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# City of Grand Island



**Tuesday, October 9, 2012**  
**Council Session Packet**

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**City Council:**

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

**Mayor:**

Jay Vavricek

**City Administrator:**

Mary Lou Brown

**City Clerk:**

RaNae Edwards

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**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.**

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**Invocation - Pastor Diane Covey, Spirit of Life Church, 2304 Macron Street**

**Pledge of Allegiance**

**Roll Call**

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### **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.

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### **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, October 9, 2012

Council Session

## Item C1

### **Presentation of the “Mayor’s Builder Award” to Sara Robinson**

*Since so many great efforts occur in our community and many unnoticed, it's important to recognize efforts that build a stronger Grand Island.*

*As Mayor, the City will recognize those efforts with a "Mayor's Builder Award" Recognition and appearance before council and the people of Grand Island.*

*The fourth Builders' Award will go to Sara Robinson. Ms. Robinson is a 4th grade teacher with Gates Elementary School. She received the prestigious Milken Family Foundation Educator Award along with \$25,000.*

*Sara Robinson will be recognized as a Builder of a Better Grand Island.*

Staff Contact: Mayor Jay Vavricek

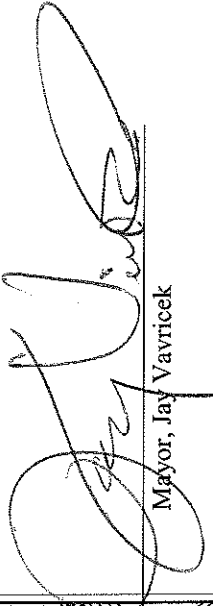


# *Mayor's Builder Award*

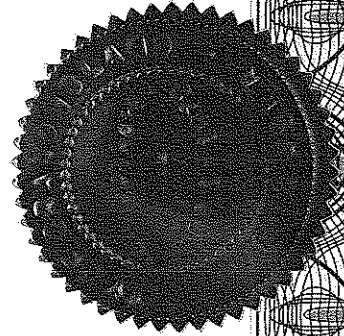
Awarded to

**“Sara Robinson”**

for outstanding work in the community of the City of Grand Island and a  
Builder of a Better Grand Island.



Mayor, Jay Vavricek



City Clerk, RaNae Edwards



# City of Grand Island

Tuesday, October 9, 2012

Council Session

## Item C2

### **Presentation of Capital Avenue Project – Webb Road to Broadwell Avenue**

*The Capital Avenue – Webb Road to Broadwell Avenue project will improve Capital Avenue from a two-lane asphalt roadway to a five-lane concrete roadway. Other improvements include updated street lighting, new storm sewer and a 10' concrete trail. This project is made possible through funds provided by the Nebraska Department of Roads Surface Transportation Program and the Federal Highway Administration.*

*Matt Rief, PE, of Olsson Associates will present the proposed project and summarize feedback that was received at the August 21 Public Informational Meeting. Terry Brown, PE, Interim Public Works Director and Scott Gripenstroh, Project Manager will be available to address questions and concerns regarding the project.*

