the amount of the required insurance coverage.

For purposes of this section, Licensors shall mean "Burlington Northern Santa Fe Corporation", "BNSF Railway Company" and the subsidiaries, successors, assigns and affiliates of each.

3. (a) **TO THE FULLEST EXTENT PERMITTED BY LAW, LICENSEE SHALL, AND SHALL CAUSE ITS CONTRACTOR TO, RELEASE, INDEMNIFY, DEFEND AND HOLD HARMLESS LICENSORS AND LICENSORS' AFFILIATED COMPANIES, PARTNERS, SUCCESSORS, ASSIGNS, LEGAL REPRESENTATIVES, OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES AND AGENTS (COLLECTIVELY, "INDEMNITEES") FOR, FROM**

AND AGAINST ANY AND ALL CLAIMS, LIABILITIES, FINES, PENALTIES, COSTS, DAMAGES, LOSSES, LIENS, CAUSES OF ACTION, SUITS, DEMANDS, JUDGMENTS AND EXPENSES (INCLUDING, WITHOUT LIMITATION, COURT COSTS, ATTORNEYS' FEES AND COSTS OF INVESTIGATION, REMOVAL AND REMEDIATION AND GOVERNMENTAL OVERSIGHT COSTS) ENVIRONMENTAL OR OTHERWISE (COLLECTIVELY "LIABILITIES") OF ANY NATURE, KIND OR DESCRIPTION OF ANY PERSON OR ENTITY DIRECTLY OR INDIRECTLY ARISING OUT OF, RESULTING FROM OR RELATED TO (IN WHOLE OR IN PART):

- (i) THIS LICENSE, INCLUDING, WITHOUT LIMITATION, ITS ENVIRONMENTAL PROVISIONS,
- (ii) ANY RIGHTS OR INTERESTS GRANTED PURSUANT TO THIS LICENSE,
- (iii) LICENSEE'S OCCUPATION AND USE OF THE PREMISES,
- (iv) THE ENVIRONMENTAL CONDITION AND STATUS OF THE PREMISES CAUSED BY OR CONTRIBUTED BY LICENSEE, OR
- (v) ANY ACT OR OMISSION OF LICENSEE OR LICENSEE'S OFFICERS, AGENTS, INVITEES, EMPLOYEES, OR CONTRACTORS, OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY ANY OF THEM, OR ANYONE THEY CONTROL OR EXERCISE CONTROL OVER,

EVEN IF SUCH LIABILITIES ARISE FROM OR ARE ATTRIBUTED TO, IN WHOLE OR IN PART, ANY NEGLIGENCE OF ANY INDEMNITEE. THE ONLY LIABILITIES WITH RESPECT TO WHICH LICENSEE'S OBLIGATION TO INDEMNIFY THE INDEMNITEES DOES NOT APPLY ARE LIABILITIES TO THE EXTENT PROXIMATELY CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF AN INDEMNITEE.

- (b) FURTHER, TO THE FULLEST EXTENT PERMITTED BY LAW, NOTWITHSTANDING THE LIMITATION IN SECTION 21(a), LICENSEE SHALL AND SHALL CAUSE ITS CONTRACTOR TO NOW AND FOREVER WAIVE ANY AND ALL CLAIMS, REGARDLESS WHETHER BASED ON THE STRICT LIABILITY, NEGLIGENCE OR OTHERWISE, THAT RAILROAD IS AN "OWNER", "OPERATOR", "ARRANGER", OR "TRANSPORTER" WITH RESPECT TO THE PIPELINE FOR THE PURPOSES OF CERCLA OR OTHER ENVIRONMENTAL LAWS. LICENSEE WILL INDEMNIFY, DEFEND AND HOLD THE INDEMNITEES HARMLESS FROM ANY AND ALL SUCH CLAIMS REGARDLESS OF THE NEGLIGENCE OF THE INDEMNITEES. LICENSEE FURTHER AGREES THAT THE USE OF THE PREMISES AS CONTEMPLATED BY THIS LICENSE SHALL NOT IN ANY WAY SUBJECT LICENSOR TO CLAIMS THAT LICENSOR IS OTHER THAN A COMMON CARRIER FOR PURPOSES OF ENVIRONMENTAL LAWS AND EXPRESSLY AGREES TO INDEMNIFY, DEFEND, AND HOLD THE INDEMNITEES HARMLESS FOR ANY AND ALL SUCH CLAIMS. IN NO EVENT SHALL

LICENSOR BE RESPONSIBLE FOR THE ENVIRONMENTAL CONDITION OF THE PREMISES.

- (c) **TO THE FULLEST EXTENT PERMITTED BY LAW, LICENSEE FURTHER AGREES, AND SHALL CAUSE ITS CONTRACTOR TO REGARDLESS OF ANY NEGLIGENCE OR ALLEGED NEGLIGENCE OF ANY INDEMNITEE, TO INDEMNIFY, AND HOLD HARMLESS THE INDEMNITEES AGAINST AND ASSUME THE DEFENSE OF ANY LIABILITIES ASSERTED AGAINST OR SUFFERED BY ANY INDEMNITEE UNDER OR RELATED TO THE FEDERAL EMPLOYERS' LIABILITY ACT ("FELA") WHENEVER EMPLOYEES OF LICENSEE OR ANY OF ITS AGENTS, INVITEES, OR CONTRACTORS CLAIM OR ALLEGE THAT THEY ARE EMPLOYEES OF ANY INDEMNITEE OR OTHERWISE. THIS INDEMNITY SHALL ALSO EXTEND, ON THE SAME BASIS, TO FELA CLAIMS BASED ON ACTUAL OR ALLEGED VIOLATIONS OF ANY FEDERAL, STATE OR LOCAL LAWS OR REGULATIONS, INCLUDING BUT NOT LIMITED TO THE SAFETY APPLIANCE ACT, THE LOCOMOTIVE INSPECTION ACT, THE OCCUPATIONAL SAFETY AND HEALTH ACT, THE RESOURCE CONSERVATION AND RECOVERY ACT, AND ANY SIMILAR STATE OR FEDERAL STATUTE.**
- (d) **Upon written notice from Licensor, Licensee agrees to assume the defense of any lawsuit or other proceeding brought against any Indemnatee by any entity, relating to any matter covered by this License for which Licensee has an obligation to assume liability for and/or save and hold harmless any Indemnatee. Licensee shall pay all costs incident to such defense, including, but not limited to, attorneys' fees, investigators' fees, litigation and appeal expenses, settlement payments, and amounts paid in satisfaction of judgments.**

PERSONAL PROPERTY WAIVER

- 4. **ALL PERSONAL PROPERTY OF LICENSEE, INCLUDING, BUT NOT LIMITED TO, FIXTURES, EQUIPMENT, OR RELATED MATERIALS UPON THE PREMISES WILL BE AT THE RISK OF LICENSEE ONLY, AND NO INDEMNITEE WILL BE LIABLE FOR ANY DAMAGE THERETO OR THEFT THEREOF, WHETHER OR NOT DUE IN WHOLE OR IN PART TO THE NEGLIGENCE OF ANY INDEMNITEE.**

Except as herein modified, the Original Contract shall continue in full force and effect.

Staubach Global Services, Inc. is acting as representative for BNSF Railway Company.

IN WITNESS WHEREOF, this Supplemental Agreement has been duly executed in duplicate by the parties hereto as of the day and year first above written.

BNSF RAILWAY COMPANY

Jones Lang LaSalle Global Services RR, Inc.,
Its Attorney in Fact
3017 Lou Menk Drive, Suite 100
Fort Worth, TX 76131-2800

By: _____


Ed Darter,
Vice President – National Accounts

CITY OF GRAND ISLAND

By: _____

Title: _____

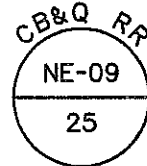
EXHIBIT "A"

ATTACHED TO CONTRACT BETWEEN
BNSF RAILWAY COMPANY
 AND

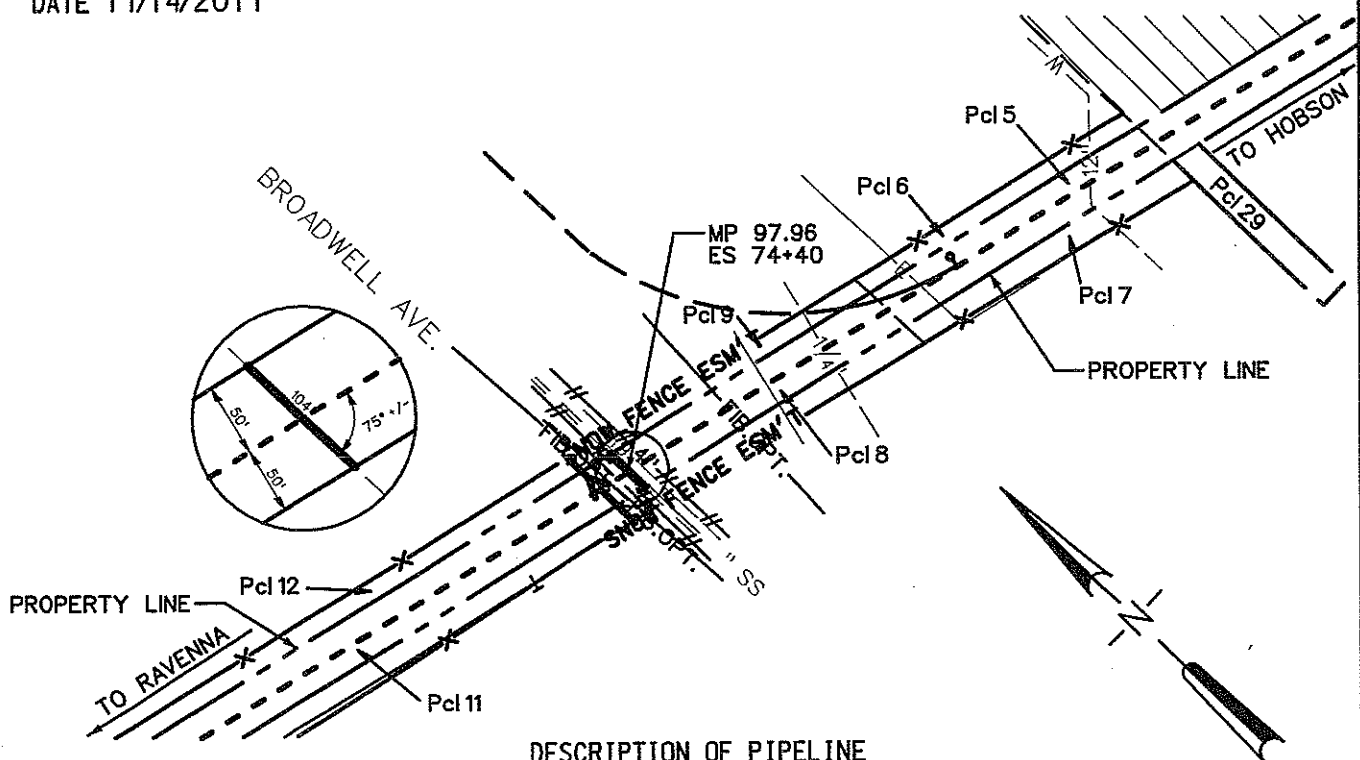
CITY OF GRAND ISLAND

SCALE: 1 IN. = 400 FT.
 NEBRASKA DIV.
 RAVENNA SUBDIV. L.S. 0004
 DATE 11/14/2011

SECTION: 04
 TOWNSHIP: 11N
 RANGE: 09W
 MERIDIAN: 6PM



MAP REF. R77094



DESCRIPTION OF PIPELINE
 PIPELINE SHOWN BOLD

	CARRIER PIPE	CASING PIPE		CARRIER PIPE	CASING PIPE
SIZE:	6"	12"	LENGTH ON R/W:	104'	104'
CONTENTS:	WATER		WORKING PRESSURE:		
PIPE MATERIAL:	IRON	STEEL	BURY: BASE/RAIL TO TOP OF CASING		
SPECIFICATION/GRADE:			BURY: NATURAL GROUND		
WALL THICKNESS:			BURY: ROADWAY DITCHES		
COATING:			CATHODIC PROTECTION		

VENTS: NUMBER — SIZE — HEIGHT OF VENT ABOVE GROUND —

NOTE: PIPE IS EXISTING IN PLACE

NEAR GRAND ISLAND

SUPPLEMENTAL AGREEMENT

This **SUPPLEMENTAL AGREEMENT**, made this _____ day of _____, 2012, subject to the terms and conditions set forth in the original agreement, between **BNSF RAILWAY COMPANY**, a Delaware corporation, its successors and assigns, (hereinafter called "Licensor") and **CITY OF GRAND ISLAND** (hereinafter called "Licensee").

RECITALS:

Licensor and Licensee are now parties to an agreement dated November 23, 1948, Licensor's Contract No. Q30316, together with any and all modifications, supplements and amendments thereto (hereinafter called "Original Contract"), relating to an underground sanitary sewage pipeline.

AGREEMENT:

It is mutually agreed that the following modification(s) will be made to the Original Contract:

1. **PREMISES.** That property at or near the station of Grand Island, County of Hall, State of Nebraska, Line Segment 0004, Mile Post 97.96, shown by bold line upon the print No. 1-53256, dated November 14, 2011, marked "Exhibit A", attached hereto and made a part hereof ("Premises").

2.(a) Licensee agrees to reimburse Licensor (within thirty (30) days after receipt of bills therefor) for all costs and expenses incurred by Licensor in connection with Licensee's use of the Premises or the presence, construction, maintenance, and use of the Pipeline, including but not limited to the furnishing of Licensor's Flagman and any vehicle rental costs incurred. The cost of flagger services provided by the Railway, when deemed necessary by the Railway's representative, will be borne by the Licensee. The estimated cost for one (1) flagger is \$800.00 for an eight (8) hour basic day with time and one-half or double time for overtime, rest days and holidays. The estimated cost for each flagger includes vacation allowance, paid holidays, Railway and unemployment insurance, public liability and property damage insurance, health and welfare benefits, transportation, meals, lodging and supervision. Negotiations for Railway labor or collective bargaining agreements and rate changes authorized by appropriate Federal authorities may increase actual or estimated flagging rates. The flagging rate in effect at the time of performance by the Contractor hereunder will be used to calculate the actual costs of flagging pursuant to this paragraph.

(b) Prior to entering the Premises, Licensee shall and shall cause its contractor to comply with all Licensor's applicable safety rules and regulations. Prior to commencing any work on the Premises, Licensee shall complete and shall require its contractor to complete the safety-orientation program at the following Internet Website "<http://contractororientation.com>". This program must be completed no more than one year in advance of Licensee's entry on the Premises.

(c) Licensee shall notify Licensor's Roadmaster at telephone 402-362-5501, at least five (5) business days prior to installation of the Pipeline and prior to entering the Premises for any subsequent maintenance thereon.

3. The following new Section shall be added to the Original Contract:

Licensee shall, at its sole cost and expense, procure and maintain during the life of this Agreement the following insurance coverage:

- A. Commercial General Liability Insurance. This insurance shall contain broad form contractual liability with a combined single limit of a minimum of \$5,000,000 each occurrence and an aggregate limit of at least \$10,000,000 but in no event less than the amount otherwise carried by the Licensee. Coverage must be purchased on a post 1998 ISO occurrence or equivalent and include coverage for, but not limited to, the following:
- ◆ Bodily Injury and Property Damage
 - ◆ Personal Injury and Advertising Injury
 - ◆ Fire legal liability
 - ◆ Products and completed operations

This policy shall also contain the following endorsements, which shall be indicated on the certificate of insurance:

- ◆ The definition of insured contract shall be amended to remove any exclusion or other limitation for any work being done within 50 feet of railroad property.
- ◆ Waiver of subrogation in favor of and acceptable to **Licensor**.
- ◆ Additional insured endorsement in favor of and acceptable to **Licensor and Jones, Lang, LaSalle Global Services RR, Inc.**
- ◆ Separation of insureds.
- ◆ The policy shall be primary and non-contributing with respect to any insurance carried by **Licensor**.

It is agreed that the workers' compensation and employers' liability related exclusions in the Commercial General Liability insurance policy(s) required herein are intended to apply to employees of the policy holder and shall not apply to **Licensor** employees.

No other endorsements limiting coverage may be included on the policy.

- B. Business Automobile Insurance. This insurance shall contain a combined single limit of at least \$1,000,000 per occurrence, and include coverage for, but not limited to the following:
- ◆ Bodily injury and property damage
 - ◆ Any and all vehicles owned, used or hired
 - ◆ Waiver of subrogation in favor of and acceptable to **Licensor**.
 - ◆ Additional insured endorsement in favor of and acceptable to **Licensor**.
 - ◆ Separation of insureds.
 - ◆ The policy shall be primary and non-contributing with respect to any insurance carried by **Licensor**.

- C. Workers Compensation and Employers Liability Insurance. This insurance shall include coverage for, but not limited to:
- ◆ Licensee's statutory liability under the worker's compensation laws of the state(s) in which the work is to be performed. If optional under State law, the insurance must cover all employees anyway.
 - ◆ Employers' Liability (Part B) with limits of at least \$500,000 each accident, \$500,000 by disease policy limit, \$500,000 by disease each employee. This policy shall also contain the following endorsements or language, which shall be indicated on the certificate of insurance:
 - ◆ Waiver of subrogation in favor of and acceptable to **Licensors**.
- D. If further maintenance of the Pipeline is needed at a later date, a Railroad Protective Liability Insurance Policy shall be required. The policy shall be issued on a standard ISO form CG 00 35 10 93 and include the following:
- ◆ Endorsed to include the Pollution Exclusion Amendment (ISO form CG 28 31 10 93)
 - ◆ Endorsed to include the Limited Seepage and Pollution Endorsement.
 - ◆ Endorsed to include Evacuation Expense Coverage Endorsement.
 - ◆ No other endorsements restricting coverage may be added.
 - ◆ The original policy must be provided to the Licensors prior to performing any work or services under this Agreement

Other Requirements:

Where allowable by law, all policies (applying to coverage listed above) shall contain no exclusion for punitive damages and certificates of insurance shall reflect that no exclusion exists.

Licensee agrees to waive its right of recovery against Licensors for all claims and suits against Licensors. In addition, its insurers, through policy endorsement, waive their right of subrogation against Licensors for all claims and suits. The certificate of insurance must reflect waiver of subrogation endorsement. Licensee further waives its right of recovery, and its insurers also waive their right of subrogation against Licensors for loss of its owned or leased property or property under its care, custody or control.

Licensee is not allowed to self-insure without the prior written consent of Licensors. If granted by Licensors, any deductible, self-insured retention or other financial responsibility for claims shall be covered directly by Licensee in lieu of insurance. Any and all Licensors liabilities that would otherwise, in accordance with the provisions of this Agreement, be covered by Licensee's insurance will be covered as if Licensee elected not to include a deductible, self-insured retention, or other financial responsibility for claims.

Prior to commencing the Work, Licensee shall furnish to Licensors an acceptable certificate(s) of insurance including an original signature of the authorized representative evidencing the required coverage, endorsements, and amendments. The policy(ies) shall contain a provision that obligates the insurance company(ies) issuing such policy(ies) to notify Licensors in writing at least 30 days prior to any cancellation, non-

renewal, substitution or material alteration. This cancellation provision shall be indicated on the certificate of insurance. Upon request from Licensor, a certified duplicate original of any required policy shall be furnished.

Any insurance policy shall be written by a reputable insurance company acceptable to Licensor or with a current Best's Guide Rating of A- and Class VII or better, and authorized to do business in the state(s) in which the service is to be provided.

If coverage is purchased on a "claims made" basis, Licensee hereby agrees to maintain coverage in force for a minimum of three years after expiration, cancellation or termination of this contract. Annually, Licensee agrees to provide evidence of such coverage as required hereunder.

Licensee represents that this License has been thoroughly reviewed by Licensee's insurance agent(s)/broker(s), who have been instructed by Licensee to procure the insurance coverage required by this Agreement. Allocated Loss Expense shall be in addition to all policy limits for coverages referenced above.

Not more frequently than once every five years, Licensor may reasonably modify the required insurance coverage to reflect then-current risk management practices in the railroad industry and underwriting practices in the insurance industry.

If any portion of the operation is to be subcontracted by Licensee, Licensee shall require that the subcontractor shall provide and maintain insurance coverages as set forth herein, naming Licensor as an additional insured, and shall require that the subcontractor shall release, defend and indemnify Licensor to the same extent and under the same terms and conditions as Licensee is required to release, defend and indemnify Licensor herein.

Failure to provide evidence as required by this section shall entitle, but not require, Licensor to terminate this License immediately. Acceptance of a certificate that does not comply with this section shall not operate as a waiver of Licensee's obligations hereunder.

The fact that insurance (including, without limitation, self-insurance) is obtained by Licensee shall not be deemed to release or diminish the liability of Licensee including, without limitation, liability under the indemnity provisions of this License. Damages recoverable by Licensor shall not be limited by the amount of the required insurance coverage.

For purposes of this section, Licensor shall mean "Burlington Northern Santa Fe Corporation", "BNSF Railway Company" and the subsidiaries, successors, assigns and affiliates of each.

3. (a) **TO THE FULLEST EXTENT PERMITTED BY LAW, LICENSEE SHALL, AND SHALL CAUSE ITS CONTRACTOR TO, RELEASE, INDEMNIFY, DEFEND AND HOLD HARMLESS LICENSOR AND LICENSOR'S AFFILIATED COMPANIES, PARTNERS, SUCCESSORS, ASSIGNS, LEGAL REPRESENTATIVES, OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES AND AGENTS (COLLECTIVELY, "INDEMNITEES") FOR, FROM**

AND AGAINST ANY AND ALL CLAIMS, LIABILITIES, FINES, PENALTIES, COSTS, DAMAGES, LOSSES, LIENS, CAUSES OF ACTION, SUITS, DEMANDS, JUDGMENTS AND EXPENSES (INCLUDING, WITHOUT LIMITATION, COURT COSTS, ATTORNEYS' FEES AND COSTS OF INVESTIGATION, REMOVAL AND REMEDIATION AND GOVERNMENTAL OVERSIGHT COSTS) ENVIRONMENTAL OR OTHERWISE (COLLECTIVELY "LIABILITIES") OF ANY NATURE, KIND OR DESCRIPTION OF ANY PERSON OR ENTITY DIRECTLY OR INDIRECTLY ARISING OUT OF, RESULTING FROM OR RELATED TO (IN WHOLE OR IN PART):

- (i) THIS LICENSE, INCLUDING, WITHOUT LIMITATION, ITS ENVIRONMENTAL PROVISIONS,
- (ii) ANY RIGHTS OR INTERESTS GRANTED PURSUANT TO THIS LICENSE,
- (iii) LICENSEE'S OCCUPATION AND USE OF THE PREMISES,
- (iv) THE ENVIRONMENTAL CONDITION AND STATUS OF THE PREMISES CAUSED BY OR CONTRIBUTED BY LICENSEE, OR
- (v) ANY ACT OR OMISSION OF LICENSEE OR LICENSEE'S OFFICERS, AGENTS, INVITEES, EMPLOYEES, OR CONTRACTORS, OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY ANY OF THEM, OR ANYONE THEY CONTROL OR EXERCISE CONTROL OVER,

EVEN IF SUCH LIABILITIES ARISE FROM OR ARE ATTRIBUTED TO, IN WHOLE OR IN PART, ANY NEGLIGENCE OF ANY INDEMNITEE. THE ONLY LIABILITIES WITH RESPECT TO WHICH LICENSEE'S OBLIGATION TO INDEMNIFY THE INDEMNITEES DOES NOT APPLY ARE LIABILITIES TO THE EXTENT PROXIMATELY CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF AN INDEMNITEE.

- (b) FURTHER, TO THE FULLEST EXTENT PERMITTED BY LAW, NOTWITHSTANDING THE LIMITATION IN SECTION 21(a), LICENSEE SHALL AND SHALL CAUSE ITS CONTRACTOR TO NOW AND FOREVER WAIVE ANY AND ALL CLAIMS, REGARDLESS WHETHER BASED ON THE STRICT LIABILITY, NEGLIGENCE OR OTHERWISE, THAT RAILROAD IS AN "OWNER", "OPERATOR", "ARRANGER", OR "TRANSPORTER" WITH RESPECT TO THE PIPELINE FOR THE PURPOSES OF CERCLA OR OTHER ENVIRONMENTAL LAWS. LICENSEE WILL INDEMNIFY, DEFEND AND HOLD THE INDEMNITEES HARMLESS FROM ANY AND ALL SUCH CLAIMS REGARDLESS OF THE NEGLIGENCE OF THE INDEMNITEES. LICENSEE FURTHER AGREES THAT THE USE OF THE PREMISES AS CONTEMPLATED BY THIS LICENSE SHALL NOT IN ANY WAY SUBJECT LICENSOR TO CLAIMS THAT LICENSOR IS OTHER THAN A COMMON CARRIER FOR PURPOSES OF ENVIRONMENTAL LAWS AND EXPRESSLY AGREES TO INDEMNIFY, DEFEND, AND HOLD THE INDEMNITEES HARMLESS FOR ANY AND ALL SUCH CLAIMS. IN NO EVENT SHALL

LICENSOR BE RESPONSIBLE FOR THE ENVIRONMENTAL CONDITION OF THE PREMISES.

- (c) **TO THE FULLEST EXTENT PERMITTED BY LAW, LICENSEE FURTHER AGREES, AND SHALL CAUSE ITS CONTRACTOR TO REGARDLESS OF ANY NEGLIGENCE OR ALLEGED NEGLIGENCE OF ANY INDEMNITEE, TO INDEMNIFY, AND HOLD HARMLESS THE INDEMNITEES AGAINST AND ASSUME THE DEFENSE OF ANY LIABILITIES ASSERTED AGAINST OR SUFFERED BY ANY INDEMNITEE UNDER OR RELATED TO THE FEDERAL EMPLOYERS' LIABILITY ACT ("FELA") WHENEVER EMPLOYEES OF LICENSEE OR ANY OF ITS AGENTS, INVITEES, OR CONTRACTORS CLAIM OR ALLEGE THAT THEY ARE EMPLOYEES OF ANY INDEMNITEE OR OTHERWISE. THIS INDEMNITY SHALL ALSO EXTEND, ON THE SAME BASIS, TO FELA CLAIMS BASED ON ACTUAL OR ALLEGED VIOLATIONS OF ANY FEDERAL, STATE OR LOCAL LAWS OR REGULATIONS, INCLUDING BUT NOT LIMITED TO THE SAFETY APPLIANCE ACT, THE LOCOMOTIVE INSPECTION ACT, THE OCCUPATIONAL SAFETY AND HEALTH ACT, THE RESOURCE CONSERVATION AND RECOVERY ACT, AND ANY SIMILAR STATE OR FEDERAL STATUTE.**
- (d) Upon written notice from Licensor, Licensee agrees to assume the defense of any lawsuit or other proceeding brought against any Indemnatee by any entity, relating to any matter covered by this License for which Licensee has an obligation to assume liability for and/or save and hold harmless any Indemnatee. Licensee shall pay all costs incident to such defense, including, but not limited to, attorneys' fees, investigators' fees, litigation and appeal expenses, settlement payments, and amounts paid in satisfaction of judgments.

PERSONAL PROPERTY WAIVER

- 4. **ALL PERSONAL PROPERTY OF LICENSEE, INCLUDING, BUT NOT LIMITED TO, FIXTURES, EQUIPMENT, OR RELATED MATERIALS UPON THE PREMISES WILL BE AT THE RISK OF LICENSEE ONLY, AND NO INDEMNITEE WILL BE LIABLE FOR ANY DAMAGE THERETO OR THEFT THEREOF, WHETHER OR NOT DUE IN WHOLE OR IN PART TO THE NEGLIGENCE OF ANY INDEMNITEE.**

Except as herein modified, the Original Contract shall continue in full force and effect.

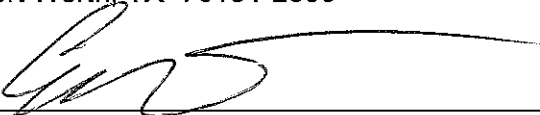
Staubach Global Services, Inc. is acting as representative for BNSF Railway Company.

IN WITNESS WHEREOF, this Supplemental Agreement has been duly executed in duplicate by the parties hereto as of the day and year first above written.

BNSF RAILWAY COMPANY

Jones Lang LaSalle Global Services RR, Inc.,
Its Attorney in Fact
3017 Lou Menk Drive, Suite 100
Fort Worth, TX 76131-2800

By:



Ed Darter,
Vice President – National Accounts

CITY OF GRAND ISLAND

By: _____

Title: _____

EXHIBIT "A"

ATTACHED TO CONTRACT BETWEEN
BNSF RAILWAY COMPANY
AND

CITY OF GRAND ISLAND

SCALE: 1 IN. = 400 FT.

NEBRASKA DIV.

RAVENNA SUBDIV. L.S. 0004

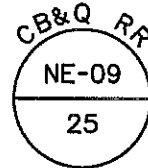
DATE 11/14/2011

SECTION: 04

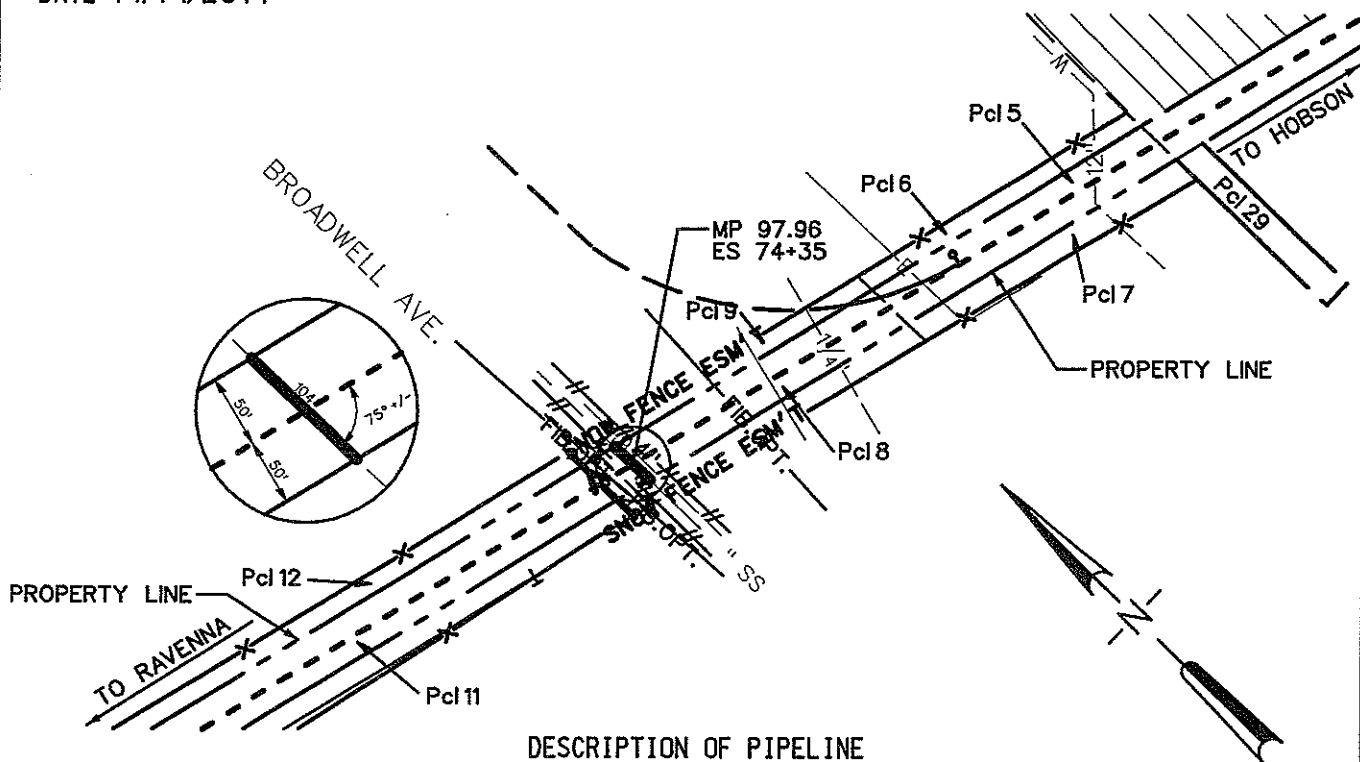
TOWNSHIP: 11N

RANGE: 09W

MERIDIAN: 6PM



MAP REF. R77094



DESCRIPTION OF PIPELINE
PIPELINE SHOWN BOLD

	CARRIER PIPE	CASING PIPE		CARRIER PIPE	CASING PIPE
SIZE:	6"	12"	LENGTH ON R/W:	104'	104'
CONTENTS:	SANITARY SEWER		WORKING PRESSURE:		
PIPE MATERIAL:		STEEL	BURY: BASE/RAIL TO TOP OF CASING		
SPECIFICATION/GRADE:			BURY: NATURAL GROUND		
WALL THICKNESS:			BURY: ROADWAY DITCHES		
COATING:			CATHODIC PROTECTION		

VENTS: NUMBER — SIZE — HEIGHT OF VENT ABOVE GROUND —

NOTE: PIPE IS EXISTING IN PLACE

NEAR GRAND ISLAND

SUPPLEMENTAL AGREEMENT

This **SUPPLEMENTAL AGREEMENT**, made this _____ day of _____, 2012, subject to the terms and conditions set forth in the original agreement, between **BNSF RAILWAY COMPANY**, a Delaware corporation, its successors and assigns, (hereinafter called "Licensor") and **CITY OF GRAND ISLAND** (hereinafter called "Licensee").

RECITALS:

Licensor and Licensee are now parties to an agreement dated June 1, 1993, Licensor's Contract No. PX93-8028, together with any and all modifications, supplements and amendments thereto (hereinafter called "Original Contract"), relating to an underground water pipeline.

AGREEMENT:

It is mutually agreed that the following modification(s) will be made to the Original Contract:

1. **PREMISES.** That property at or near the station of Grand Island, County of Hall, State of Nebraska, Line Segment 0004, Mile Post 99.06, shown by bold line upon the print No. 1-53258, dated November 14, 2011, marked "Exhibit A", attached hereto and made a part hereof ("Premises").

2.(a) Licensee agrees to reimburse Licensor (within thirty (30) days after receipt of bills therefor) for all costs and expenses incurred by Licensor in connection with Licensee's use of the Premises or the presence, construction, maintenance, and use of the Pipeline, including but not limited to the furnishing of Licensor's Flagman and any vehicle rental costs incurred. The cost of flagger services provided by the Railway, when deemed necessary by the Railway's representative, will be borne by the Licensee. The estimated cost for one (1) flagger is \$800.00 for an eight (8) hour basic day with time and one-half or double time for overtime, rest days and holidays. The estimated cost for each flagger includes vacation allowance, paid holidays, Railway and unemployment insurance, public liability and property damage insurance, health and welfare benefits, transportation, meals, lodging and supervision. Negotiations for Railway labor or collective bargaining agreements and rate changes authorized by appropriate Federal authorities may increase actual or estimated flagging rates. The flagging rate in effect at the time of performance by the Contractor hereunder will be used to calculate the actual costs of flagging pursuant to this paragraph.

(b) Prior to entering the Premises, Licensee shall and shall cause its contractor to comply with all Licensor's applicable safety rules and regulations. Prior to commencing any work on the Premises, Licensee shall complete and shall require its contractor to complete the safety-orientation program at the following Internet Website "<http://contractororientation.com>". This program must be completed no more than one year in advance of Licensee's entry on the Premises.

(c) Licensee shall notify Licensor's Roadmaster at telephone 402-362-5501, at least five (5) business days prior to installation of the Pipeline and prior to entering the Premises for any subsequent maintenance thereon.

3. The following new Section shall be added to the Original Contract:

Licensee shall, at its sole cost and expense, procure and maintain during the life of this Agreement the following insurance coverage:

- A. Commercial General Liability Insurance. This insurance shall contain broad form contractual liability with a combined single limit of a minimum of \$5,000,000 each occurrence and an aggregate limit of at least \$10,000,000 but in no event less than the amount otherwise carried by the Licensee. Coverage must be purchased on a post 1998 ISO occurrence or equivalent and include coverage for, but not limited to, the following:
- ◆ Bodily Injury and Property Damage
 - ◆ Personal Injury and Advertising Injury
 - ◆ Fire legal liability
 - ◆ Products and completed operations

This policy shall also contain the following endorsements, which shall be indicated on the certificate of insurance:

- ◆ The definition of insured contract shall be amended to remove any exclusion or other limitation for any work being done within 50 feet of railroad property.
- ◆ Waiver of subrogation in favor of and acceptable to **Licensor**.
- ◆ Additional insured endorsement in favor of and acceptable to **Licensor and Jones, Lang, LaSalle Global Services RR, Inc.**
- ◆ Separation of insureds.
- ◆ The policy shall be primary and non-contributing with respect to any insurance carried by **Licensor**.

It is agreed that the workers' compensation and employers' liability related exclusions in the Commercial General Liability insurance policy(s) required herein are intended to apply to employees of the policy holder and shall not apply to **Licensor** employees.

No other endorsements limiting coverage may be included on the policy.

- B. Business Automobile Insurance. This insurance shall contain a combined single limit of at least \$1,000,000 per occurrence, and include coverage for, but not limited to the following:
- ◆ Bodily injury and property damage
 - ◆ Any and all vehicles owned, used or hired
 - ◆ Waiver of subrogation in favor of and acceptable to **Licensor**.
 - ◆ Additional insured endorsement in favor or and acceptable to **Licensor**.
 - ◆ Separation of insureds.
 - ◆ The policy shall be primary and non-contributing with respect to any insurance carried by **Licensor**.

- C. Workers Compensation and Employers Liability Insurance. This insurance shall include coverage for, but not limited to:
- ◆ Licensee's statutory liability under the worker's compensation laws of the state(s) in which the work is to be performed. If optional under State law, the insurance must cover all employees anyway.
 - ◆ Employers' Liability (Part B) with limits of at least \$500,000 each accident, \$500,000 by disease policy limit, \$500,000 by disease each employee. This policy shall also contain the following endorsements or language, which shall be indicated on the certificate of insurance:
 - ◆ Waiver of subrogation in favor of and acceptable to **Licensors**.
- D. If further maintenance of the Pipeline is needed at a later date, a Railroad Protective Liability Insurance Policy shall be required. The policy shall be issued on a standard ISO form CG 00 35 10 93 and include the following:
- ◆ Endorsed to include the Pollution Exclusion Amendment (ISO form CG 28 31 10 93)
 - ◆ Endorsed to include the Limited Seepage and Pollution Endorsement.
 - ◆ Endorsed to include Evacuation Expense Coverage Endorsement.
 - ◆ No other endorsements restricting coverage may be added.
 - ◆ The original policy must be provided to the Licensors prior to performing any work or services under this Agreement

Other Requirements:

Where allowable by law, all policies (applying to coverage listed above) shall contain no exclusion for punitive damages and certificates of insurance shall reflect that no exclusion exists.

Licensee agrees to waive its right of recovery against Licensors for all claims and suits against Licensors. In addition, its insurers, through policy endorsement, waive their right of subrogation against Licensors for all claims and suits. The certificate of insurance must reflect waiver of subrogation endorsement. Licensee further waives its right of recovery, and its insurers also waive their right of subrogation against Licensors for loss of its owned or leased property or property under its care, custody or control.

Licensee is not allowed to self-insure without the prior written consent of Licensors. If granted by Licensors, any deductible, self-insured retention or other financial responsibility for claims shall be covered directly by Licensee in lieu of insurance. Any and all Licensors liabilities that would otherwise, in accordance with the provisions of this Agreement, be covered by Licensee's insurance will be covered as if Licensee elected not to include a deductible, self-insured retention, or other financial responsibility for claims.

Prior to commencing the Work, Licensee shall furnish to Licensors an acceptable certificate(s) of insurance including an original signature of the authorized representative evidencing the required coverage, endorsements, and amendments. The policy(ies) shall contain a provision that obligates the insurance company(ies) issuing such policy(ies) to notify Licensors in writing at least 30 days prior to any cancellation, non-

renewal, substitution or material alteration. This cancellation provision shall be indicated on the certificate of insurance. Upon request from Licensor, a certified duplicate original of any required policy shall be furnished.

Any insurance policy shall be written by a reputable insurance company acceptable to Licensor or with a current Best's Guide Rating of A- and Class VII or better, and authorized to do business in the state(s) in which the service is to be provided.

If coverage is purchased on a "claims made" basis, Licensee hereby agrees to maintain coverage in force for a minimum of three years after expiration, cancellation or termination of this contract. Annually, Licensee agrees to provide evidence of such coverage as required hereunder.

Licensee represents that this License has been thoroughly reviewed by Licensee's insurance agent(s)/broker(s), who have been instructed by Licensee to procure the insurance coverage required by this Agreement. Allocated Loss Expense shall be in addition to all policy limits for coverages referenced above.

Not more frequently than once every five years, Licensor may reasonably modify the required insurance coverage to reflect then-current risk management practices in the railroad industry and underwriting practices in the insurance industry.

If any portion of the operation is to be subcontracted by Licensee, Licensee shall require that the subcontractor shall provide and maintain insurance coverages as set forth herein, naming Licensor as an additional insured, and shall require that the subcontractor shall release, defend and indemnify Licensor to the same extent and under the same terms and conditions as Licensee is required to release, defend and indemnify Licensor herein.

Failure to provide evidence as required by this section shall entitle, but not require, Licensor to terminate this License immediately. Acceptance of a certificate that does not comply with this section shall not operate as a waiver of Licensee's obligations hereunder.

The fact that insurance (including, without limitation, self-insurance) is obtained by Licensee shall not be deemed to release or diminish the liability of Licensee including, without limitation, liability under the indemnity provisions of this License. Damages recoverable by Licensor shall not be limited by the amount of the required insurance coverage.

For purposes of this section, Licensor shall mean "Burlington Northern Santa Fe Corporation", "BNSF Railway Company" and the subsidiaries, successors, assigns and affiliates of each.