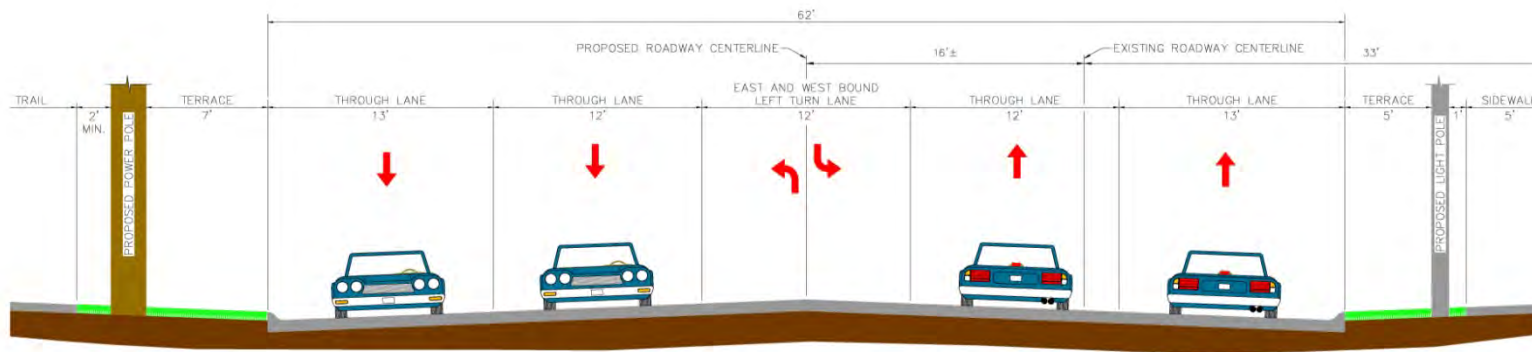
Staff Contact: Terry Brown, Interim Public Works Director