3. (a) **TO THE FULLEST EXTENT PERMITTED BY LAW, LICENSEE SHALL, AND SHALL CAUSE ITS CONTRACTOR TO, RELEASE, INDEMNIFY, DEFEND AND HOLD HARMLESS LICENSOR AND LICENSOR'S AFFILIATED COMPANIES, PARTNERS, SUCCESSORS, ASSIGNS, LEGAL REPRESENTATIVES, OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES AND AGENTS (COLLECTIVELY, "INDEMNITEES") FOR, FROM**

AND AGAINST ANY AND ALL CLAIMS, LIABILITIES, FINES, PENALTIES, COSTS, DAMAGES, LOSSES, LIENS, CAUSES OF ACTION, SUITS, DEMANDS, JUDGMENTS AND EXPENSES (INCLUDING, WITHOUT LIMITATION, COURT COSTS, ATTORNEYS' FEES AND COSTS OF INVESTIGATION, REMOVAL AND REMEDIATION AND GOVERNMENTAL OVERSIGHT COSTS) ENVIRONMENTAL OR OTHERWISE (COLLECTIVELY "LIABILITIES") OF ANY NATURE, KIND OR DESCRIPTION OF ANY PERSON OR ENTITY DIRECTLY OR INDIRECTLY ARISING OUT OF, RESULTING FROM OR RELATED TO (IN WHOLE OR IN PART):

- (i) THIS LICENSE, INCLUDING, WITHOUT LIMITATION, ITS ENVIRONMENTAL PROVISIONS,
- (ii) ANY RIGHTS OR INTERESTS GRANTED PURSUANT TO THIS LICENSE,
- (iii) LICENSEE'S OCCUPATION AND USE OF THE PREMISES,
- (iv) THE ENVIRONMENTAL CONDITION AND STATUS OF THE PREMISES CAUSED BY OR CONTRIBUTED BY LICENSEE, OR
- (v) ANY ACT OR OMISSION OF LICENSEE OR LICENSEE'S OFFICERS, AGENTS, INVITEES, EMPLOYEES, OR CONTRACTORS, OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY ANY OF THEM, OR ANYONE THEY CONTROL OR EXERCISE CONTROL OVER,

EVEN IF SUCH LIABILITIES ARISE FROM OR ARE ATTRIBUTED TO, IN WHOLE OR IN PART, ANY NEGLIGENCE OF ANY INDEMNITEE. THE ONLY LIABILITIES WITH RESPECT TO WHICH LICENSEE'S OBLIGATION TO INDEMNIFY THE INDEMNITEES DOES NOT APPLY ARE LIABILITIES TO THE EXTENT PROXIMATELY CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF AN INDEMNITEE.

- (b) FURTHER, TO THE FULLEST EXTENT PERMITTED BY LAW, NOTWITHSTANDING THE LIMITATION IN SECTION 21(a), LICENSEE SHALL AND SHALL CAUSE ITS CONTRACTOR TO NOW AND FOREVER WAIVE ANY AND ALL CLAIMS, REGARDLESS WHETHER BASED ON THE STRICT LIABILITY, NEGLIGENCE OR OTHERWISE, THAT RAILROAD IS AN "OWNER", "OPERATOR", "ARRANGER", OR "TRANSPORTER" WITH RESPECT TO THE PIPELINE FOR THE PURPOSES OF CERCLA OR OTHER ENVIRONMENTAL LAWS. LICENSEE WILL INDEMNIFY, DEFEND AND HOLD THE INDEMNITEES HARMLESS FROM ANY AND ALL SUCH CLAIMS REGARDLESS OF THE NEGLIGENCE OF THE INDEMNITEES. LICENSEE FURTHER AGREES THAT THE USE OF THE PREMISES AS CONTEMPLATED BY THIS LICENSE SHALL NOT IN ANY WAY SUBJECT LICENSOR TO CLAIMS THAT LICENSOR IS OTHER THAN A COMMON CARRIER FOR PURPOSES OF ENVIRONMENTAL LAWS AND EXPRESSLY AGREES TO INDEMNIFY, DEFEND, AND HOLD THE INDEMNITEES HARMLESS FOR ANY AND ALL SUCH CLAIMS. IN NO EVENT SHALL

LICENSOR BE RESPONSIBLE FOR THE ENVIRONMENTAL CONDITION OF THE PREMISES.

- (c) **TO THE FULLEST EXTENT PERMITTED BY LAW, LICENSEE FURTHER AGREES, AND SHALL CAUSE ITS CONTRACTOR TO REGARDLESS OF ANY NEGLIGENCE OR ALLEGED NEGLIGENCE OF ANY INDEMNITEE, TO INDEMNIFY, AND HOLD HARMLESS THE INDEMNITEES AGAINST AND ASSUME THE DEFENSE OF ANY LIABILITIES ASSERTED AGAINST OR SUFFERED BY ANY INDEMNITEE UNDER OR RELATED TO THE FEDERAL EMPLOYERS' LIABILITY ACT ("FELA") WHENEVER EMPLOYEES OF LICENSEE OR ANY OF ITS AGENTS, INVITEES, OR CONTRACTORS CLAIM OR ALLEGE THAT THEY ARE EMPLOYEES OF ANY INDEMNITEE OR OTHERWISE. THIS INDEMNITY SHALL ALSO EXTEND, ON THE SAME BASIS, TO FELA CLAIMS BASED ON ACTUAL OR ALLEGED VIOLATIONS OF ANY FEDERAL, STATE OR LOCAL LAWS OR REGULATIONS, INCLUDING BUT NOT LIMITED TO THE SAFETY APPLIANCE ACT, THE LOCOMOTIVE INSPECTION ACT, THE OCCUPATIONAL SAFETY AND HEALTH ACT, THE RESOURCE CONSERVATION AND RECOVERY ACT, AND ANY SIMILAR STATE OR FEDERAL STATUTE.**
- (d) Upon written notice from Licensor, Licensee agrees to assume the defense of any lawsuit or other proceeding brought against any Indemnitee by any entity, relating to any matter covered by this License for which Licensee has an obligation to assume liability for and/or save and hold harmless any Indemnitee. Licensee shall pay all costs incident to such defense, including, but not limited to, attorneys' fees, investigators' fees, litigation and appeal expenses, settlement payments, and amounts paid in satisfaction of judgments.

PERSONAL PROPERTY WAIVER

- 4. **ALL PERSONAL PROPERTY OF LICENSEE, INCLUDING, BUT NOT LIMITED TO, FIXTURES, EQUIPMENT, OR RELATED MATERIALS UPON THE PREMISES WILL BE AT THE RISK OF LICENSEE ONLY, AND NO INDEMNITEE WILL BE LIABLE FOR ANY DAMAGE THERETO OR THEFT THEREOF, WHETHER OR NOT DUE IN WHOLE OR IN PART TO THE NEGLIGENCE OF ANY INDEMNITEE.**

Except as herein modified, the Original Contract shall continue in full force and effect.

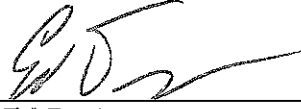
Staubach Global Services, Inc. is acting as representative for BNSF Railway Company.

IN WITNESS WHEREOF, this Supplemental Agreement has been duly executed in duplicate by the parties hereto as of the day and year first above written.

BNSF RAILWAY COMPANY

Jones Lang LaSalle Global Services RR, Inc.,
Its Attorney in Fact
3017 Lou Menk Drive, Suite 100
Fort Worth, TX 76131-2800

By:



Ed Darter,
Vice President -- National Accounts

CITY OF GRAND ISLAND

By: _____

Title: _____

EXHIBIT "A"

ATTACHED TO CONTRACT BETWEEN
BNSF RAILWAY COMPANY
 AND

CITY OF GRAND ISLAND

SCALE: 1 IN. = 400 FT.

NEBRASKA DIV.

RAVENNA SUBDIV. L.S. 0004

DATE 11/14/2011

SECTION: 01

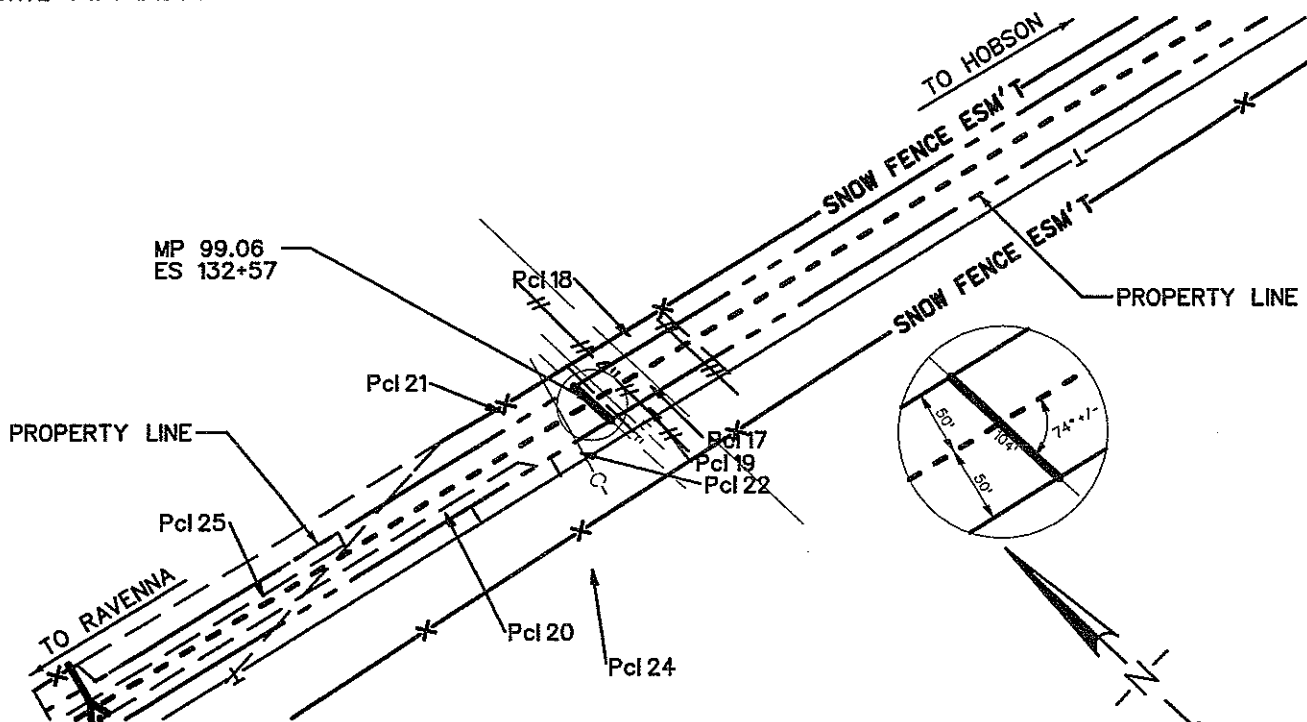
TOWNSHIP: 11N

RANGE: 10W

MERIDIAN: 6PM



MAP REF. R77094



DESCRIPTION OF PIPELINE
PIPELINE SHOWN BOLD

	CARRIER PIPE	CASING PIPE		CARRIER PIPE	CASING PIPE
SIZE:	20"	32"	LENGTH ON R/W:	104'	104'
CONTENTS:	WATER		WORKING PRESSURE:	-	-
PIPE MATERIAL:	DIP	STEEL	BURY: BASE/RAIL TO TOP OF CASING	-	-
SPECIFICATION/GRADE:	-	-	BURY: NATURAL GROUND	-	-
WALL THICKNESS:	-	-	BURY: ROADWAY DITCHES	-	-
COATING:	-	-	CATHODIC PROTECTION	-	-

VENTS: NUMBER - SIZE - HEIGHT OF VENT ABOVE GROUND -

NOTE: PIPE IS EXISTING IN PLACE

NEAR GRAND ISLAND

RESOLUTION 2012-90

WHEREAS, in April of 2011, the City was advised by Burlington Northern Santa Fe (BNSF) that they were proceeding with a project to widen the elevated rail overpass to a double track to alleviate train traffic congestion; and

WHEREAS, as a result of this project, multiple electrical, water and sewer utility crossings by the City across the BNSF right-of-way will need to be modified to accommodate the track improvement project; and

WHEREAS, the BNSF entered into an Agreement to pay for the modifications; and

WHEREAS, the contract requires the City's passage of supplemental agreements for each crossing; and

WHEREAS, modifications include either relocating utilities or encasement of the utilities to current railroad crossing standards.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the five Supplemental Agreements presented at this meeting are hereby approved, and that the Mayor is authorized to sign the agreements on behalf of the City of Grand Island.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, April 10, 2012.

Jay Vavricek, Mayor

Attest:

RaNae Edwards, City Clerk



City of Grand Island

Tuesday, April 10, 2012

Council Session

Item G10

#2012-91 - Approving Bid Award for Fire Hydrants

Staff Contact: Tim Luchsinger; Jason Eley

Council Agenda Memo

From: Timothy Luchsinger, Utilities Director
Jason Eley, Assistant City Attorney/Purchasing

Meeting: April 10, 2012

Subject: Fire Hydrant Contract 2012-FH-1

Item #'s: G-10

Presenter(s): Timothy Luchsinger, Utilities Director

Background

Water system projects that will be constructed this year will add approximately 58,700 linear feet of pipe to the utility. This includes extending City water service to the Parkview area, Platte Valley Industrial Park – East, Wildwood Subdivision, Merrick County, and relocations for the Burlington Northern Santa Fe (BNSF) project. For these construction projects, it is the Utility Department's policy to supply fire hydrants in accordance with Fire Department requirements and engineering standards.

Discussion

In order to obtain the best price by volume purchasing, specifications and bidding documents were prepared for the purchase of ninety (90) fire hydrants to be installed during the 2012 construction season. The material contract was advertised in accordance with the City Procurement Code, and bids were publicly opened on March 29, 2012 at 2:15 p.m. Three bids were received as tabulated below.

Bidder	Exceptions	Bid Price
HD Supply Waterworks Omaha, NE	None	\$125,460.00
Municipal Supply, Inc. Hastings, NE	None	\$132,660.00
Lincoln WinWater Lincoln, NE	None	\$141,300.00

All of the bids were compliant with the specifications and two of the bids were below the engineer's estimate of \$140,000.00. Utility staff recommends that HD Supply Waterworks is the low responsive bidder with a bid price of \$125,460.00.

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 award Contract 2012-FH-1 for ninety (90) fire hydrants to the low responsive bidder, HD Supply Waterworks of Omaha, Nebraska, in the amount of \$125,460.00.

Sample Motion

Move to approve Contract 2012-FH-1 for (ninety) 90 fire hydrants to HD Supply Waterworks of Omaha, Nebraska in the amount of \$125,460.00.

Purchasing Division of Legal Department
INTEROFFICE MEMORANDUM



Jason Eley, Purchasing Agent

*Working Together for a
Better Tomorrow, Today*

BID OPENING

BID OPENING DATE: March 29, 2012 at 2:15 p.m.
FOR: Fire Hydrant Contract 2012-FH-1
DEPARTMENT: Utilities
ESTIMATE: \$140,000.00
FUND/ACCOUNT: 525
PUBLICATION DATE: March 15, 2012
NO. POTENTIAL BIDDERS: 3

SUMMARY

Bidder:	<u>H D Supply Waterworks</u> Omaha, NE	<u>Municipal Supply, Inc.</u> Hastings, NE
Exceptions:	None	None
Bid Price:	\$125,460.00	\$132,660.00
Bidder:	<u>Lincoln Winwater</u> Lincoln, NE	
Exceptions:	None	
Bid Price:	\$141,300.00	

cc: Tim Luchsinger, Utilities Director
Jason Eley, Purchasing Agent
Mary Lou Brown, City Administrator

Bob Smith, Assist. Utilities Director
Pat Gericke, Utilities Admin. Assist.
Sue Bigley, Utilities Secretary

P1549

RESOLUTION 2012-91

WHEREAS, the City of Grand Island invited sealed bids for ninety (90) fire hydrants, according to plans and specifications on file with the Utilities Department; and

WHEREAS, on March 29, 2012, bids were received, opened and reviewed; and

WHEREAS, HD Supply Waterworks of Omaha, Nebraska, submitted a bid in accordance with the terms of the advertisement of bids and plans and specifications and all other statutory requirements contained therein, such bid being in the amount of \$125,460.00; and

WHEREAS, the bid of HD Waterworks is less than the engineer's estimate of \$140,000 for ninety (90) fire hydrants.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the bid of HD Waterworks, in the amount of \$125,460.00 for ninety (90) fire hydrants is hereby approved as the lowest responsible bid.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, April 10, 2012.

Jay Vavricek, Mayor

Attest:

RaNae Edwards, City Clerk



City of Grand Island

Tuesday, April 10, 2012

Council Session

Item G11

**#2012-92 - Approving Amendment to Finance Personnel FTE
Budget Allocation**

Staff Contact: Jaye Monter

Council Agenda Memo

From: Jaye Monter, Finance Director

Meeting: April 10, 2012

Subject: Approving Amendment to Finance Personnel FTE Budget Allocation

Item #'s: G-11

Presenter(s): Jaye Monter, Finance Director

Background

The Finance Department has a unique opportunity to bring an intern on staff for the summer from the University of Nebraska at Kearney. This young man has finished his third year of college on his way to receiving his Bachelor of Science in Business Administration with an emphasis in Accounting and Finance. Currently the Finance Department does not have a seasonal FTE allocation in the 2012 budget. In order to hire this position, an FTE under the seasonal classification must exist within the department. An estimated 13 week period would require a .25 seasonal FTE. The additional dollars of approximately \$5,400 will be absorbed within the current Finance Personnel budget.

Discussion

The Finance Department has been understaffed since December of 2010 when Mary Lou Brown took over as Interim City Administrator and continued her duties as Finance Director. This void continued after Mary Lou's permanent appointment as City Administrator in April of 2011 while continuing her duties as Finance Director. In September of 2011 Jaye Monter accepted the Interim Finance Director position and continued her duties as Senior Accountant. Today the Finance Department is still understaffed while searching for a Senior Accountant. An additional seasonal employee this summer will help the Finance Department prepare for program prioritization budgeting, update the City's Financial Trend monitoring, review budgeting and website information of other Cities, and help finance staff with other duties as needed.

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 this amendment to the Finance Personnel FTE Budget Allocation with an increase of a .25 Seasonal FTE.

Sample Motion

Move to approve this amendment to the Finance Personnel FTE Budget Allocation with an increase of a .25 Seasonal FTE.

RESOLUTION 2012-92

WHEREAS, the City of Grand Island and the Finance Department have an opportunity to bring an intern on staff for the summer of 2012; and

WHEREAS, this individual is on his way to a degree in accounting and finance and will be able to assist the Finance Department with program prioritization budgeting, financial trend monitoring and help other finance staff as needed; and

WHEREAS, in order to hire this position a seasonal FTE of .25 must exist with the Finance Department's personnel budget: and

WHEREAS, an amendment to the Finance Personnel FTE Budget Allocation is necessary to allow for the hiring of a .25 Seasonal FTE.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that amending the Finance Personnel FTE Budget Allocation with an increase of a .25 Seasonal FTE is hereby approved.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, April 10, 2012.

Jay Vavricek, Mayor

Attest:

RaNae Edwards, City Clerk



City of Grand Island

Tuesday, April 10, 2012

Council Session

Item G12

#2012-93 - Approving Time Extension for 911 Phone Installation

Staff Contact: Jon Rosenlund

Council Agenda Memo

From: Jon Rosenlund, Director of Emergency Management

Meeting: April 10, 2012

Subject: Approving Time Extension to the Contract with Platte Valley Communications for 911 Phone Installation

Item #'s: G-12

Presenter(s): Jon Rosenlund, Director of Emergency Management

Background

The City Council awarded the bid for purchase and installation of a 911 Telephone System to Platte Valley Communications of Grand Island, Nebraska on January 24, 2012.

Any changes to the contract require council approval. Platte Valley Communications is requesting that the final completion date be changed from April 30, 2012 to May 31, 2012. Currently, the installation schedule is proposed as:

Week of 4-23 – Installation
Week of 4-30 Installation
Week of 5-7 – GIEC Staff Training
Week of 5-14 – Cutover Week
5-16 – Cutover @ 10:00 Central time

Discussion

Several factors have delayed completion of the project; including the order and delivery of equipment, installation of communications infrastructure.

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 extending the completion date to May 31, 2012.

Sample Motion

Move to approve extension of completion.



CONTRACT TIME EXTENSION

PROJECT: 911 CPE System

CONTRACTOR: Platte Valley Communications

AMOUNT OF ORIGINAL CONTRACT: \$168,835.00

CONTRACT DATE: January 24, 2012

Notice to Proceed Date ----- January 24, 2012

Original Completion Date ----- April 30, 2012

Revised Completion Date ----- May 31, 2012

Contractor Platte Valley Communications

By _____

Date _____

Title _____

CITY OF GRAND ISLAND, NEBRASKA

By _____

Date _____

Mayor

Attest _____

City Clerk

R E S O L U T I O N 2012-93

WHEREAS, on January 24, 2012, by Resolution 2012-5, the City Council of the City of Grand Island approved the bid of Platte Valley Communications of Grand Island, Nebraska for the purchase and installation of a 911 CPE System; and

WHEREAS, the completion of such project has been delayed due to several factors; and

WHEREAS, The Platte Valley Communications has requested an extension from April 30, 2012 to May 31, 2012 in order to complete the project; and

WHEREAS, the Emergency Management Department support such contract extension.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the completion date for the purchase and installation of a 911 CPE System is hereby extended until May 31, 2012.

BE IT FURTHER RESOLVED, that the Mayor is hereby authorized and directed to execute such contract modification on behalf of the City of Grand Island.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, April 10, 2012.

Jay Vavricek, Mayor

Attest:

RaNae Edwards, City Clerk



City of Grand Island

Tuesday, April 10, 2012

Council Session

Item G13

#2012-94 - Approving Bid Award for Concrete Pavement and Storm Sewer Repairs for 2012

Staff Contact: John Collins, Public Works Director

Council Agenda Memo

From: Shannon Callahan, Street Superintendent

Meeting: April 10, 2012

Subject: Approving Bid Award for Concrete Pavement and Storm Sewer Repairs for 2012

Item #'s: G-13

Presenter(s): John Collins, Public Works Director

Background

On March 14, 2012 the Streets Division of the Public Works Department advertised for bids for concrete pavement and storm sewer repairs for the calendar year 2012. The contracted concrete pavement and storm sewer work supplements the repair work that is performed by the City's crews.

Discussion

Two (2) bids were received and opened on March 29, 2012. All bids were submitted in compliance with the contract, plans, and specifications with no exceptions. A summary of the bids is shown below.

Vendor	Exceptions	Total Bid	
O.K. Paving of Hordville, NE	None	Bid Price	\$733,175.00
		Labor (per hour)	\$45.00
		Skid Steer Loader (per hour)	\$40.00
		Front End Loader (per hour)	\$50.00
		Backhoe (per hour)	\$50.00
		Dump Truck-10 c.y. (per hour)	\$50.00
The Diamond Engineering Co. of Grand Island, NE	None	Bid Price	\$989,438.00
		Labor (per hour)	\$45.00
		Skid Steer Loader (per hour)	\$45.00
		Front End Loader (per hour)	\$110.00
		Backhoe (per hour)	\$110.00
		Dump Truck-10 c.y. (per hour)	\$125.00

There are sufficient funds in Account No. 10033506-85351 (Concrete Repair), 10033504-85318 (Storm Sewer Repair), 10033503-85318 (Curb & Gutter), and 10033503-85547 (Street Repair Materials) to fund this contract. This is a calendar year contract that extends beyond the current fiscal year. In the event that funds become unavailable in the fiscal year 2011/2012, the scope of work for this contract will be scaled down accordingly.

Alternatives

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

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

Recommendation

Public Works Administration recommends that the Council approve awarding the contract to O.K. Paving, Inc. of Hordville, Nebraska for the amount of \$733,175.00.

Sample Motion

Move to approve the bid award.

Purchasing Division of Legal Department
INTEROFFICE MEMORANDUM



Jason Eley, Purchasing Agent

*Working Together for a
Better Tomorrow, Today*

BID OPENING

BID OPENING DATE: March 29, 2012 at 2:00 p.m.

FOR: Concrete Pavement & Storm Sewer Repair 2012

DEPARTMENT: Public Works

ESTIMATE: \$800,000.00

FUND/ACCOUNT: 10033506-85351 10033504-85318
10033503-85318 10033503-85547

PUBLICATION DATE: March 14, 2012

NO. POTENTIAL BIDDERS: 6

SUMMARY

Bidder:	<u>Diamond Engineering Co.</u> Grand Island, NE	<u>OK Paving, Inc.</u> Hordville, NE
Bid Security:	Universal Surety Co.	\$36,658.75
Exceptions:	None	None
Bid Price:	\$989,438.00	\$733,175.00
Labor:	\$45.00 per hour	\$45.00 per hour
Sid Steer Loader:	\$45.00 per hour	\$40.00 per hour
Front End Loader:	\$110.00 per hour	\$50.00 per hour
Backhoe:	\$110.00 per hour	\$50.00 per hour
Dump Truck-10 CY:	\$125.00 per hour	\$50.00 per hour

cc: John Collins, Public Works Director
Jason Eley, Purchasing Agent
Mary Lou Brown, City Administrator

Catrina DeLosh, PW Admin. Assist.
Shannon Callahan, Street Superintendent

P1547

CONTRACT AGREEMENT

THIS AGREEMENT made and entered into this **10th** day of **April, 2012**, by and between **OK Paving, 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 furnishing of **Concrete Pavement & Storm Sewer Repair 2012**; and

WHEREAS, the City, in the manner prescribed by law, has publicly opened, examined, and canvassed the proposals submitted, and has determined the aforesaid Contractor to be the lowest responsive 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 of **Seven Hundred Thirty Three Thousand One Hundred Seventy Five and 00/100 Dollars (\$733,175.00) bid price.**

Labor (per hour)	\$45.00
Skid Steer Loader (per hour)	\$40.00
Front End Loader (per hour)	\$50.00
Backhoe (per hour)	\$50.00
Dump Truck-10 c.y. (per hour)	\$50.00

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.

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

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 **Concrete Pavement & Storm Sewer Repair 2012**.

ARTICLE IV. That the Contractor shall start work as soon as possible after the contract is signed, and that the terms of the contract shall expire **December 31, 2012**.

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.

ARTICLE VI. Gratuities and Kickbacks. 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.

ARTICLE VII, Fiscal Year Budget. 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.

IN WITNESS WHEREOF, the parties hereto have executed this Contract Agreement as of the date and year first above written.

OK PAVING, INC.

By _____

Date _____

Title _____

CITY OF GRAND ISLAND NEBRASKA

By _____
Mayor

Date _____

Attest _____
City Clerk

The contract is in due form according to law and is hereby approved.

Attorney for the City

Date _____

RESOLUTION 2012-94

WHEREAS, the City of Grand Island invited sealed bids for Concrete Pavement and Storm Sewer Repairs 2012, according to plans and specifications on file with the Streets Division of the Public Works Department; and

WHEREAS, on March 29, 2012, bids were received, opened and reviewed; and

WHEREAS, OK Paving of Hordville, 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 \$733,175.00; and

WHEREAS, OK Paving's bid is less than the estimate for such project.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the bid of OK Paving of Hordville, Nebraska, in the amount of \$733,175.00 for Concrete Pavement and Storm Sewer Repairs 2012 is hereby approved as the lowest responsible bid.

BE IT FURTHER RESOLVED, that a contract for such project between the City and such contractor be entered into, and 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, April 10, 2012.

Jay Vavricek, Mayor

Attest:

RaNae Edwards, City Clerk



City of Grand Island

Tuesday, April 10, 2012

Council Session

Item G14

**#2012-95 - Approving Correction to Resolution No. 2010-361;
Acquisition of Landscape Easements Located in Business
Improvement District No. 6 (Second Street)**

Staff Contact: John Collins, Public Works Director

Council Agenda Memo

From: Scott Griepenstroh, Public Works Project Manager

Meeting: April 10, 2012

Subject: Approving Correction to Resolution No. 2010-361;
Acquisition of Landscape Easements Located in Business Improvement District No. 6 (Second Street)

Item #'s: G-14

Presenter(s): John Collins, Public Works Director

Background

Business Improvement District No. 6 was formed in conjunction with the widening project of Second Street from Grant Street to Clark Street. This district was formed with an objective to utilize and promote sustainable landscaping. Trees, shrubs and grasses were selected that require low watering, less maintenance, and are suitable for Nebraska's climate. Landscaping items were installed on 31 properties along Second Street within the business improvement district.

On December 21, 2010 City Council approved, by Resolution No. 2010-361, the acquisition of landscape easements located in Business Improvement District (BID) No. 6, along Second Street.

Discussion

Maintenance and watering will continue to be required for the trees and various plantings to ensure these items will remain healthy and vibrant. An easement at each property will allow access to maintain these items.

The landscape easements along 2nd Street are being handled in the same fashion as the landscape easements along the Locust Street BID. The property owners donate the easement at no cost to the City. The easements allow for signs to be placed and existing parking lots to remain. Any further encroachments into the landscape easements require a license agreement. The property owner cannot disturb landscaping placed into the easement without permission from the BID.

Upon completion of the 2nd Street improvement project several of the landscape easements were not used; either the property owner did not allow landscaping, or there was no need for landscaping. The purpose of updating the originally approved Resolution No. 2010-361 is to update the properties involved with the landscaping.

The properties included in Business Improvement District No. 6 landscaping are listed below.

North

- Five Points Bank - 1704 W 2nd Street
- Overland National Bank (Wells Fargo Bank) - 920 W 2nd Street
- J.J.A. Holdings, LLC - 1020 W 2nd Street
- Real Estate Group of Grand Island, Inc. - 1824 W 2nd Street
- RSI, Inc. - 2114 W 2nd Street
- Victoria Land Partners L.P. - 2010 W 2nd Street
- Merleen J Johnson, Trustee - 1808 W 2nd Street
- John Michael & Bonna Barton Wanek - 802 W 2nd Street
- Mary Story - 816 W 2nd Street

South

- Walgreen Co. - 1515 W 2nd Street
- Raile Properties, L.L.C. - 823 W 2nd Street
- AutoZone Development Corp. - 1717 W 2nd Street
- Daffodil, L.L.C. - 113 N Clay Street
- J & B Rentals, L.L.C. - 1919 W 2nd Street
- G.I.P.H. Restaurants, L.L.C. - 1015 W 2nd Street
- Video Kingdom of Grand Island, Inc. - 1723 W 2nd Street
- High Road, L.L.C. - 805 W 2nd Street
- Grand Island Woman's Club, Inc. - 1109 W 2nd Street
- Meme Saycocie - 1903 W 2nd Street
- C & A Properties, L.L.C. - 915 W 2nd Street

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 correction to Resolution No. 2010-361 for the acquisition of landscape easements in Business Improvement District No. 6.

Sample Motion

Move to approve the correction to Resolution No. 2010-361.

RESOLUTION 2012-95

WHEREAS, a public hearing was held on December 21, 2010, for the purpose of discussing the proposed acquisition of landscape easements in Business Improvement District No. 6; and

WHEREAS, on December 21, 2010, by Resolution 2010-361, the City Council of the City of Grand Island approved acquisition of landscape easements from the property owners in Business Improvement District No. 6; and

WHEREAS, not all originally approved landscape easements are needed now; and

WHEREAS, the following legal descriptions detail the actual acquired landscape easements:

Five Points Bank

REFERRING TO THE SOUTHWEST CORNER OF LOT EIGHT (8), BLOCK THIRTEEN (13), KERNOHAN AND DECKER'S ADDITION, THENCE NORTHERLY ON THE WEST LINE OF SAID LOT EIGHT (8) FOR A DISTANCE OF 6.36' TO THE ACTUAL POINT OF BEGINNING, THENCE NORTHEASTERLY DEFLECTING 89°, 58 MINUTES, 01 SECONDS RIGHT A DISTANCE OF 39.25', THENCE NORTHERLY DEFLECTING 46°, 34 MINUTES, 34 SECONDS LEFT A DISTANCE OF 36.05', THENCE NORTHWESTERLY DEFLECTING 43°, 12 MINUTES, 04 SECONDS LEFT A DISTANCE OF SIX (6) FEET, THENCE NORTHEASTERLY DEFLECTING 89°, 46 MINUTES, 38 SECONDS RIGHT A DISTANCE OF 1.97' TO THE EAST LINE OF SAID LOT EIGHT (8), THENCE NORTHERLY ON THE EAST LINE OF SAID LOT EIGHT (8), THENCE NORTHERLY ON THE EAST LINE OF SAID LOT EIGHT (8) FOR A DISTANCE OF 77.42', THENCE WESTERLY ON A PERPENDICULAR LINE TO THE EAST OF SAID LOT EIGHT (8) A DISTANCE OF TEN (10) FEET, THENCE SOUTHERLY ON A LINE TEN (10) FEET WEST OF AND PARALLEL TO THE EAST LINE OF SAID LOT EIGHT (8) FOR A DISTANCE OF 79.45', THENCE SOUTHWESTERLY ON A LINE FOR A DISTANCE OF 26.85', THENCE WESTERLY ON A LINE FOR A DISTANCE OF 34.93' TO THE WEST LINE OF SAID LOT EIGHT (8), THENCE SOUTH ON THE WEST LINE OF SAID LOT EIGHT (8) FOR A DISTANCE OF TEN (10) FEET TO THE ACTUAL POINT OF BEGINNING.

J.J.A Holding, LLC

~~REFERRING TO THE SOUTHWEST CORNER OF LOT SIX (6), BLOCK EIGHTEEN (18), ARNOLD AND ABBOTT'S ADDITION, THENCE NORTHERLY ON THE WEST LINE OF SAID LOT SIX (6) FOR A DISTANCE OF 3.68' TO THE ACTUAL POINT OF BEGINNING, THENCE NORTHEASTERLY DEFLECTING 89°, 58 MINUTES, 01 SECONDS RIGHT A DISTANCE OF SIXTY SIX (66) FEET TO THE EAST LINE OF SAID LOT SIX (6), THENCE NORTHERLY ON THE EAST LINE OF SAID LOT SIX (6) FOR A DISTANCE OF FIFTEEN (15) FEET, THENCE WESTERLY ON A LINE FOR A DISTANCE OF SIXTY SIX (66) FEET TO THE WEST LINE OF SAID LOT SIX (6), THENCE SOUTHERLY ON THE WEST LINE OF SAID LOT SIX (6) FOR A~~

~~DISTANCE OF FIFTEEN (15) FEET TO THE ACTUAL POINT OF BEGINNING.~~

Overland National Bank
(Wells Fargo Bank)

REFERRING TO THE SOUTHWEST CORNER OF LOT FIVE (5), BLOCK ONE HUNDRED EIGHTEEN (118), RAILROAD ADDITION, THENCE NORTHERLY ON THE WEST LINE OF SAID LOT FIVE (5) A DISTANCE OF 10.43' TO THE ACTUAL POINT OF BEGINNING, THENCE EASTERLY DEFLECTING 125°, 23 MINUTES, 21 SECONDS RIGHT A DISTANCE OF EIGHTEEN (18) FEET TO THE SOUTHERLY LINE OF SAID LOT FIVE (5), THENCE NORTHEASTERLY ON THE SOUTH LINE OF LOTS FIVE (5), SIX (6), SEVEN (7) AND EIGHT (8) IN BLOCK ONE HUNDRED EIGHTEEN (118), RAILROAD ADDITION TO THE SOUTHEAST CORNER OF SAID LOT EIGHT (8), THENCE NORTHERLY ON THE EAST LINE OF SAID LOT EIGHT (8) FOR A DISTANCE OF FORTY (40) FEET THENCE WESTERLY ON A LINE PERPENDICULAR TO THE EAST LINE OF SAID LOT EIGHT (8) FOR A DISTANCE OF TEN (10) FEET, THENCE SOUTHERLY ON A LINE TEN (10) FEET WEST OF AND PARALLEL TO THE EAST LINE OF SAID LOT EIGHT (8) FOR A DISTANCE OF TEN (10) FEET, THENCE WEST ON A LINE TWENTY (20) FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF SAID LOT EIGHT (8) TO THE WEST LINE OF SAID LOT EIGHT (8), THENCE SOUTHERLY ON THE WEST LINE OF SAID LOT EIGHT (8) FOR A DISTANCE OF TEN (10) FEET, THENCE WESTERLY ON A LINE TEN (10) FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF LOTS FIVE (5), SIX (6) AND SEVEN (7), BLOCK ONE HUNDRED EIGHTEEN (118), RAILROAD ADDITION TO A POINT TEN (10) FEET EAST OF THE WEST LINE OF SAID LOT FIVE (5), THENCE NORTHERLY ON A LINE TEN (10) FEET EAST OF AND PARALLEL TO THE WEST LINE OF SAID LOT FIVE (5) FOR A DISTANCE OF THIRTY (30) FEET, THENCE WESTERLY ON A LINE FOR A DISTANCE OF TEN (10) FEET TO THE WEST LINE OF SAID LOT FIVE (5), THENCE SOUTHERLY ON THE WEST LINE TO THE ACTUAL POINT OF BEGINNING.

J.J.A. Holdings, LLC.

REFERRING TO THE SOUTHWEST CORNER OF LOT FIVE (5), BLOCK EIGHTEEN (18), ARNOLD AND ABBOTT'S ADDITION, THENCE NORTHERLY ALONG THE WEST LINE OF SAID LOT FIVE (5) FOR A DISTANCE OF 11.36' TO THE ACTUAL POINT OF BEGINNING, THENCE EASTERLY DEFLECTING 134°, 56 MINUTES, 55 SECONDS RIGHT A DISTANCE OF 10.93', THENCE NORTHEASTERLY DEFLECTING 44°, 58 MINUTES, 54 SECONDS LEFT A DISTANCE OF 58.27' TO THE EAST LINE OF SAID LOT FIVE (5), THENCE NORTHERLY ON THE EAST LINE OF SAID LOT FIVE (5) FOR A DISTANCE OF TEN (10) FEET, THENCE WESTERLY ON A LINE FOR A DISTANCE OF SIXTY SIX (66) FEET TO THE WEST LINE OF SAID LOT FIVE (5) THENCE SOUTHERLY ON THE WEST LINE OF SAID LOT FIVE (5) TO THE ACTUAL POINT OF BEGINNING.

Real Estate Group of
Grand Island, Inc.

REFERRING TO THE SOUTHWEST CORNER OF FRACTIONAL LOT FIVE (5), BLOCK FOURTEEN (14), KERNOHAN AND DECKER'S

ADDITION, AND FRACTION LOT FIVE (5), BLOCK FIFTY ONE (51), PACKER AND BARR'S SECOND ADDITION, THENCE NORTHERLY ON THE WEST LINE OF SAID LOT A DISTANCE OF 15.82' TO THE ACTUAL POINT OF BEGINNING, THENCE EASTERLY DEFLECTING 134°, 58 MINUTES, 30 SECONDS RIGHT A DISTANCE OF 19.49', THENCE NORTHEASTERLY DEFLECTING 45°, 00 MINUTES, 30 SECONDS LEFT A DISTANCE OF 85.22' TO THE EAST LINE OF THE WEST THIRTY THREE (33) FEET OF LOT SIX (6), BLOCK FOURTEEN (14), KERNOHAN AND DECKER'S ADDITION, THENCE NORTHERLY ON SAID LINE A DISTANCE OF TEN (10) FEET, THENCE WESTERLY ON A LINE TO THE ACTUAL POINT OF BEGINNING.

Grand Island
Properties, LLC

~~REFERRING TO THE SOUTHWEST CORNER OF LOT FIVE (5), BLOCK TWELVE (12), KERNOHAN AND DECKER'S ADDITION, THENCE NORTHERLY ON THE WEST LINE OF SAID LOT FIVE (5) FOR A DISTANCE OF 85.07', THENCE NORTHEASTERLY DEFLECTING 90°, 00 MINUTES, 00 SECONDS RIGHT A DISTANCE OF 2.36' TO THE ACTUAL POINT OF BEGINNING, THENCE SOUTHEASTERLY DEFLECTING 84°, 50 MINUTES, 21 SECONDS RIGHT A DISTANCE OF 48.24', THENCE EASTERLY DEFLECTING 48°, 13 MINUTES, 56 SECONDS LEFT A DISTANCE OF 31.14', THENCE NORTHEASTERLY DEFLECTING 36°, 38 MINUTES, 25 SECONDS LEFT A DISTANCE OF 25', THENCE NORTHWESTERLY ON A LINE TO THE ACTUAL POINT OF BEGINNING.~~

R.S.I., Inc.

REFERRING TO THE SOUTHEAST CORNER OF LOT TEN (10), BLOCK ELEVEN (11), BAKER'S ADDITION, THENCE NORTHERLY ON THE EAST LINE OF SAID LOT TEN (10) A DISTANCE OF 9.56' TO A POINT, THENCE SOUTHERLY DEFLECTING 135°, 02 MINUTES, 03 SECONDS LEFT A DISTANCE OF 2.68' TO THE ACTUAL POINT OF BEGINNING, THENCE WESTERLY ON A LINE EIGHT (8) FEET NORTH OF AND PARALLEL TO THE SOUTHERLY LINE OF LOTS TEN (10), NINE (9) AND EIGHT (8) AND THE EAST HALF OF LOT SEVEN (7) TO THE WEST LINE OF EAST HALF OF SAID LOT SEVEN (7), THENCE SOUTHERLY ON THE WEST LINE OF SAID EAST HALF OF LOT SEVEN (7) FOR A DISTANCE OF FIVE (5) FEET, THENCE EASTERLY ON A LINE THREE (3) FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF LOTS SEVEN (7), EIGHT (8) AND NINE (9), BLOCK ELEVEN (11), BAKER'S ADDITION FOR A DISTANCE OF 100.52', THENCE NORTHERLY ON A LINE PERPENDICULAR TO THE SOUTH LINE OF LOT NINE (9), BLOCK ELEVEN (11), BAKER'S ADDITION FOR A DISTANCE OF TWO (2) FEET, THENCE EASTERLY ON A LINE FIVE (5) FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF SAID LOT NINE (9) FOR A DISTANCE OF 27.5', THENCE SOUTHERLY ON A LINE PERPENDICULAR TO THE SOUTH LINE OF SAID LOT NINE (9) FOR A DISTANCE OF TWO (2) FEET, THENCE EASTERLY ON A LINE THREE (3) FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF LOTS NINE (9) AND TEN (10), BLOCK ELEVEN (11), BAKER'S ADDITION FOR A DISTANCE OF 48.02', THENCE NORTHEASTERLY ON A LINE TO THE ACTUAL

POINT OF BEGINNING.