# Capital Avenue Project



# Traffic Review

- Proposed Roadway Section



# Capital Avenue Project



# Capital Avenue Project



# Right of Way Sensitive Design



# Webb Road Intersection



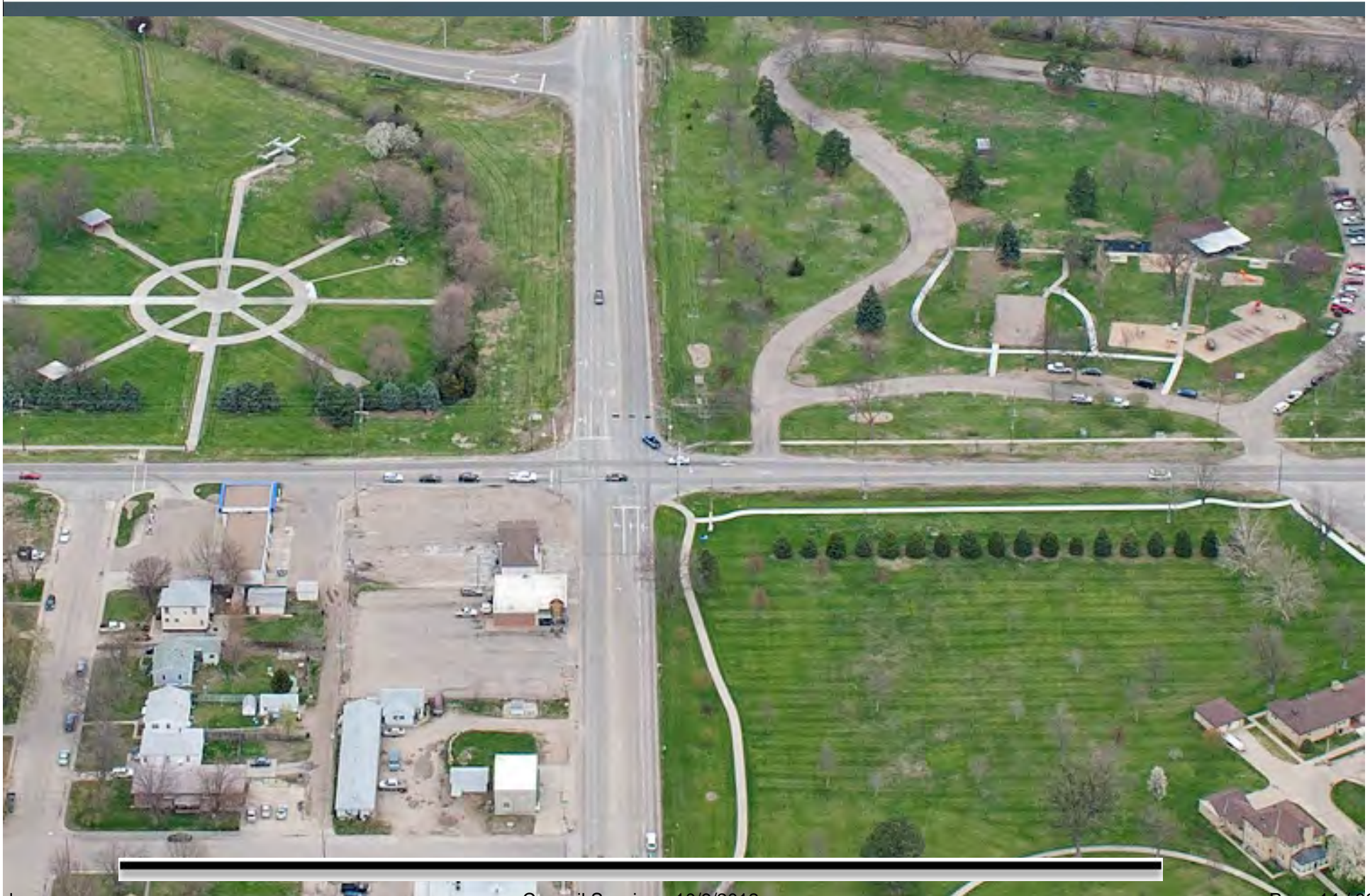
# Webb Road Intersection



# HAWK Pedestrian Signal Crossing



# Broadwell Avenue Intersection



# Broadwell Avenue Intersection

Drive Closure



# Broadwell Avenue Intersection



# August 21<sup>st</sup> Public Meeting

- 110-140 attendees
- 33 comment forms received
- Generally support project
- 5 comments not support project
- Custer Avenue Intersection
- Object to Assessment District

## Grand Island Capital Avenue Improvements: WEBB ROAD TO BROADWELL AVENUE

PUBLIC MEETING | AUGUST 21, 2012

UNITED VETERAN'S CLUB  
1914 W Capital Avenue, Grand Island, Nebraska

### WELCOME

This is the public information meeting/open house for the Capital Avenue Improvements project, from Webb Road to Broadwell Avenue. The project is currently in the early design stages. Upon review of current and future traffic demands, the project scope has increased from a three-lane improvement to a five-lane improvement.

At tonight's open house, members of the engineering project team will discuss the roadway reconstruction project, show preliminary design layouts, and answer questions. This meeting is a time for the project team to give you an update on the project, as well as for you to give us feedback concerning any comments you may have about the proposed improvements. This feedback will help us gain more knowledge of the corridor and improve the overall project design.

### PROJECT HIGHLIGHTS

- Reconstruct Capital Avenue from a 24-foot-wide, two-lane roadway to a 62-foot-wide, five-lane roadway from Webb Road to Broadwell Avenue. This will require shifting the roadway centerline north to avoid impacts to residential homes.
- Reconstruct the Broadwell Avenue intersection, which will include a new traffic signal.
- Reconstruct side streets and driveways, as needed, to accommodate the new roadway.
- Add storm sewer pipe and inlets along Capital Avenue.
- Add roadway lighting.
- Construct a new sanitary sewer trunk main along the corridor.
- Reconstruct utilities to include relocating the overhead power line along the project's north side and relocate gas and communication facilities.
- Assess minor green space impacts to the parks along the project.
- Add new sidewalks and curb ramps at intersections to comply with ADA standards.
- Construct a new pedestrian/bike trail from Webb Road to Broadwell Avenue, connecting with Veterans Memorial Park and Ashley Park, and, eventually, Veterans Sports Complex. This will include a new pedestrian signal crossing east of Webb Road.

### SCHEDULE AND CONSTRUCTION

Olsson Associates will work on the roadway design over the next several months. Another information meeting is anticipated in Spring 2013 where a more detailed roadway design will be presented. After this meeting, the project team will finalize the right-of-way and easements needed to construct the project. Construction is expected to begin Fall 2014.