Victoria Land Partners, L.P. REFERRING TO THE SOUTHEAST CORNER OF LOT NINE (9), BLOCK TWELVE (12), BAKER'S ADDITION, THENCE NORTHERLY ON THE EAST LINE OF SAID LOT NINE (9) A DISTANCE OF 14.77' TO THE ACTUAL POINT OF BEGINNING, THENCE CONTINUING NORTHERLY ON THE EAST LINE OF SAID LOT NINE (9) A DISTANCE OF 22.23', THENCE WESTERLY ON A LINE PERPENDICULAR TO THE EAST LINE OF LOT NINE (9) A DISTANCE OF SIXTEEN (16) FEET, THENCE SOUTHERLY ON A LINE SIXTEEN (16) FEET WEST OF AND PARALLEL TO THE EAST LINE OF SAID LOT NINE (9) A DISTANCE OF THIRTY FIVE (35) FEET, THENCE WESTERLY ON A LINE TWELVE (12) FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF SAID LOT NINE (9), BLOCK TWELVE (12) FOR A DISTANCE OF 28', THENCE SOUTHERLY ON A LINE PERPENDICULAR TO THE SOUTH OF LOT NINE (9), BLOCK TWELVE (12) FOR A DISTANCE OF 5', THENCE EASTERLY ON A LINE 2' NORTH OF AND PARALLEL TO THE SOUTH LINE OF LOT NINE (9), BLOCK TWELVE (12), THENCE NORTHELY DEFLECTING 45° 00 MINUTES, 05 SECONDS LEFT A DISTANCE OF 18.35' TO THE ACTUAL POINT OF BEGINNING

Merleen J. Johnson,
Trustee

REFERRING TO THE SOUTHEAST CORNER OF LOT EIGHT (8), BLOCK FOURTEEN (14), KERNOHAN AND DECKER'S ADDITION, THENCE NORTHERLY ON THE EAST LINE OF SAID LOT EIGHT (8) A DISTANCE OF 13.72' TO THE ACTUAL POINT OF BEGINNING, THENCE CONTINUING NORTH ON THE EAST LINE OF SAID LOT EIGHT (8) FOR A DISTANCE OF TEN (10) FEET, THENCE WEST ON A LINE PERPENDICULAR TO THE EAST LINE OF SAID LOT EIGHT (8) A DISTANCE OF TEN (10) FEET, THENCE SOUTHERLY ON A LINE TEN (10) FEET WEST OF AND PARALLEL TO THE EAST LINE OF SAID LOT EIGHT (8) FOR A DISTANCE OF TEN (10) FEET, THENCE WESTERLY ON A LINE TO A POINT ON THE WEST LINE OF THE EAST HALF OF LOT SIX (6), BLOCK FOURTEEN (14), KERNOHAN AND DECKER'S ADDITION, THENCE SOUTHERLY ON SAID LINE FOR A DISTANCE OF TEN (10) FEET, THENCE NORTHEASTERLY DEFLECTING 89°, 58 MINUTES, 01 SECONDS LEFT A DISTANCE OF 148.67', THENCE NORTHERLY DEFLECTING 35°, 12 MINUTES, 18 SECONDS LEFT A DISTANCE OF TWENTY (20) FEET TO THE ACTUAL POINT OF BEGINNING.

John Michael Wanek
Bonna Barton Wanek

THE SOUTH FIFTEEN (15) FEET OF THE EAST TWENTY (20) FEET OF LOT EIGHT (8), BLOCK ONE HUNDRED FOURTEEN (114), RAILROAD ADDITION TO THE CITY OF GRAND ISLAND, HALL COUNTY, NEBRASKA.

Mary Story

THE SOUTH TEN (10) FEET OF LOT SIX (6), BLOCK ONE HUNDRED FOURTEEN (114), RAILROAD ADDITION TO THE CITY OF GRAND ISLAND, HALL COUNTY, NEBRASKA.

Cleo E. Albright

THE SOUTH FIFTEEN (15) FEET OF LOT FIVE (5), AND SOUTH

~~FIFTEEN (15) FEET OF THE WEST TWENTY (20) FEET OF LOT SIX (6), BLOCK TEN (10), KERNOHAN AND DECKER'S ADDITION, EXCEPT STATE HIGHWAY RIGHT OF WAY, TO THE CITY OF GRAND ISLAND, HALL COUNTY, NEBRASKA.~~

Walgreen Co.

TRACT ONE (1), SUCH EASEMENT BEING LOCATED ON THE WEST SIXTY (60) FEET OF LOT FOUR (4), BLOCK SEVENTEEN (17), KERNOHAN AND DECKER'S ADDITION, EXCEPTING THERE FROM THAT PORTION BEING CONVEYED TO THE STATE OF NEBRASKA AS RIGHT-OF-WAY, TO THE CITY OF GRAND ISLAND, HALL COUNTY, NEBRASKA.

Walgreen Co.

REFERRING TO THE NORTHEAST CORNER OF THE WEST FORTY FOUR (44) FEET OF LOT TWO (2), BLOCK EIGHTEEN (18), KERNOHAN AND DECKER'S ADDITION, THENCE SOUTHERLY ON THE EAST LINE OF SAID WEST FORTY FOUR (44) FEET OF LOT TWO (2) FOR A DISTANCE OF 2.26' TO THE ACTUAL POINT OF BEGINNING, THENCE WESTERLY ON A LINE PARALLEL TO THE NORTH LINE OF LOT TWO (2) OF SAID SUBDIVISION FOR A DISTANCE OF 20.0', THENCE SOUTHERLY ON A LINE PERPENDICULAR TO THE NORTH LINE OF SAID LOT TWO (2) FOR A DISTANCE OF 10', THENCE EASTERLY ON A LINE 12.26' SOUTH OF AND PARALLEL TO THE NORTH LINE OF SAID LOT TWO (2) FOR A DISTANCE OF 20', THENCE NORTHERLY ON THE EAST LINE OF THE WEST FORTY FOUR (44) FEET OF SAID LOT TWO (2) FOR A DISTANCE OF 10' TO THE ACTUAL POINT OF BEGINNING.

Raile Properites, L.L.C.

BEGINNING AT THE NORTHWEST CORNER OF LOT FOUR (4), BLOCK ONE HUNDRED FIFTEEN (115), RAILROAD ADDITION, THENCE SOUTH ON THE WEST LINE OF SAID LOT FOUR (4) A DISTANCE OF 20', THENCE EASTELRY ON A LINE PERPENDICULAR TO THE WEST LINE OF SAID LOT FOUR (4) A DISTANCE OF FIVE (5) FEET, THENCE NORTHERLY ON A LINE FIVE (5) FEET EAST OF AND PARALLEL TO THE WEST LINE OF SAID LOT FOUR (4) A DISTANCE OF FIFTEEN (15) FEET, THENCE NORTHEASTERLY ON A LINE FIVE (5) FEET SOUTH OF AND PARALLEL TO THE NORTH LINE OF SAID LOT FOUR (4) A DISTANCE OF 56', THENCE SOUTHEASTERLY ON A LINE FIVE (5) FEET WEST OF AND PARALLEL TO THE EAST LINE OF SAID LOT FOUR (4) A DISTANCE OF FIFTEEN (15) FEET, THENCE NORTHEASTERLY ON A LINE PERPENDICULAR TO THE EAST LINE OF SAID LOT FOUR (4) A DISTANCE OF FIVE (5) FEET, THENCE NORTHERLY ON THE EAST LINE OF SAID LOT FOUR (4) FOR A DISTANCE OF 20' TO THE NORTHEAST CORNER OF SAID LOT FOUR (4), THENCE SOUTHWESTERLY ON THE NORTH LINE OF SAID LOT FOUR (4) TO THE POINT OF BEGINNING.

AutoZone Development Corporation

REFERRING TO THE NORTHWEST CORNER OF LOT ONE (1), AUTOZONE SUBDIVISION, THENCE SOUTH ON THE WEST LINE OF SAID LOT ONE (1) A DISTANCE OF 5.7' TO THE ACTUAL POINT OF BEGINNING, THENCE EASTERLY ON A LINE FOR A DISTANCE OF

131.45', THENCE SOUTHERLY DEFLECTING 45°, 00 MINUTES, 09 SECONDS RIGHT FOR A DISTANCE OF 30.01', THENCE SOUTHERLY DEFLECTING 39°, 31 MINUTES, 02 SECONDS RIGHT FOR A DISTANCE OF 46', THENCE EASTERLY ON A LINE PERPENDICULAR TO THE EAST LINE OF LOT ONE (1), AUTOZONE SUBDIVISION FOR A DISTANCE OF 1.9', THENCE SOUTH ON THE EAST LINE OF SAID LOT ONE (1) FOR A DISTANCE OF 40', THENCE WESTERLY ON A LINE PERPENDICULAR TO THE EAST LINE OF SAID LOT ONE (1) FOR A DISTANCE OF 15', THENCE NORTHERLY ON A LINE 15' WEST OF AND PARALLEL TO THE EAST LINE OF SAID LOT ONE (1) FOR A DISTANCE OF 92.01', THENCE WESTERLY ON A LINE FOR A DISTANCE OF 144' TO A POINT ON THE WEST LINE OF SAID LOT ONE (1), THENCE NORTHERLY ON THE WEST LINE OF SAID LOT ONE (1) FOR A DISTANCE OF 14.3' TO THE ACTUAL POINT OF BEGINNING.

Daffodil, L.L.C.

REFERRING TO THE NORTHEAST CORNER OF LOT FIVE (5), BLOCK FIFTEEN (15), BAKER'S ADDITION, THENCE SOUTHERLY ON THE EAST LINE OF SAID LOT FIVE (5) FOR A DISTANCE OF 4.32' TO THE ACTUAL POINT OF BEGINNING, THENCE SOUTHWESTERLY DEFLECTING 89°, 58 MINUTES, 01 SECONDS RIGHT FOR A DISTANCE OF 47.43', THENCE DEFLECTING 44°, 59 MINUTES, 38 SECONDS LEFT FOR A DISTANCE OF 9.3' TO THE WESTERLY LINE OF SAID LOT FIVE (5), THENCE SOUTHERLY ON THE WEST LINE OF SAID LOT FIVE (5) FOR A DISTANCE OF 7.07', THENCE EAST ON A LINE PARALLEL TO THE NORTH LINE OF SAID LOT FIVE (5) TO THE EAST LINE OF SAID LOT FIVE (5), THENCE NORTHERLY ON THE EAST LINE OF SAID LOT FIVE (5) FOR A DISTANCE OF 15' TO THE ACTUAL POINT OF BEGINNING.

Robert V. Clark &

Bonnie Clark

~~REFERRING TO THE NORTHEAST CORNER OF LOT FOUR (4), BLOCK FIFTEEN (15), BAKER'S ADDITION, THENCE SOUTHERLY ON THE EAST LINE OF SAID LOT FOUR (4) FOR A DISTANCE OF 4.29', THENCE SOUTHWESTERLY DEFLECTING 89°, 58 MINUTES, 01 SECONDS RIGHT A DISTANCE OF 52' TO THE WESTERLY LINE OF SAID LOT FOUR (4), THENCE SOUTHERLY ON THE WEST LINE OF SAID LOT FOUR (4) A DISTANCE OF 7.93', THENCE EASTERLY ON A LINE FOR A DISTANCE OF 52' TO THE EASTERLY LINE OF SAID LOT FOUR (4), THENCE NORTHERLY ON THE EAST LINE OF SAID LOT FOUR (4) FOR A DISTANCE OF 7.93' TO THE ACTUAL POINT OF BEGINNING.~~

J & B Rentals, L.L.C.

REFERRING TO THE NORTHEAST CORNER OF LOT FOUR (4), BLOCK FOURTEEN (14), BAKER'S ADDITION, THENCE SOUTHERLY ON THE EAST LINE OF SAID LOT FOUR (4) A DISTANCE OF 4.09' TO THE ACTUAL POINT OF BEGINNING, THENCE SOUTHWESTERLY DEFLECTING 89°, 58 MINUTES, 01 SECONDS RIGHT A DISTANCE OF 52' TO THE WESTERLY LINE OF SAID LOT FOUR (4), THENCE SOUTHERLY ON THE WEST LINE OF SAID LOT FOUR (4) A DISTANCE OF 15', THENCE EASTERLY ON A LINE FOR A DISTANCE OF 52' TO THE EAST LINE OF SAID LOT

FOUR (4), THENCE NORTHERLY ON THE EAST LINE OF SAID LOT FOUR (4) FOR A DISTANCE OF 15' TO THE ACTUAL POINT OF BEGINNING.

G.I.P.H. Restaurants, L.L.C. REFERRING TO THE NORTHEAST CORNER OF LOT THREE (3), BLOCK TWENTY (20), ARNOLD AND ABBOTTS ADDITION, THENCE SOUTHEASTERLY ON THE EAST LINE OF SAID LOT THREE (3) FOR A DISTANCE OF 2.29' TO THE ACTUAL POINT OF BEGINNING, THENCE SOUTHWESTERLY DEFLECTING 89°, 58 MINUTES, 01 SECONDS RIGHT A DISTANCE OF 80.43', THENCE SOUTHEASTERLY DEFLECTING 90°, 00 MINUTES, 00 SECONDS LEFT A DISTANCE OF 2', THENCE SOUTHWESTERLY DEFLECTING 90°, 00 MINUTES, 00 SECONDS RIGHT A DISTANCE OF 45.79', THENCE SOUTHERLY DEFLECTING 44°, 58 MINUTES, 52 SECONDS LEFT A DISTANCE OF 8.18' TO THE SOUTHWESTERLY LINE OF SAID LOT FOUR (4), THENCE SOUTHEASTERLY ON THE WESTERLY LINE OF SAID LOT FOUR (4) A DISTANCE OF 4.29', THENCE NORTHEASTERLY ON A LINE PARALLEL TO THE NORTH LINE OF SAID LOTS THREE (3) AND FOUR (4) TO THE EASTERLY LINE OF SAID LOT THREE (3), THENCE NORTHWESTERLY ON THE EASTERLY LINE OF SAID LOT THREE (3) A DISTANCE OF 10' TO THE ACTUAL POINT OF BEGINNING.

Kelly Samson &
Brandy K. Wright

~~REFERRING TO THE NORTHEAST CORNER OF LOT THREE (3), BLOCK FOURTEEN (14), BAKER'S ADDITION, THENCE SOUTHERLY ON THE EAST LINE OF SAID LOT THREE (3) FOR A DISTANCE OF 4.06' TO THE ACTUAL POINT OF BEGINNING, THENCE SOUTHWESTERLY DEFLECTING 89°, 58 MINUTES, 01 SECONDS RIGHT A DISTANCE OF 52' TO THE WESTERLY OF SAID LOT THREE (3), THENCE SOUTHERLY ON THE WEST LINE OF SAID LOT THREE (3) FOR A DISTANCE OF 10.03', THENCE EAST ON A LINE FOR A DISTANCE OF 52' TO THE EAST LINE OF SAID LOT THREE (3), THENCE NORTHERLY ON THE EAST LINE OF SAID LOT THREE (3) FOR A DISTANCE OF 9.76' TO THE ACTUAL POINT OF BEGINNING.~~

Apfel Funeral Home, Inc.

~~REFERRING TO THE NORTHEAST CORNER OF LOT THREE (3), BLOCK FOUR (4), ARNOLD PLACE ADDITION, THENCE SOUTHEASTERLY ON THE EAST LINE OF SAID LOT THREE (3) A DISTANCE OF 2.49' TO THE ACTUAL POINT OF BEGINNING, THENCE SOUTHWESTERLY DEFLECTING 89°, 49 MINUTES, 55 SECONDS RIGHT A DISTANCE OF 117.74', THENCE SOUTHERLY DEFLECTING 44°, 59 MINUTES, 37 SECONDS LEFT A DISTANCE OF 20.17' TO THE SOUTHWESTERLY LINE OF SAID LOT FOUR (4), THENCE SOUTHEASTERLY ON THE WEST LINE OF SAID LOT FOUR (4) FOR A DISTANCE OF 9.27', THENCE NORTHEASTERLY ON A LINE TO THE EAST LINE OF SAID LOT THREE (3), THENCE NORTHWESTERLY ON THE EAST LINE OF SAID LOT THREE (3) FOR A DISTANCE OF 20' TO THE POINT OF BEGINNING.~~

Tina M. Royle

~~REFERRING TO THE NORTHEAST CORNER OF LOT TWO (2),~~

~~BLOCK FOURTEEN (14), BAKER'S ADDITION, THENCE SOUTHERLY ON THE EAST LINE OF SAID LOT TWO (2) FOR A DISTANCE OF 4.03' TO THE ACTUAL POINT OF BEGINNING, THENCE SOUTHWESTERLY DEFLECTING 89°, 58 MINUTES, 01 SECONDS, RIGHT A DISTANCE OF 52', THENCE SOUTHERLY ON THE WEST LINE OF SAID LOT TWO (2) A DISTANCE OF 9.76', THENCE NORTHEASTERLY ON A LINE TO THE EAST LINE OF SAID LOT TWO (2), THENCE NORTHWESTERLY ON THE EAST LINE OF SAID LOT TWO (2) FOR A DISTANCE OF 9.48' TO THE ACTUAL POINT OF BEGINNING.~~

Video Kingdom of
Grand Island, Inc.

REFERRING TO THE NORTHEAST CORNER OF LOT TWO (2), AUTOZONE SUBDIVISION, THENCE SOUTHERLY ON THE EAST LINE OF SAID LOT TWO (2) FOR A DISTANCE OF 5.70', THENCE SOUTHWESTERLY DEFLECTING 89°, 58 MINUTES, 01 SECONDS RIGHT A DISTANCE OF 15.68', THENCE SOUTHWESTERLY DEFLECTING 1°, 58 MINUTES, 01 SECONDS RIGHT A DISTANCE OF 75.22', THENCE SOUTHERLY DEFLECTING 46°, 38 MINTUES, 07 SECONDS LEFT A DISTANCE OF 17.04', THENCE SOUTHEASTERLY DEFLECTING 44°, 58 MINUTES, 05 SECONDS LEFT A DISTANCE OF 4.35', THENCE NORTHEASTERLY ON A LINE TO A POINT ON THE EASTERLY LINE OF SAID LOT TWO (2), THENCE NORTHWESTERLY ON THE EAST LINE OF SAID LOT TWO (2) FOR A DISTANCE OF 14.3' TO THE ACTUAL POINT OF BEGINNING.

High Road, L.L.C.

BEGINNING AT THE NORTHEAST CORNER OF LOT ONE (1), BLOCK ONE HUNDRED FIFTEEN (115), RAILROAD ADDITION, THENCE SOUTHWESTERLY ON THE NORTH LINE OF SAID LOT ONE (1) FOR A DISTANCE OF 35', THENCE SOUTHEASTERLY ON A LINE TO A POINT ON THE EAST LINE OF SAID LOT ONE (1), THENCE NORTHERLY ON THE EAST LINE OF SAID LOT ONE (1) A DISTANCE OF 35' TO THE POINT OF BEGINNING.

Grand Island Woman's
Club, Inc.

REFERRING TO THE NORTHEAST CORNER OF LOT ONE (1), BLOCK FOUR (4), ARNOLD PLACE ADDITION, THENCE SOUTHEASTERLY ON THE EAST LINE OF SAID LOT ONE (1) A DISTANCE OF 10.16' TO THE ACTUAL POINT OF BEGINNING, THENCE WESTERLY DEFLECTING 134°, 57 MINUTES, 32 SECONDS RIGHT A DISTANCE OF 10.96', THENCE SOUTHWESTERLY DEFLECTING 44°, 59 MINUTES, 32 SECONDS LEFT A DISTANCE OF 124.25' TO THE SOUTHWESTERLY LINE OF SAID LOT TWO (2), THENCE SOUTHEASTERLY ON THE WESTERLY LINE OF SAID LOT TWO (2) FOR A DISTANCE OF 20', THENCE NORTHEASTERLY ON A LINE FOR A DISTANCE OF 82', THENCE SOUTHEASTERLY ON A LINE 50' WEST OF AND PARALLEL TO THE EAST LINE OF LOT ONE (1), BLOCK TWENTY ONE (21), ARNOLD PLACE ADDITION FOR A DISTANCE OF 40' NORTHEASTERLY ON A LINE PERPENDICULAR TO THE EAST LINE OF LOT ONE (1), BLOCK TWENTY ONE (21), ARNOLD PLACE ADDITION FOR A DISTANCE OF 50', THENCE NORTHERLY ON THE EAST LINE OF LOT ONE, BLOCK TWENTY ONE (21), ARNOLD PLACE ADDITION TO THE

ACTUAL POINT OF BEGINNING.

~~First Federal Savings &
Loan Assoc. of Lincoln~~

~~REFERRING TO THE NORTHEAST CORNER OF LOT ONE (1),
BLOCK FIFTEEN (15), KERNOHAN AND DECKER'S ADDITION,
THENCE SOUTHEASTERLY ON THE EAST LINE OF SAID LOT ONE (1) FOR A DISTANCE OF 10.75' TO THE ACTUAL POINT OF
BEGINNING, THENCE WESTERLY DEFLECTING 126°, 13 MINUTES,
20 SECONDS RIGHT A DISTANCE OF 8.36', THENCE
SOUTHWESTERLY DEFLECTING 36°, 15 MINUTES, 19 SECONDS
LEFT A DISTANCE OF 4.93', THENCE SOUTHEASTERLY ON A LINE
11' WEST OF AND PARALLEL TO THE EAST LINE OF SAID LOT
ONE (1) FOR A DISTANCE OF 14', THENCE NORTHEASTERLY ON A
LINE PERPENDICULAR TO THE EAST LINE OF SAID LOT ONE (1)
FOR A DISTANCE OF 11', THENCE NORTHERLY ON THE EAST
LINE OF SAID LOT ONE (1) TO THE ACTUAL POINT OF
BEGINNING.~~

Meme Saycocie

REFERRING TO THE NORTHEAST CORNER OF LOT ONE (1),
BLOCK FOURTEEN (14), BAKER'S ADDITION, THENCE
SOUTHERLY ON THE EAST LINE OF SAID LOT ONE (1) A
DISTANCE OF 13.2' TO THE ACTUAL POINT OF BEGINNING,
THENCE WESTERLY DEFLECTING 134°, 58 MINUTES, 47 SECONDS
RIGHT A DISTANCE OF 13', THENCE SOUTHWESTERLY
DEFLECTING 45°, 00 MINUTES, 47 SECONDS LEFT A DISTANCE OF
44.8' TO THE WESTERLY LINE OF SAID LOT ONE (1), THENCE
SOUTHERLY ON SAID WEST LINE A DISTANCE OF 9.48', THENCE
EASTERLY ON A LINE FOR A DISTANCE OF 54' TO THE ACTUAL
POINT OF BEGINNING.

C & A Properties, L.L.C.

THE NORTH FIFTEEN (15) FEET OF THE WEST HALF OF LOT
THREE (3), BLOCK ONE HUNDRED SEVENTEEN (117), RAILROAD
ADDITION, TO THE CITY OF GRAND ISLAND, HALL COUNTY,
NEBRASKA.

~~Rafael Orozco &
Rita C. Orozco~~

~~THE NORTH TEN (10) FEET OF LOT THREE (3), BLOCK ONE
HUNDRED FIFTEEN (115), RAILROAD ADDITION, TO THE CITY OF
GRAND ISLAND, HALL COUNTY, NEBRASKA.~~

McDonald's Corporation

~~THE SOUTH TEN (10) FEET OF THE NORTH THIRTEEN (13) FEET OF
LOT TWO (2), BLOCK SIX (6), SPAULDING AND GREGG'S
ADDITION, TO THE CITY OF GRAND ISLAND, HALL COUNTY,
NEBRASKA.~~

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 update the actual acquired necessary landscape easements for Business Improvement District No. 6, on the above described tracts of land.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, April 10, 2012.

Jay Vavricek, Mayor

Attest:

RaNae Edwards, City Clerk



City of Grand Island

Tuesday, April 10, 2012

Council Session

Item G15

**#2012-96 - Approving Award of Proposal for Engineering Services
Related to Environmental Monitoring Services at the Landfill**

Staff Contact: John Collins, Public Works Director

Council Agenda Memo

From: Jeff Wattier, Solid Waste Superintendent

Meeting: April 10, 2012

Subject: Approving Award of Proposal for Engineering Services
Related to Environmental Monitoring Services at the
Solid Waste Landfill

Item #'s: G-15

Presenter(s): John Collins, P.E., Public Works Director

Background

The Solid Waste Division of the Public Works Department is responsible for the operation of the city's 330 acre solid waste landfill. The landfill is in Hall County and located seven (7) miles north of Shelton, Nebraska at 19550 West Husker Highway, just east of the Hall/Buffalo County Line.

On February 29, 2012 a Request For Proposals (RFP) for engineering services related to environmental monitoring services at the landfill was advertised in the Grand Island Independent and sent to six (6) potential proposers.

As per NDEQ Title 132-Integrated Solid Waste Management Regulations and the Grand Island Regional Landfill operating permit #NE0210658, groundwater monitoring and reporting must be performed on a semi-annual basis to ensure that landfill operations are not impacting ground water quality.

Discussion

Six (6) proposals were received on March 20, 2012. The proposals were reviewed by Solid Waste Superintendent, Jeff Wattier; Public Works Manager of Engineering Services, Terry Brown, P.E.; and Public Works Storm Water Technician, Scott Sekutera. G.N. Kuhn Engineering, LLC of Omaha, Nebraska submitted the proposal that was chosen using evaluation criteria listed in the RFP.

G.N. Kuhn Engineering, LLC will provide engineering services to collect groundwater samples, packing/shipping & handling water samples, laboratory analysis of water

samples, statistical analysis of analytical results, documentation, and quality control/quality assurance & reporting for the next five (5) years, for an amount not to exceed \$54,950.00.

Alternatives

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

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

Recommendation

City Administration recommends that the Council approve the proposal by G.N. Kuhn Engineering, LLC of Omaha, Nebraska for an amount not to exceed \$54,950.00.

Sample Motion

Move to approve the proposal by G.N. Kuhn Engineering of Omaha, Nebraska.



Jason Eley, Purchasing Agent

*Working Together for a
Better Tomorrow, Today*

**REQUEST FOR PROPOSAL
FOR
ENVIRONMENTAL MONITORING SERVICES AT THE SOLID WASTE LANDFILL**

RFP DUE DATE: March 20, 2012 at 2:30 p.m.

DEPARTMENT: Public Works

PUBLICATION DATE: February 29, 2012

NO. POTENTIAL BIDDERS: 6

SUMMARY OF PROPOSALS RECEIVED

Aquaterra Env. Solutions, Inc.
Omaha, NE

Midwest Laboratories, Inc.
Omaha, NE

GSI
Grand Island, NE

SCS Engineers
Overland Park, KS

ATC Associates, Inc.
Omaha, NE

G.N. Kuhn Engineering, LLC
Omaha, NE

cc: John Collins, Public Works Director
Mary Lou Brown, City Administrator
Jason Eley, Purchasing Agent

Catrina DeLosh, PW Admin. Assist.
Jaye Monter, Finance Director
Jeff Wattier, Solid Waste Supt.

P1541

AGREEMENT

THIS AGREEMENT made and entered into this 10th day of April, 2012, by and between GNK Engineering, LLC hereinafter called the Consultant, and the **City of Grand Island, Nebraska**, hereinafter called the City.

WITNESSETH:

THAT, WHEREAS, in accordance with law, the City has caused agreement documents to be prepared and an advertisement of a **Request for Proposals for Professional Engineering Consulting Services for Environmental Monitoring Services For The Solid Waste Landfill for the City of Grand Island**, and

WHEREAS, the City, in the manner prescribed by law, has publicly opened, examined, and canvassed the proposals submitted, and has determined that the aforesaid Consultant submitted the best proposal based on the evaluation criteria listed in the Request For Proposals, a copy thereof being attached to and made a part of this agreement, and has duly awarded to the said Consultant an agreement therefore, for the sum or sums named in the **Environmental Monitoring Services Proposal Form** with terms & conditions submitted by the Consultant, a copy thereof being attached to and made a part of this agreement;

NOW, THEREFORE, in consideration of the compensation to be paid to the Consultant and of the mutual agreements herein contained, the parties have agreed and hereby agree, the City for itself and its successors, and the Consultant for itself, himself, or themselves, and its, his (hers), or their successors, as follows:

ARTICLE I. That the Consultant 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 agreement documents as listed in the attached **Request for Proposals for Environmental Monitoring Services For The Solid Waste Landfill for the City of Grand Island** and in the attached **Environmental Monitoring Services Proposal Form** as Submitted by the Consultant; said documents forming the agreement 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 agreement to the said Consultant, such award being based on the acceptance by the City of the Consultant's proposal;

ARTICLE II. That the City shall pay to the Consultant for the performance of the work embraced in this agreement and the Consultant will accept as full compensation therefore the sum (subject to adjustment as provided by the agreement) of **Fifty-Four Thousand Nine Hundred Fifty 00/100** Dollars (**\$54,950.00**) for all services, materials, and work covered by and included in the agreement award and designated in the foregoing Article I; payments thereof to be made in cash or its equivalent in the manner provided in the agreement.

ARTICLE III. The Consultant 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 consultant 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 Consultant. 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 Consultant shall not acquire title to any materials and supplies incorporated into the project. All invoices shall bear the consultant'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 attached **Request for Proposals for Environmental Monitoring Services For The Solid Waste Landfill for the City of Grand Island.**

ARTICLE IV. That the Consultant shall start work as soon as possible after the agreement is signed.

ARTICLE V. The Consultant agrees to comply with all applicable State fair labor standards in the execution of this agreement as required by Section 73-102, R.R.S. 1943. The Consultant 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 agreement, the Consultant and all Sub Consultants agree not to discriminate in hiring or any other employment practice on the basis of race, color, religion, gender, national origin, age or disability. The Consultant agrees to comply with all applicable Local, State and Federal rules and regulations.

ARTICLE VI. 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.

ARTICLE VII. GRATUITIES AND KICKBACKS: 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 an agreement or sub agreement, 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 Sub Consultant under an agreement to the prime Consultant or higher tier Sub Consultant or any person associated therewith, as an inducement for the award of a Sub Consultant to order.

ARTICLE VIII. FAIR EMPLOYMENT PRACTICES: Each proposer agrees that they will not discriminate against any employee or applicant for employment because of age, race, color, religious creed, ancestry, handicap, sex or political affiliation.

ARTICLE IX. LB 403: Every public consultant and his, her or its subconsultants who are awarded an agreement 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.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first above written.

GNK ENGINEERING, LLC.

By _____

Title _____

CITY OF GRAND ISLAND, NEBRASKA,

By _____
Jay Vavricek, Mayor

Attest: _____
RaNae Edwards, City Clerk

The agreement is in due form according to law and is hereby approved.

Jason Eley, Asst. City Attorney

APPENDIX A – TITLE VI NON-DISCRIMINATION -

During the performance of this agreement, the consultant, for itself, its assignees and successors in interest (hereinafter referred to as the "consultant") agrees as follows:

- (1) **Compliance with Regulations:** The consultant shall comply with the Regulation relative to nondiscrimination in Federally-assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, and the Federal Highway Administration (hereinafter "FHWA") Title 23, Code of Federal Regulations, Part 200 as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this agreement.
- (2) **Nondiscrimination:** The Consultant, with regard to the work performed by it during the agreement, shall not discriminate on the grounds of race, color, or national origin, sex, age, and disability/handicap in the selection and retention of subconsultants, including procurements of materials and leases of equipment. The consultant shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR, section 21.5 of the Regulations, including employment practices when the agreement covers a program set forth in Appendix B of the Regulations.
- (3) **Solicitations for Subconsultants, Including Procurements of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by the consultant for work to be performed under a subagreement, including procurements of materials or leases of equipment, each potential subconsultant or supplier shall be notified by the consultant of the consultant's obligations under this agreement and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin, sex, age, and disability/handicap.
- (4) **Information and Reports:** The consultant shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the City of Grand Island or the FHWA to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a consultant is in the exclusive possession of another who fails or refuses to furnish this information the consultant shall so certify to the City of Grand Island, or the FHWA as appropriate, and shall set forth what efforts it has made to obtain the information.
- (5) **Sanctions for Noncompliance:** In the event of the consultant's noncompliance with the nondiscrimination provisions of this agreement, the City of Grand Island shall impose such agreement sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
 - (a.) withholding of payments to the consultant under the agreement until the consultant complies, and/or
 - (b.) cancellation, termination or suspension of the agreement, in whole or in part.
- (6) **Incorporation of Provisions:** The consultant shall include the provisions of paragraphs (1) through (6) in every subagreement, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

The consultant shall take such action with respect to any subagreement or procurement as the City of Grand Island or the FHWA may direct as a means of enforcing such provisions including sanctions for non-compliance: Provided, however, that, in the event a consultant becomes involved in, or is threatened with, litigation with a subconsultant or supplier as a result of such direction, the consultant may request the City of Grand Island to enter into such litigation to protect the interests of the City of Grand Island, and, in addition, the consultant may request the United States to enter into such litigation to protect the interests of the United States.

G.N. KUHN ENGINEERING, LLC (GNK) ---
TERMS AND CONDITIONS FOR PROFESSIONAL CONSULTING SERVICES

1. **SCOPE OF SERVICES:** GNK will perform the services set forth in the proposal for this project, of which these terms and conditions are a part. Initiation of services by GNK will automatically incorporate these terms and conditions into this project.
2. **PAYMENTS:** GNK will submit invoices to client monthly and a final bill upon completion of services. Time is of the essence in payment of invoices and timely payment is a material part of the consideration of this Agreement. Payment is due upon presentation of invoice and is past due 30 days from the date of invoice. Client agrees to pay a finance charge of one and one half percent per month on past due accounts. Client also agrees to pay all costs and expenses, including reasonable attorney fees incurred by GNK relating to collection proceedings on overdue accounts. Failure of client to abide by the provisions of this section will be considered grounds for termination by GNK.
3. **OWNERSHIP OF DOCUMENTS:** All documents prepared by GNK are considered instruments of service, and shall remain the property of GNK. Any reuse by client without written verification or adaptation by GNK for the specific purpose intended will be at client's sole risk and without legal liability or exposure to GNK.
4. **INSURANCE:** GNK will maintain appropriate workers compensation/employers liability; automobile; general liability; and professional liability insurance coverages at all times. An insurance certificate will be provided upon request.
5. **INDEMNITY:** GNK will indemnify client for a loss, damage or injury to the extent a loss, damage or injury is caused by the negligent errors or omissions of GNK or any of its employees.
6. **LIMITATION OF LIABILITY:** GNK and client agree to allocate certain risks so that GNK's total aggregate liability to client is limited to \$50,000 or the fee for services, whichever is greater, and client hereby releases GNK from any liability above such amount. This applies to any loss and all injuries, damages, claims or expenses, including attorneys' fees and expert witness fees, arising out of this Agreement from any cause or causes. Such causes include, but are not limited to, GNK's negligence, errors, omissions, strict liability, statutory liability, breach of contract, breach of warranty, negligent misrepresentation, or other acts giving rise to liability based upon contract, tort or statute.
7. **SAFETY:** GNK is not responsible or liable for injuries or damages incurred by third parties who are not employees of GNK. It is agreed that GNK is not responsible for job or site safety on this project. Job site safety in, on or about the site is the sole and exclusive responsibility of the contractor.
8. **THIRD PARTY RELIANCE:** All documents produced by GNK are for client's use only. At client's request, GNK may provide a letter authorizing limited reliance on certain documents by a third party, but only if the third party agrees to be bound by the terms and conditions in this Agreement between GNK and client.
9. **UTILITIES AND SUBTERRANEAN STRUCTURES:** GNK will take reasonable precautions to avoid causing damage to utilities and subterranean structures. GNK is not responsible for any loss, damage or injury arising from damage to, or contact with, any utilities or subterranean structures that were not properly called to GNK's attention, were not properly located on drawings, or was caused by the providing of inaccurate or incomplete information regarding their location.

10. CHANGED CONDITIONS: If, during the performance of this Agreement, unexpected conditions or circumstances are discovered, GNK will notify client and the parties will renegotiate the scope and price. GNK and client will promptly and in good faith enter into a renegotiation process. If renegotiated terms cannot be agreed to, GNK will have the right to terminate this Agreement without penalty.
11. DISPUTES: If a dispute arises, GNK and client agree that they will make a reasonable, good faith effort to resolve the dispute prior to either commencing legal action. The parties agree to meet, on multiple occasions if necessary, with senior management who are authorized to act on their behalf participating.
12. TESTING AND OBSERVATION SERVICES: This section will apply if GNK is hired by client to provide a site representative for the purpose of testing or observing specific portions of the work. This work will not include supervision or direction of the actual work of any contractors, their employees or agents. We will observe the portion of the work we have been hired for and perform tests, the results being delivered to client, or others if directed by client. Even with very careful field testing and observation, client understands that field testing and observation is conducted to reduce, not eliminate, the risk of problems arising and that providing these services does not create a warranty or guarantee of any type.
13. SOIL BORING AND TEST LOCATIONS: The accuracy of test locations and elevations will be commensurate only with pacing and approximate measurements or estimates. Client must hire a professional surveyor if greater accuracy is required or desired. GNK reserves the right to deviate a reasonable distance from the boring and test locations unless this right is specifically revoked in writing.
14. ON SITE SERVICES: Project site visits by GNK, or the furnishing of employees to work on the project, will not make GNK responsible for construction means, methods, techniques or procedures; or for any construction contractor's failure to perform its work in accordance with the drawings and specifications.
15. TERMINATION: Services may be terminated by GNK or client by providing 7 days written notice in the event of substantial failure to perform in accordance with the terms herein. Client shall pay GNK all amounts due for all services properly rendered and expenses incurred to the date of receipt of notice of termination, plus reasonable costs incurred by GNK in terminating the services.
16. SEVERABILITY: If any provision contained in this Agreement is held illegal, invalid or unenforceable, the enforceability of the remaining provisions will not be impaired.
17. GENERAL RESPONSIBILITIES OF CLIENT: Client will, within a reasonable period of time, so as not to delay the services of GNK: place at GNK's disposal all available information pertinent to the project; GNK may rely on the information provided as being accurate without independent verification; client will provide prompt written notice to GNK whenever client observes or otherwise becomes aware of any defect in GNK's services; and client will arrange for access to public and private property as required for GNK to provide its services.
18. ENTIRE AGREEMENT—PRECEDENCE: These terms and conditions and GNK proposal/report contain the entire agreement between GNK and client relative to the scope of services. All previous or contemporaneous agreements, representations, promises and conditions relating to GNK services are superseded. Since terms contained in purchase orders do not generally apply to professional services, in the event client issues to GNK a purchase order, no preprinted terms thereon will become part of this Agreement. Said purchase order document, whether or not signed by GNK, shall be considered a document for client's internal management of its operations.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
3/19/2012

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER All American Insurance, Inc. 4951 S 155th St Omaha NE 68137		CONTACT NAME: Linda Leapley PHONE (A/C No. Ext): (402) 467-5355 FAX (A/C No.): (402) 467-5422 E-MAIL ADDRESS: leapley@allamericanins.com															
INSURED Gary N Kuhn, P.E. 5718 S 166th St Omaha NE 68135		<table border="1"><thead><tr><th>INSURER(S) AFFORDING COVERAGE</th><th>NAIC #</th></tr></thead><tbody><tr><td>INSURER A: The Hartford</td><td></td></tr><tr><td>INSURER B:</td><td></td></tr><tr><td>INSURER C:</td><td></td></tr><tr><td>INSURER D:</td><td></td></tr><tr><td>INSURER E:</td><td></td></tr><tr><td>INSURER F:</td><td></td></tr></tbody></table>		INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A: The Hartford		INSURER B:		INSURER C:		INSURER D:		INSURER E:		INSURER F:	
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INSURER D:																	
INSURER E:																	
INSURER F:																	

COVERAGES

CERTIFICATE NUMBER: CL1231916081

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY						EACH OCCURRENCE \$ 1,000,000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY						DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR	X		Pending	3/19/2012	3/19/2013	MED EXP (Any one person) \$ 10,000
							PERSONAL & ADV INJURY \$ 1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE \$ 2,000,000
	<input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						PRODUCTS - COMP/OP AGG \$ 2,000,000
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident) \$
	<input type="checkbox"/> ANY AUTO						BODILY INJURY (Per person) \$
	<input type="checkbox"/> ALL OWNED AUTOS						BODILY INJURY (Per accident) \$
	<input type="checkbox"/> HIRED AUTOS						PROPERTY DAMAGE (Per accident) \$
	UMBRELLA LIAB						\$
	EXCESS LIAB						EACH OCCURRENCE \$
	DED <input type="checkbox"/> RETENTION \$						AGGREGATE \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						\$
A	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	Y/N	N/A	Pending	3/19/2012	3/9/2013	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. EACH ACCIDENT \$ 500,000
							E.L. DISEASE - EA EMPLOYEE \$ 500,000
							E.L. DISEASE - POLICY LIMIT \$ 500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

CERTIFICATE HOLDER

CITY OF GRAND ISLAND
CITY HALL 100 EAST FIRST ST
GRAND ISLAND, NE 68802

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Ben Struyk/WES2

ACORD 25 (2010/05)
INS025 (201005).01

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ENVIRONMENTAL MONITORING PROPOSAL FORM

A. BASIC SERVICES

Item	Description	Unit Price (Per Event)
1	Groundwater Sampling Event for Indicator Parameters: water levels (12 monitoring wells), groundwater sampling (9 monitoring wells), laboratory testing (Table 4, Indicator Parameters), data statistical analysis and reporting.	<u>\$4,590⁰⁰</u>
	<u>Four Thousand, Five Hundred Ninety Dollars ⁰⁰/₁₀₀</u> (State unit price in words)	
2	Groundwater Sampling Event for Appendix I and Indicator Parameters: water levels (12 monitoring wells), groundwater sampling (9 monitoring wells), laboratory testing (Table 3, Appendix I Parameters and Table 4, Indicator Parameters), data statistical analysis and reporting.	<u>\$6,400⁰⁰</u>
	<u>Six Thousand, Four Hundred Dollars and ⁰⁰/₁₀₀</u> (State unit price in words)	

B. ADDITIONAL SERVICES

Attach the following (for service not covered by Scope of Services):

- Rate Sheet for Laboratory Analytical Services
- Rate Sheet for Field Services

RESOLUTION 2012-96

WHEREAS, the City Of Grand Island invited proposals for engineering services related to Environmental Monitoring Services at the Solid Waste Landfill, according to the Request Proposals on file with the Solid Waste Division of the Public Works Department; and

WHEREAS, on March 20, 2012 proposals were received, reviewed, and evaluated in accordance with established criteria; and

WHEREAS, G.N. Kuhn Engineering, LLC, of Omaha, Nebraska submitted a proposal in accordance with the terms of the Request for Proposals and all statutory requirements contained therein and the City Procurement Code with the work performed at actual costs with a maximum of \$54,950.00 over a five-year period.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the proposal of G.N. Kuhn Engineering, LLC, of Omaha, Nebraska for engineering services for Environmental Monitoring Services at the Solid Waste Landfill 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.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, April 10, 2012.

Jay Vavricek, Mayor

Attest:

RaNae Edwards, City Clerk



City of Grand Island

Tuesday, April 10, 2012

Council Session

Item G16

#2012-97 - Accepting the Semi-Annual Report by the Citizens' Review Committee on the Economic Development Program Plan

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

Staff Contact: Lisa Willman, Chairman

RESOLUTION 2012-97

WHEREAS, Neb. Rev. Stat. §18-2715(3) and Grand Island City Code §2-110 require a report by the Citizens Advisory Review Committee to the City Council at least once every six months on its findings and suggestions on the administration of the Economic Development Plan; and

WHEREAS, a public hearing on the report submitted by the Citizens' Advisory Review Committee was held at a regular session of the Grand Island City Council on April 10, 2012; and

WHEREAS, said report gave information about the activities of the past six months that have taken place pursuant to the Economic Development Plan.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the semi-annual report of the Citizens Advisory Review Committee is hereby accepted and approved.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, April 10, 2012.