### TONIGHT'S AGENDA

5:30 p.m.  
Open house begins

6:00 p.m.  
Presentation

6:15 p.m. – 7:00 p.m.  
View stations and speak  
with project team members

### QUESTIONS?

For more information,  
please contact:


Matt Rief, PE, Project Manager  
Olsson Associates  
308.384.8750  
mrief@olssonassociates.com

Scott Gripenstroh, Project Manager  
City of Grand Island  
308.385.5444 ext. 265  
scottg@grand-island.com



## Paving Assessment Districts

### Nebraska State Revised Statute 16-606

-  “The council may assess and levy the whole expense and damage incurred in the creation of any street, avenue, or alley upon the real property fronting upon the same and other property nearby that may be benefited thereby **in proportions according to benefits.**”



# **City of Grand Island**

**Tuesday, October 9, 2012**

**Council Session**

## **Item E1**

### **Public Hearing Concerning Acquisition of Utility Easement - GI Area Economic Development Corp. - Millard Warehouse**

**Staff Contact: Tim Luchsinger, Utilities Director**

# **Council Agenda Memo**

**From:** Robert H. Smith, Asst. Utilities Director

**Meeting:** October 9, 2012

**Subject:** Acquisition of Utility Easement – GI Area Economic Development Corporation - Millard Refrigerated Services

**Item #'s:** E-1 & G-16

**Presenter(s):** Timothy Luchsinger, Utilities Director

## **Background**

Nebraska State Law requires that acquisition of property must be approved by City Council. The Utilities Department needs to acquire an easement relative to the property of Grand Island Area Economic Development Corporation located just north of the Burlington Northern Railroad tracks and east of North Highway 281, in the City of Grand Island, Hall County, in order to have access to install, upgrade, maintain, and repair power appurtenances, including lines and transformers.

The property is adjacent to Millard Refrigeration Services, but is owned by Grand Island Economic Development Corporation as the legal successor of the Grand Island Industrial Foundation.

## **Discussion**

This easement will be used to provide electrical service to a new switch building belonging to BNSF Railroad. This is part of the double track project currently under construction.