Jay Vavricek, Mayor

Attest:

RaNae Edwards, City Clerk



City of Grand Island

Tuesday, April 10, 2012

Council Session

Item G17

#2012-98 - Approving FEMA Hazard Mitigation Grant for Siren Replacement

Staff Contact: Jon Rosenlund

Council Agenda Memo

From: Jon Rosenlund, Emergency Management Director

Meeting: April 10, 2012

Subject: Hazard Mitigation Grant - Sirens

Item #'s: G-17

Presenter(s): Jon Rosenlund, Emergency Management Director

Background

The Emergency Management Department operates and maintains 39 outdoor warning sirens to alert the public of dangerous weather and other hazards. Many of these devices were installed between 1979 and 1981. These devices have an anticipated life span of 30 years, and existing sirens are already failing at a rate of almost 1-2 annually over the past several years.

Unfortunately, many repair parts are no longer available for these older models. Sirens which fail are replaced at significant cost on a case-by-case basis. In the past few years, the Emergency Management Department had budgeted to replace one siren a year, as necessary. However, the department is experiencing repeated siren failures as these devices reach and exceed their 30-year life-span. Local funds are not likely to be sufficient to keep up with the anticipated number of replacements needed. The Department received a similar grant in 2010 to replace four sirens for the matching price of one device. This is a second phase of that siren replacement project.

Discussion

The FEMA Hazard Mitigation Grant Program (HMGP) provides grants to States and local governments to implement long-term hazard mitigation measures after a major disaster declaration. The purpose of the HMGP is to reduce the loss of life and property due to natural disasters and to enable mitigation measures to be implemented during the immediate recovery from a disaster. The HMGP is authorized under Section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

The HMGP Grant funds up to 75% of approved projects with a local match of 25%. The Department intends to budget for the 25% match in Capital Outlay in the FY 2012-13.

This match is the same \$15,000 that the department regularly budgets for the replacement of one siren.

The Emergency Management Department, working with NEMA, has completed a grant application to install four (4) sirens to meet this looming problem. Three (3) of the new sirens will replace older models while one will be installed as an expansion to the current system (see table below). Siren replacement costs are typically \$15,000 for each device. In this second phase, sirens will be installed in the communities of Grand Island and Doniphan.

Each of these new sirens has a considerably larger effective radius of 70dB estimated at 6200 feet in all directions. Sirens listed to be replaced have much smaller radii, such as 1600 feet. This will allow fewer sirens to serve the community and can lead to lower utility costs over the long term.

Phase II Siren Installation List					
Siren #	Description	Installed Year	Latitude / Longitude	Current 70dB Radius (ft)	New 70dB Radius (ft)
4	Doniphan, Village of - Fire Station	1981	N40 46.406 W98 22.181	1600	6200
13	Anna & Broadwell - 1700 Block of West Anna (Alley City Property)	1981	N40 54.724 W98 21.189	3200	6200
18	4th Street & Congdon - 1500 E 4th St.	1981	N40 56.088 W98 19.603	3200	6200
New	Veteran's Ball Fields	N/A	TBD	N/A	6200

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 FEMA hazard mitigation grant for siren replacement.

Sample Motion

Move to approve.



FEMA

MAR 23 2012

Mr. Al Berndt, Assistant Director
Nebraska Emergency Management Agency
1300 Military Road
Lincoln, NE 68508-0159

RE: FEMA-1924-DR-NE
Hazard Mitigation Grant Program (HMGP) Project Approval
Subgrantee: Hall County
Project #: 0008
Siren Replacement

Dear Mr. Berndt:

We are pleased to notify you that the U.S. Department of Homeland Security's Federal Emergency Management Agency (FEMA) has granted approval for the application submitted by Hall County for the siren replacement project. FEMA will release funds to the State in the amount of \$45,000. The non-federal match requirement of \$15,000 will be provided through local funding.

The activity completion timeframe for this project is 24 months from the date of this approval letter. If the Subgrantee is unable to complete the project within the approved timeframe, the Subgrantee, through the grantee, must submit a formal written request for a time extension with justification to the Regional Administrator. FEMA must receive the request no later than 60 days prior to the expiration of the activity completion timeframe. Failure to submit timely and complete extension requests will result in a de-obligation of any funds not disbursed by the grantee within the approved activity completion timeframe.

Quarterly progress reports for HMGP projects are required. Please include this HMGP project in your future quarterly reports.

A change to the approved statement of work (SOW) requires prior approval from FEMA. The National Environmental Policy Act (NEPA) stipulates that additions or amendments to a HMGP Subgrantee statement of work (SOW) shall be reviewed by all state and federal agencies participating in the NEPA process. NEPA sign-off for all SOW additions or amendments is essential before the revised SOW can be approved by FEMA or implemented by the HMGP Subgrantee.

Mr. Berndt
Page 2

If you have any questions concerning this correspondence, please contact Tina G. Williams, Hazard Mitigation Assistance Specialist, at (816) 283-7918 or Melissa Janssen, Chief, Hazard Mitigation Assistance Branch, at (816) 283-7012.

Sincerely,



Robert G. Bissell, Director
Mitigation Division

CC: Sheila Hascall, State Hazard Mitigation Officer
Earl Imler, State Public Assistance Officer

GRANT AGREEMENT

between

Nebraska Emergency Management Agency (NEMA)

And

Hall County

PROJECT TITLE: Siren Replacement Phase II

GRANT AGREEMENT NO: DR-1924-NE

PROJECT NO: 0008

FEDERAL TAX ID#: 47-6006205

DUNS No: 04-091-9607

FIPS Code: 079-19595-00

SCOPE OF WORK

This Grant Assistance Agreement (AGREEMENT) is to provide Hall County (SUBGRANTEE) with federal assistance from the Hazard Mitigation Grant Program funds for the above-referenced mitigation grant. The federal share shall not exceed \$45,000.00 or 75% of actual allowable project costs, whichever is less. The SUBGRANTEE shall provide at least \$15,000.00 (25%) through local non-federal (cash and/or in-kind) sources for actual allowable project costs. These funds are to assist the SUBGRANTEE with completing the approved scope of work in accordance with the work schedule, milestones, and scope of work that was submitted to and approved by the Nebraska Emergency Management Agency (NEMA) and the Federal Emergency Management Agency (FEMA). Any changes to the approved scope of work and/or amount budgeted must be submitted to and approved by NEMA prior to executing the changes. The SUBGRANTEE is required to obtain all necessary permits before construction begins.

AGREEMENTS

NEMA will provide financial oversight and management in the role of GRANTEE based on the grant guidance, the grant financial guide and all other applicable State and federal guidelines. The GRANTEE will provide technical assistance and direction to the SUBGRANTEE on programmatic and financial requirements. The GRANTEE will provide all appropriate documents and forms and make payments to the SUBGRANTEE to complete the approved scope of work.

The GRANTEE is responsible for monitoring SUBGRANTEE activities to provide reasonable assurance that the SUBGRANTEE administers federal awards in compliance with federal and State requirements. Responsibilities include the accounting of receipts and expenditures, cash management and the maintaining of adequate financial records.

Additionally, the SUBGRANTEE will be monitored quarterly by the GRANTEE to ensure that the program goals, objectives, timelines, budgets, and other related program criteria are being met. Monitoring will be accomplished through a combination of quarterly reporting, reviewing of expenditures for reimbursement, and when necessary; on-site monitoring. Monitoring will involve the review and analysis of the financial, programmatic, and administrative issues relative to the program, and will identify areas where technical assistance and other support may be needed.

The SUBGRANTEE will pass appropriate resolutions to assure NEMA that it is participating, and will continue to participate, in the National Flood Insurance Program, if mapped.

The SUBGRANTEE and the SUBGRANTEE's AUTHORIZED REPRESENTATIVE agree to provide all supervision, inspection, accounting, and other services necessary to complete the scope of work from inception to closeout with the requirements set forth below.

I. ACTIVITY COMPLETION TIMEFRAME

The approved activity completion timeframe for this grant is from ***March 23, 2012 through March 23, 2014***. All work must be completed prior to the activity completion timeframe ending. The SUBGRANTEE shall not incur costs or obligate funds for any purpose pertaining to the operation of the project, program, or activities beyond the expiration date of the activity completion timeframe.

If a time extension is needed it must be requested at least 75 days prior to the activity completion timeframe end date. All requests must be supported by adequate justification submitted to NEMA in order to be processed. This justification is a written explanation of the reason or reasons for the delay; an outline of remaining funds available to support the extended activity completion timeframe; and a description of performance measures necessary to complete the project. Without the justification, extension requests will not be processed.

II. AUTHORITIES AND REFERENCES.

The SUBGRANTEE shall comply with all applicable laws, regulations and policies as defined in the State of Nebraska Hazard Mitigation Administrative Plan. A non-exclusive list of laws and regulations commonly applicable to FEMA grants follows hereto for reference only.

- OMB Circular A-102 – Uniform Administrative Requirements for Grants and Cooperative Agreements with State and Local Governments as implemented in 44 CFR Part 13
- Title 2 CFR Part 225 (OMB Circular A-87) – Cost Principles for State and Local Governments
- OMB Circular A-133 – Audits of States, Local Governments, and Non-Profit Organizations
- Robert T. Stafford Disaster Assistance and Emergency Relief Act (Stafford Act), 42 U.S.C. 5133, as amended by Section 102 of the Disaster Mitigation Act of 2000 (DMA)
- Title 44 of the Code of Federal Regulations (CFR)
- SUBGRANTEE's application that was received and approved by NEMA and FEMA

- State of Nebraska Administrative Plan for the Hazard Mitigation Grant Program

III. GRANT MANAGEMENT SYSTEM

To ensure that federal funds are awarded and expended appropriately, the SUBGRANTEE will establish and maintain a grant management system. The standards for SUBGRANTEE organizations stem from the Office of Management and Budget's (OMB) Uniform Administrative Requirements and Cost Principles. State, local and tribal organizations must follow the uniform administrative requirements standards in OMB Circular A-102, and cost principle standards in OMB Circular A-87. These standards combined with the audit standards provided within OMB Circular A-133, plus the requirements of the federal Cash Management Improvement Act constitute the basis for all policies, processes and procedures set forth in this grant management system for the SUBGRANTEE.

The SUBGRANTEE's grant management system must:

- Include internal controls based on the American Institute for Certified Public Accountant's (AICPA) definitions and requirements in the government-wide administrative requirements and cost principles
- Include a chart of accounts that includes a separate cost center, fund, or accounting codes for each federal grant or program
- Be in compliance with the Cash Management Improvement Act (CMIA), good business processes and Generally Accepted Accounting Principles (GAAP)
- Include procedures to minimize federal cash on hand
- Include the ability to track expenditures on a cash or accrual basis
- Include the ability to track expenditures in both financial and program budgets
- Include procedures to document all grant-related expenditures
- Include procedures to ensure expenditures are eligible and allowable
- Include the ability to fulfill government-required financial reporting forms

IV. PROCUREMENT

This agreement requires that all procurement is executed by the SUBGRANTEE. Procurement standards must be in accordance with the written adopted procedures of the SUBGRANTEE, provided that the local procurement standards conform to applicable State and Federal law and the standards identified in the 44 CFR. The SUBGRANTEE will ensure that every purchase order or other contract includes any clauses required by Federal statutes and executive orders and their implementing regulations.

V. AUDIT

SUBGRANTEE must comply with the requirements of the Single Audit Act Amendments of 1996 and the Office of Management and Budget (OMB) Circular A-133. Reference: Catalog of Federal Domestic Assistance (CFDA).

VI. PAYMENT REQUEST PROCESS

Payments to SUBGRANTEES are based on eligible expenditures that are specifically related to the approved grant budget and scope of work. SUBGRANTEES can request **Reimbursement** for allowable expenditures already paid at anytime during the activity completion timeframe.

Payments shall be limited to the documented cash requirements submitted by the SUBGRANTEE. The SUBGRANTEE must submit a completed Payment Request Form and provide supporting documentation of eligible project costs to receive payment of funds.

Reimbursement requests must include payment verification (i.e. paid invoices, receipts, payroll records with personnel activity reports, cancelled checks, general ledger print outs, etc.).

Payment of funds will not be made to a SUBGRANTEE until NEMA has this grant agreement signed and on file.

VII. Match Verification

The maximum federal share to this mitigation grant cannot exceed 75% of eligible grant expenditures. Therefore, the matching funds (cash and in-kind) must be at least 25% of eligible grant expenditures. The subgrantee is responsible for submitting proof of the local **non-federal** match that was used for their mitigation grant to NEMA. Expenditures must be in accordance with the approved scope of work and budget and in accordance with the 44 Code of Federal Regulations (CFR), Section 13.24, "Matching or cost sharing"

Cash match can be money contributed to the subgrantee by the subgrantee, other public agencies and institutions, private organizations and individuals as long as it comes from a non-federal source. Cash spent must be for allowable costs in accordance with the SUBGRANTEE's approved scope of work and budget and must be applicable to the period to which the cost sharing or matching requirement applies.

In-kind match must comply with the requirements of the 44 CFR, Section 13.24 (matching or cost sharing). The value of in-kind contributions is also applicable to the period to which the cost sharing or matching requirement applies. The in-kind match provided must be documented by the third party contributing the in-kind services. The in-kind match must be specifically stated in the SUBGRANTEE's scope of work and budget before in-kind match will be allowed to match any mitigation grant. Documentation can be a letter (on letterhead) from the third party stating the scope of their work, what is being contributed as it relates to the scope of work, the value, a statement to the effect that the value is normally charged, and a statement that the value is being waived on behalf of the subgrantee to meet the matching requirements to the

subgrantee's mitigation grant or a spreadsheet detailing in-kind contributions certified by the Authorized Representative.

If the local match is insufficient to satisfy the local match requirements for receiving all available federal funds, the awarded federal funds will be reduced accordingly so as not to exceed the maximum federal share allowed under this award.

VIII. REPORTING REQUIREMENTS

The mitigation grant requires quarterly programmatic and financial reporting and progress relative to the approved scope of work. SUBGRANTEES are required to complete the quarterly progress report forms that are provided by NEMA and submit them by the 15th day following each federal fiscal quarter. (See administrative plan for specific date.)

WAIVERS

No conditions or provisions of this AGREEMENT can be waived unless approved by NEMA and the SUBGRANTEE, in writing. Unless otherwise stated in writing, NEMA's failure to insist upon strict performance of any provision of this AGREEMENT, or to exercise any right based upon a breach, shall not constitute a waiver of any right or obligation specified under this AGREEMENT.

AMENDMENTS AND MODIFICATIONS

This AGREEMENT may be amended or modified in reference to the grant funds provided, administrative procedures, or any other necessary matter, but not to take effect until approved, in writing, by NEMA and the SUBGRANTEE.

COMPLIANCE, TERMINATION AND OTHER REMEDIES

Unless otherwise stated in writing, NEMA requires strict compliance by the SUBGRANTEE and its authorized representative(s) with the terms of this AGREEMENT, and the requirements of any applicable local, state and federal statute, rules, regulations; particularly those included in the Assurances attached to this grant agreement.

NEMA may suspend or terminate any obligation to provide funding or demand return of grant funds, following notice from NEMA, if the SUBGRANTEE fails to meet any obligations under this AGREEMENT or fails to make satisfactory progress toward administration or completion of said project.

The SUBGRANTEE understands and agrees that NEMA may enforce the terms of this AGREEMENT by any combination, or all remedies available to NEMA under this AGREEMENT, or under any other provision of law, common law, or equity.

INDEMNIFICATION

1. It is understood and agreed by NEMA and the SUBGRANTEE and its agents that this AGREEMENT is solely for the benefit of the parties to this grant and gives no right to any other party.

2. The SUBGRANTEE, on behalf of itself and its successors and assigns, agrees to protect, save, and hold harmless NEMA and the State of Nebraska, and their authorized agents and employees, from all claims, actions, costs, damages, or expenses of any nature whatsoever by reason of the negligent acts, errors, or omissions of the SUBGRANTEE or its authorized representative, its contractors, subcontractors, assigns, agents, licensees, arising out of or in connection with any acts or activities authorized by this AGREEMENT. The SUBGRANTEE's obligation to protect, save, and hold harmless as herein provided shall not extend to claims or causes of action for costs, damages, or expenses caused by or resulting from the negligent acts, errors, or omissions of NEMA, the State of Nebraska, or any of their authorized agents or employees.

3. The SUBGRANTEE further agrees to defend NEMA, the State of Nebraska, and their authorized agents and employees against any claim or cause of action, or to pay reasonable attorney's fees incurred in the defense of any such claim or cause of action, as to which the SUBGRANTEE is required to protect, save, or hold harmless said parties pursuant to paragraph 2 of this part. The SUBGRANTEE's obligation to defend, or to pay attorney's fees for the defense of such claims or causes of action as herein provided, shall not extend to claims or causes of action for costs, damages, or expenses caused by or resulting from the negligent acts, errors, or omissions of NEMA, the State of Nebraska, or any of their authorized agents or employees.

ACKNOWLEDGMENTS

The SUBGRANTEE shall include, in any public or private release of information regarding the project, language that acknowledges the funding contribution through NEMA by FEMA.

INDEPENDENT CONTRACTOR STATUS OF APPLICANT

The SUBGRANTEE, its officers, employees, agents and council members shall all perform their obligations under this AGREEMENT as an independent contractor and not in any manner as officers, employees or agents of NEMA or the State of Nebraska. All references herein to the SUBGRANTEE shall include its officers, employees, city council/board members, and agents.

RESPONSIBILITY FOR PROJECT

While NEMA undertakes to provide technical assistance to the SUBGRANTEE and its authorized representative in the administration of the project, said project remains the sole responsibility of the applicant in accomplishing grant objectives and goals. NEMA undertakes

no responsibility to the SUBGRANTEE, or any third party, other than what is expressly set out in this AGREEMENT.

ENTIRE GRANT AGREEMENT

This AGREEMENT sets forth the entire AGREEMENT between NEMA and the SUBGRANTEE with respect to subject matter hereof. Commitments, warranties, representations and understandings or agreements not contained, or referred to, herein or amended thereto shall not be binding on either NEMA or the SUBGRANTEE. Except as may be expressly provided herein, no alteration of any of the terms or conditions of this AGREEMENT will be effective without written consent of both parties.

IN WITNESS WHEREOF, NEMA and the SUBGRANTEE have executed this AGREEMENT by the signatures of authorized persons of both entities and on the dates indicated below:

**Nebraska Emergency
Management Agency**

Al Berndt, Governors Authorized Representative Authorized Representative

Date

Date

Signature of Alternate Authorized Representative (optional)

Date

RESOLUTION 2012-98

WHEREAS, the City of Grand Island, Nebraska, is an eligible unit of a general local government authorized to file an application through the Federal Emergency Management Agency and Nebraska Emergency Management Agency for a Hazard Mitigation Program Grant; and

WHEREAS, the Federal Emergency Management Agency and Nebraska Emergency Management Agency are presently accepting grant applications for hazard mitigation; and

WHEREAS, a grant application has been prepared to request funding to conduct an Outdoor Warning Siren Replacement and Installation Project for the City of Grand Island and other Hall County Communities; and

WHEREAS, FEMA has approved a \$60,000 siren replacement project, providing \$45,000 in Hazard Mitigation Grant Funds for the program, and

WHEREAS, the required 25% cash match of \$15,000 will be provided by the City, and

WHEREAS, the grant allows for two years (until March 2014) to complete this grant.

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

1. The City of Grand Island, Nebraska is hereby authorized to apply for financial assistance from the Federal Emergency Management Agency and Nebraska Emergency Management Agency for the purpose of conducting an Outdoor Warning Siren Replacement and Installation Project for the City of Grand Island and other Hall County Communities; and
2. The Mayor is hereby authorized and directed to execute such grant application and other documentation on behalf of the City of Grand Island for such grant process.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, April 10, 2012.

Jay Vavricek, Mayor

Attest:

RaNae Edwards, City Clerk



City of Grand Island

Tuesday, April 10, 2012

Council Session

Item I1

#2012-99 – Consideration of Request from Chanh Bandasack dba South Front Reception, 123 East South Front Street for a Class “I” Liquor License

This item relates to the aforementioned Public Hearing item E-1.

Staff Contact: RaNae Edwards

RESOLUTION 2012-99

WHEREAS, an application was filed by Chanh Bandasack doing business as South Front Reception, 123 East South Front Street for a Class "I" Liquor License; and

WHEREAS, a public hearing notice was published in the *Grand Island Independent* as required by state law on March 31, 2012; such publication cost being \$16.27; and

WHEREAS, a public hearing was held on April 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: _____

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, April 10, 2012.

Jay Vavricek, Mayor

Attest:

RaNae Edwards, City Clerk



City of Grand Island

Tuesday, April 10, 2012

Council Session

Item I2

#2012-100 - Consideration of Approving the Power Sales Agreement for Broken Bow Wind Project

Staff Contact: Tim Luchsinger, Robert Sivick

Council Agenda Memo

From: Tim Luchsinger, Utilities Director
Robert Sivick, City Attorney

Meeting: April 10, 2012

Subject: Power Sales Agreement for Broken Bow Wind Project

Item #'s: I-2

Presenter(s): Tim Luchsinger, Utilities Director

Background

The Utilities Department has made efforts to be involved in developing technologies regarding renewable energy. Presently, the most cost effective form of renewable energy in this area is wind energy. Since 1998, the City's Utilities Department has participated with other of the state's utilities in Wind Turbine projects.

Springview Project:

Grand Island first became involved with wind energy in 1998 with the development of the "Nebraska Distributed Wind Generation Project" or NDWG, often referred to as the "Springview Project" because of its proximity to that community in north central Nebraska. The project included two 750 kilowatt wind turbines installed near Springview, Nebraska. Half of the cost of the project was funded by a grant from the Electric Power Research Institute/Department of Energy-Turbine Verification Program. NDWG was a joint project among Nebraska utilities that included Auburn Utilities, Grand Island Utilities, KBR Power District, Lincoln Electric System, the Municipal Energy Agency of Nebraska and Nebraska Public Power District (NPPD). Grand Island received an average of six megawatt hours of energy per month from NDWG. This is enough energy to supply approximately six houses for one month. Due to rising maintenance costs, increasing equipment failures and unit downtime, this facility was decommissioned in August, 2007. Including the salvage value of the turbines, the final production cost was approximately \$23/megawatt hour. Recently, two new wind turbines were installed at the Springview site. More information regarding this installation is given in the Discussion portion of this memo.

Ainsworth Project:

Grand Island is a participant in the Ainsworth Wind Energy Farm (AWEF) near Ainsworth, NE. This facility was constructed in 2005 and consists of thirty-six 1.65

megawatt turbines for a total project output of 59.4 megawatts. Grand Island has a one megawatt participation level in AWEF. AWEF is another joint project that is operated by Nebraska Public Power District, and includes participation by Omaha Public Power District, the Municipal Energy Agency of Nebraska, Grand Island Utilities, and JEA of Jacksonville, Florida. Since the start of AWEF, Grand Island has received an average of 274 megawatt hours of energy per month. This is enough energy to supply approximately 228 houses for one month. Currently, the total production cost of power received from AWEF is approximately \$47 per megawatt hour.

Elkhorn Ridge:

Elkhorn Ridge Wind, LLC (Elkhorn) is an 80 MW wind farm located near the town of Bloomfield in northeast Nebraska. It consists of twenty-seven 3 megawatt turbines. It began commercial operation January 1, 2009. Unlike AWEF, Elkhorn is a privately owned facility. NPPD entered into a Power Purchase Agreement with Elkhorn to purchase all power produced by the facility. Grand Island then signed a Power Sales Agreement with NPPD to purchase a 1 MW share of the power produced at Elkhorn. Including transmission, the total production cost of power received from Elkhorn is approximately \$60 per megawatt hour.

Laredo Ridge:

Laredo Ridge Wind, LLC (LRW) is an 80 MW wind farm located near the town of Petersburg in northeast Nebraska. It consists of fifty-four 1.5 megawatt turbines. It began commercial operation February 1, 2011. Similarly to Elkhorn, LRW is a privately owned facility. NPPD entered into a Power Purchase Agreement with LRW to purchase all power produced by the facility. Grand Island then signed a Power Sales Agreement with NPPD to purchase a 1 MW share of the power produced at LRW. Including transmission, the total production cost of power received from LRW is approximately \$56 per megawatt hour.

Discussion

The use of fossil fuels for electricity production is coming under increasing scrutiny at the national level and more restrictions and regulations are likely to be placed upon fossil fuels, particularly coal. With the City's primary energy supply being produced from coal, the overall rate impact from a carbon emission tax or other environmental regulations could be significant.

It is the recommendation of City Administration that the Utilities Department stay involved with the various renewable energy projects as they develop in the state. Broken Bow Wind, LLC (BBW) is an 80 MW wind farm currently under construction near the town of Broken Bow, Nebraska. It is anticipated to enter into commercial operation toward the end of 2012. Grand Island staff has held discussions with NPPD and other potential participants in the Broken Bow Wind Project at a 1 MW participation level. Similar to LRW, BBW is a privately owned facility. NPPD has entered into a Power Purchase Agreement with BBW to purchase all power produced by the facility. The proposed Power Sales Agreement is with NPPD to purchase a 1 MW share of the power

produced at BBW. Participants of the BBW facility automatically become participants of the new Springview II facility. Springview II is a replacement installation to the original Springview facility described above. It consists of two 1.5 MW V direct drive turbines. The vast majority of wind turbines in use in the United States today utilize a gearbox. The gearbox requires a significant amount of maintenance and can be costly to replace and direct drive turbines eliminate this component. Further testing and development is required before the technology is accepted on a large scale in the United States.

Upfront participation costs to Grand Island are approximately \$191,000. This cost includes Substation and Transmission expansion and project development. Since this is a privately owned facility, O&M costs are not applicable. The cost of power to Grand Island will be approximately \$40 per megawatt hour increasing 2.5% per year. This equates to an approximate cost of \$170,000 for the first year, increasing 2.5% per year thereafter. The agreement is for twenty years. These costs are reasonable and competitive with current power market prices.

In order to maintain confidentiality, the contracts are provide to the Mayor and Council under separate cover.

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 a future date
4. Take no action on the issue

Recommendation

City Administration recommends that the Council approve the 1 MW level of participation in Broken Bow Wind facility and authorize execution of the Power Sales Agreement with Nebraska Public Power District.

Sample Motion

Move to approve the 1 MW level of participation in the Broken Bow Wind Facility and authorize execution of the Power Sales Agreement with Nebraska Public Power District.

RESOLUTION 2012-100

WHEREAS, the City of Grand Island, and the Nebraska Public Power District have participated in the development of a wind energy project by Broken Bow Wind, LLC, Plant; and

WHEREAS, Nebraska Public Power District has entered into a Power Purchase Agreement with Broken Bow Wind, LLC, for the output of the project, and is re-marketing portions of that power to other electric utilities; and

WHEREAS, the parties desire to enter into a Power Sales Agreement to receive electric energy produced by Broken Bow Wind, LLC, according to the terms and conditions outlined in the Power Sales Agreement; and

WHEREAS, the City Attorney's office has reviewed and approved the agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the Power Sales Agreement for Broken Bow Wind, LLC, by and between the City of Grand Island and Nebraska Public Power District be, and hereby is, approved in accordance with the terms of the agreement.

BE IT FURTHER RESOLVED, that the Mayor is hereby authorized and directed to execute such agreement on behalf of the City of Grand Island.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, April 10, 2012.

Jay Vavricek, Mayor

Attest:

RaNae Edwards, City Clerk



City of Grand Island

Tuesday, April 10, 2012

Council Session

Item I3

#2012-101 - Consideration of Economic Development Incentive Agreement with Medbery Fabrication LLC.

Staff Contact: Mary Lou Brown, City Administrator

Council Agenda Memo

From: Mary Lou Brown, City Administrator

Meeting: April 10, 2012

Subject: Approving Economic Development Incentive Agreement with Medbery Fabrication LLC

Item #'s: I-3

Presenter(s): Mary Lou Brown, City Administrator

Background

At the May 2003 special election, the voters of the City of Grand Island approved LB840 funding to enable the City to extend economic development incentives through the Grand Island Economic Development Corporation (GIEDC). The Economic Development Corporation has received an application from Medbery Fabrication LLC for fourteen additional employees. On March 22, 2012, the Executive Board of the GIEDC approved submission of the attached Economic Development Agreement to the Citizens Review Committee for consideration and recommendation. The CRC met on April 3, 2012 and approved the request and Agreement for recommendation to the City Council for final action and approval.

Discussion

Medbery Fabrication LLC repairs and maintains returnable containers which Case IH vendors use for shipping parts and materials to the plant and has submitted the required application (see attached) for a total amount of \$76,000.00. Proposed is the creation of 14 new jobs over the next three years with an average hourly wage of \$13.50. Requested is a forgivable loan of \$3,000 per employee or \$42,000 and \$34,000.00 for new equipment.

Medbery Fabrication LLC currently has four employees and due to increased orders, employees and projects, expansion of its facilities are necessary. A total of \$76,000.00 of LB840 funds for an additional 14 new employees and equipment is requested.

Alternatives

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

1. Move to approve the Economic Development Agreement with Medbery Fabrication LLC.
2. Do not approve the Economic Development Agreement with Medbery Fabrication LLC.
3. Postpone the issue to future date.
4. Take no action on the issue.

Recommendation

City Administration recommends that the Council consider the resolution authorizing the City to enter into the Economic Development Agreement with Medbery Fabrication LLC.

Sample Motion

Move to approve the resolution authorizing the City to enter into the Economic Development Agreement with Medbery Fabrication LLC.



PROJECT APPLICATION FOR ECONOMIC DEVELOPMENT PROGRAMS

1. Applicant Business Name Medbery Fabrication LLC
- Address 136 North Carey
- Telephone (308) 383-9393
- Email Address grpamedbery@hotmail.com
- Business Contact Person Ed Medbery
- Telephone () Same
2. Business Organization: Corporation Partnership Other
 Proprietor x LLC
3. Business Type: Startup x Existing
 Business Buyout Spec Building
 Other _____
4. Project Location: x 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: Repair and maintain returnable containers which
Case IH vendors use for shipping parts and materials to the plant.

6. Project Description: moveable carts and racks that Case IH employees use to
transport parts and materials throughout the plant to where they are needed along the
assembly line.

7. Project Timetable: Medbery Fabrication LLC is a new company, but the owner has
been a subcontractor for Case IH since 2007 working out of his home. Due to increased
orders, employees and projects, expansion of its facilities is a necessity.

8. Employment Information:

Current number of employees 4 (full-time equivalent)

Proposed number of employees 18 (full-time equivalent)

What is the average hourly wage for all employees? \$15.50

Number of new jobs to be created 14 (full-time equivalent)

What would be the average hourly wage for new jobs? \$13.50

Number of jobs to be retained, if any _____ (full-time equivalent)

Please describe all benefits which the business provides to employees:

limited vacation time, health insurance, bonus

9. Financing/Incentives Requested: The company has outgrown both its current location
and its workforce. In order to assume additional contracts, 14 additional employees will be
hired over the next three years. New equipment consisting of (3) Miller welders, an Ellis
Band Saw, and Ellis Drill Press, (2) plasma cutters, a Scotchman Ironworker, JIB Pals host, will
and a used Big plasma table machine will be purchased. This new equipment will assist
the new employees and assist the company in its continued growth. We are requesting a
grant of \$ 34,000 for new equipment and a forgivable loan of \$3,000/employee or \$42,000.
A total grant request of \$76,000 would be appreciated.

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: Edwin D. Medley Sr.
Name

President
Title

Date: 3/19/12

Grand Island Area Economic Development LB-840 Project Application

Project Name: Medbury Fabrication LLC

Date Referred to Grand Island Area Economic Development Board: 3/22/2012

Approved: X Disapproved: _____ Date: 3-19-12

Comments: _____

Signature of President: Marlan Ferguson
Marlan Ferguson

Date Referred to Citizen's Review Committee: April 3, 2012

Approved: X Disapproved: _____ Date: 4/3/2012

Comments: _____

Signature of Chairman: Lisa Willman
Lisa Willman

Date Referred to City Council: April 10, 2012

Approved: _____ Disapproved: _____ Date: _____

Comments: _____

Signature of Mayor: _____
Jay Vavricek

ECONOMIC DEVELOPMENT AGREEMENT

This agreement between the City of Grand Island (City), the Grand Island Area Economic Development Corporation (EDC) and Medbery Fabrication, L.L.C. (Employer) sets forth the terms and conditions of a forgivable economic development loan requested by the Employer and granted by the City and EDC as follows:

I. DEFINITIONS

The following definitions of terms used in this agreement will be controlling.

A. Full Time Equivalents (FTEs) - Shall be persons employed by the Employer and working at the Grand Island location at the end of the Measuring Year and determined by dividing the total number of hours that Employer paid employees working at the Grand Island location by two thousand and eighty (2,080).

B. Average Hourly Rate – Shall be determined by the total wages and salaries paid to all employees of the Employer and dividing such number by the total number of annual hours worked by all full time employees of the Employer.

C. Employment Certificate - A document for a defined period containing the sworn statement of a duly authorized representative of the Employer setting forth the names of all hourly and salaried employees, the total hours worked or compensation received by each employee, and the rate of pay or salary received by each employee. In addition, the employment certificate shall include tax or payroll records as demanded by the City and/or EDC.

D. Measuring Year - The first measuring year shall begin on the first day of the month following the Employer's receipt of any portion of the forgivable economic development loan. The first measuring year will end exactly one year later. Subsequent measuring years will begin on the date the preceding measuring year ended and end exactly one year later.

II. FORGIVABLE ECONOMIC DEVELOPMENT LOAN

The Employer has requested and the City and EDC have agreed to provide the Employer a forgivable economic development loan in the total amount of Seventy-Six Thousand Dollars (\$76,000.00). This loan is divided into two (2) parts as follows:

A. The first part of the loan is in the amount of Thirty-Four Thousand Dollars (\$34,000.00) to be used by the Employer for the purchase of the following equipment:

1. Three (3) Miller Welders;
2. One (1) Ellis Band Saw;
3. One (1) Ellis Drill Press;
4. Two (2) Plasma Cutters;
5. One (1) Scotchman Ironworker;
6. One (1) Jib Pole Hoist; and
7. One (1) used large Plasma Table Machine.

B. The second part of the loan is in the amount of Forty-Two Thousand Dollars (\$42,000.00) to be used by the Employer to increase the number of its employees from four (4) presently to no less than eighteen (18).

III. EQUIPMENT PURCHASE REQUIREMENTS

The Employer agrees to meet the following terms regarding the purchase of equipment as set forth in paragraph IIA of this agreement.

A. The employer shall purchase the equipment listed in paragraph IIA no later than six (6) months after receiving that portion of the forgivable economic development loan set forth in said paragraph.

B. The employer may not alter the list of equipment to be purchased as listed in paragraph IIA without the written consent of the City and EDC.

C. That within ten (10) days of purchasing any or all of the equipment listed in paragraph IIA, the Employer will provide the City and the EDC copies of all documentation related to the purchase of the equipment including but not limited to receipts, warranties, and/or rebates. That within ten (10) days of purchasing any or all of the equipment listed in paragraph IIA, the Employer will execute any necessary documents for the City to take a security interest in the equipment pursuant to Article 9 of the Nebraska Uniform Commercial Code.

D. That if the total purchase price of the equipment listed in paragraph IIA is less than Thirty-Four Thousand Dollars (\$34,000.00), the difference shall be returned to the City and EDC. If the total purchase price of the equipment listed in paragraph IIA is more than Thirty-Four Thousand Dollars (\$34,000.00) the Employer will pay the additional costs out of its own funds and may not use other proceeds of the forgivable economic development for such purchase without the written consent of the City and EDC.

E. That the Employer will not sell or dispose of the equipment listed in paragraph IIA in any fashion without the written consent of the City and EDC. That immediately upon purchase, the Employer will obtain insurance for the fair market value of all equipment listed in paragraph IIA naming the City as loss payee and provide the City and EDC proof of such insurance within ten (10) days of said equipment purchase. That in the event any or all the equipment listed in paragraph IIA is stolen, destroyed, or becomes inoperable beyond repair, the Employer will provide written notice of such to the City and EDC within ten (10) days of such occurrence.

IV. FORGIVABLE ECONOMIC DEVELOPMENT LOAN DISBURSEMENTS

The City and EDC will disburse monies from the forgivable economic development loan to the Employer pursuant to the following schedule conditioned on the Employer's compliance with all the terms of this agreement. Prior to the second and third disbursements, the Employer will provide an Employment Certificate to the City and EDC as a prior condition of those disbursements being made.

A. Initial Disbursement - The initial disbursement to the Employer will be in the total amount of Fifty-Five Thousand Dollars (\$55,000.00) and will be the sum of Thirty-Four

Thousand Dollars (\$34,000.00) for equipment pursuant to paragraph IIA and Twenty-One Thousand Dollars (\$21,000.00) for increasing the number of employees pursuant to paragraph IIB. That the initial disbursement will occur no later than thirty (30) days after the agreement is approved and executed by the City, EDC, and the Employer.

B. Second Disbursement - The second disbursement to the Employer will occur no later than six (6) months after the first disbursement and will be in the amount of Nine Thousand Dollars (\$9,000.00) pursuant to paragraph IIB.

C. Third Disbursement - The third disbursement to the Employer will occur no later than one (1) year after the second disbursement and will be in the amount of Twelve Thousand Dollars (\$12,000.00) pursuant to paragraph IIB.

V. EMPLOYMENT INCENTIVES

The Employer agrees to meet the following goals regarding incentives related to increasing the number of its employees.

A. First Measuring Year - At the end of the first measuring year the Employer will employ a total of not less than eleven (11) FTEs at an average hourly rate of Thirteen Dollars and Fifty Cents (\$13.50).

B. Second Measuring Year - At the end of the second measuring year the Employer will employ a total of not less than fourteen (14) FTEs at an average hourly rate of Thirteen Dollars and Fifty Cents (\$13.50).

C. Third, Fourth, and Fifth Measuring Years - At the end of the third, fourth, and fifth measuring years the Employer will employ a total of not less than eighteen (18) FTEs at an average hourly rate of Thirteen Dollars and Fifty Cents (\$13.50).

VI. COMMUNICATION

A. The Employer agrees to fully respond within fifteen (15) calendar days to any request for information from the City and/or EDC related to the Employer's compliance with the terms of this agreement. All responses to information requests by the City and/or EDC shall be in writing and mailed to the following addresses:

Grand Island City Administrator
100 E. First St.
P.O. Box 1968
Grand Island, NE 68802-1968

Grand Island Area Economic Development Corp.
308 N. Locust St., STE 400
P.O. Box 1151
Grand Island, NE 68802-1151

B. The Employer agrees to inform the City and the EDC of its current address, telephone number, and email address and inform the City and the EDC of any changes within three working (3) days.

VII. DOCUMENTATION

The Employer agrees to provide the City and the EDC copies of its annual profit/loss balance sheet and cash flow statement within forty-five (45) days after the conclusion of its fiscal year. The Employer also agrees to provide the City and the EDC of a copy of its income tax returns within ten (10) days of their timely filing.

VIII. CONFIDENTIALITY

The City and the EDC agree to maintain confidential information pursuant to Article VIII of the Grand Island Economic Development Plan and Grand Island City Code §38-10.

IX. LOAN FORGIVENESS

If at the end of the fifth measuring year, if the Employer has complied with all the terms of this Agreement, the total amount of the economic development loan shall be forgiven and the City shall release any security interests it may have in property or equipment held by the Employer.

X. EFFECT OF BREACH

If the Employer fails to comply with any of the terms set forth in this agreement the City and/or EDC may declare it to be in breach. Such declaration shall be in writing, shall set forth the reasons for the breach, and be delivered or mailed to the Employer at its last known address. In the event the Employer is declared to be in breach all such monies received as a forgivable economic development loan will become immediately due and owing. In addition, in the event it is declared to be in breach, the Employer will surrender to the City possession of the equipment purchased as listed in paragraph IIA. Upon receiving the equipment as listed in paragraph IIA, the City will dispose of it as soon as possible at auction. Any monies received from the sale of the equipment listed in paragraph IIA will be deducted from the total owed by the Employer to the City. If the amount received from the sale of the equipment listed in paragraph IIA exceeds the total amount owed by the Employer to the City, the City will refund the difference to the Employer. If the Employer repays the forgivable economic development loan in full before the City takes possession of or sells the equipment listed in paragraph IIA, said equipment will remain in or be returned to the possession of the Employer.

XI. LEGAL EFFECT

Notwithstanding the other provisions of this agreement, the Employer agrees to the following:

A. If the Employer is purchased, absorbed, or merged into any other person or entity, the terms and conditions of this agreement shall continue to be in force and binding on any purchaser or successor organization.

B. If the Employer discontinues its operations in Grand Island prior to the completion of the entire agreement, all such monies received as a forgivable economic development loan will become immediately due and owing as outline in paragraph X.

C. If any provision of this agreement is declared void or illegal by a Court of law then all other unaffected provisions will continue to be in effect.

D. This document constitutes the entirety of the terms and conditions of this agreement. This agreement may not be altered or modified in any way unless consented to by all the parties and evidenced in writing.

Witness our hands this _____ day of _____, 2012.

GRAND ISLAND AREA ECONOMIC
DEVELOPMENT CORPORATION

By Marlan Ferguson
Marlan Ferguson, President

THE CITY OF GRAND ISLAND

By _____
Jay Vavricek, Mayor

ACCEPTANCE

Medbery Fabrication, L.L.C., acting through its sole Member/Manager, accepts and agrees to all provisions of this Economic Development Agreement.

MEDBERY FABRICATION, L.L.C.,
Employer

By Edwin D. Medbery Sr.
Edwin D. Medbery, Sr.,
Member/Manager

RESOLUTION 2012-101

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, Medbery Fabrication LLC has applied for a forgivable loan for job incentive and equipment in the amount of \$76,000.00 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 April 3, 2012 by the Citizens Advisory Review Committee; and

WHEREAS, Medbery Fabrication LLC 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 Medbery Fabrication LLC 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 Medbery Fabrication LLC, to provide \$76,000.00 in economic assistance to Medbery Fabrication LLC, to be used for expanding 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.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, April 10, 2012.

Jay Vavricek, Mayor

Attest:

RaNae Edwards, City Clerk



City of Grand Island

Tuesday, April 10, 2012

Council Session

Item J1

Approving Payment of Claims for the Period of March 27, 2012 through April 10, 2012

The Claims for the period of March 27, 2012 through April 10, 2012 for a total amount of \$2,698,996.64. A MOTION is in order.

Staff Contact: Jave Monter