## **Alternatives**

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

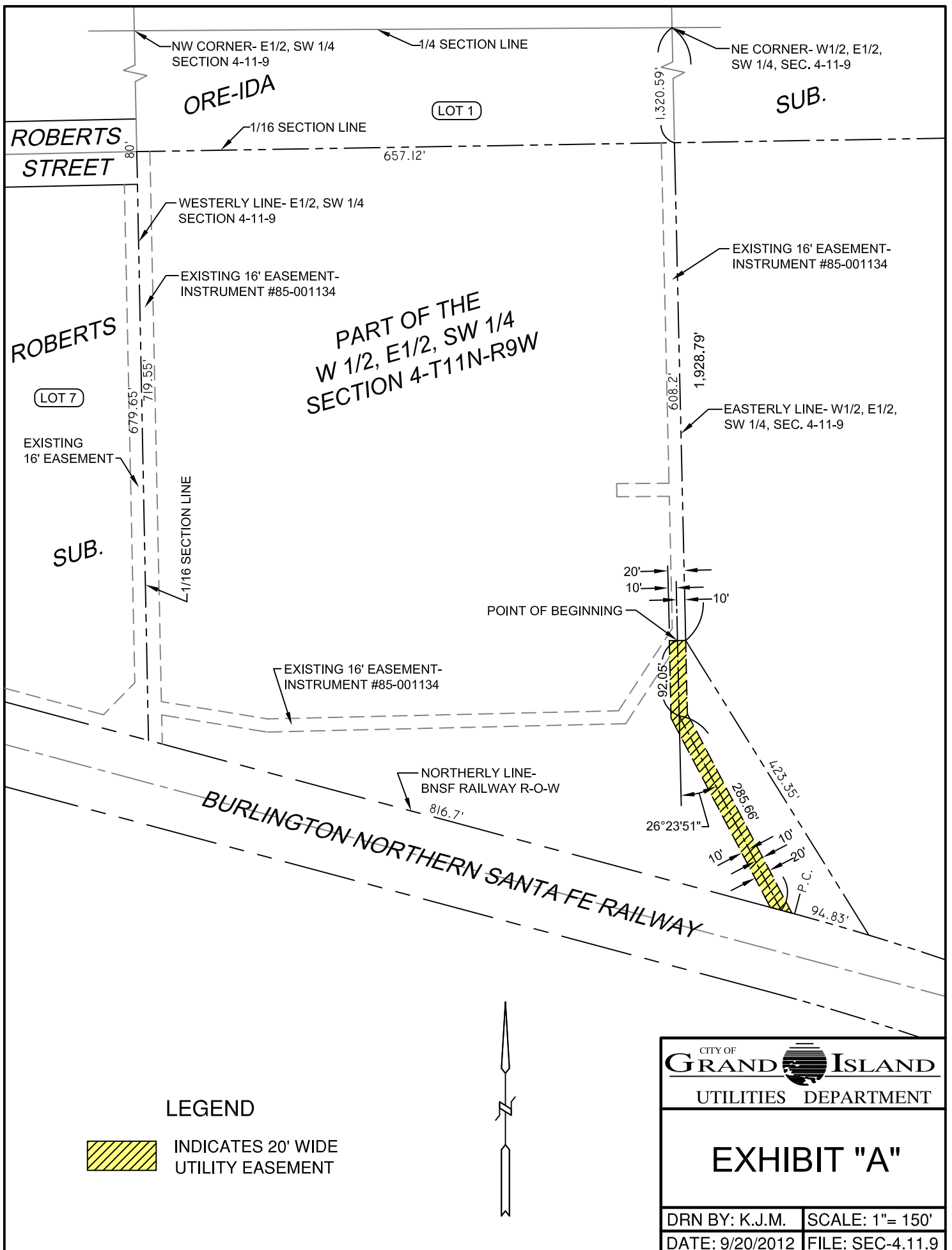
1. Make a motion to approve
2. Refer the issue to a Committee
3. Postpone the issue to future date
4. Take no action on the issue

## **Recommendation**

City Administration recommends that the Council approve the resolution for the acquisition of the easement for one dollar (\$1.00).

## **Sample Motion**

Move to approve acquisition of the Utility Easement.





# **City of Grand Island**

**Tuesday, October 9, 2012**

**Council Session**

## **Item E2**

**Public Hearing Concerning Acquisition of Drainage Easements for the Southwest Outfall Drainage Project No. 2011-D-1 (The Diamond Engineering Co., Clark Gauthier, Carl & Lori Armstrong, and Kevin & Karen Houtwed)**

**Staff Contact: Terry Brown, Interim Public Works Director**

# **Council Agenda Memo**

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

**Meeting:** October 9, 2012

**Subject:** Public Hearing Concerning Acquisition of Drainage Easements for the Southwest Outfall Drainage Project No. 2011-D-1 (The Diamond Engineering Co., Clark Gauthier, Carl & Lori Armstrong, and Kevin & Karen Houtwed)

**Item #'s:** E-2 & G-22

**Presenter(s):** Terry Brown, Interim Public Works Director

## **Background**

Nebraska State Statutes stipulate that the acquisition of property requires a public hearing to be conducted with the acquisition approved by the City Council. Drainage Easements are needed in the Southwest Outfall Drainage Project No. 2011-D-1 (Central Community College to the Wood River) area to accommodate the installation of storm sewer. The easements will allow for the construction, operation, maintenance, extension, repair, replacement, and removal of drainage utilities within the easements.

## **Discussion**

At tonight's meeting we are also requesting approval to acquire temporary easements on these same properties to accommodate the construction of the Southwest Outfall Drainage Project No. 2011-D-1 (Central Community College to the Wood River).

## **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

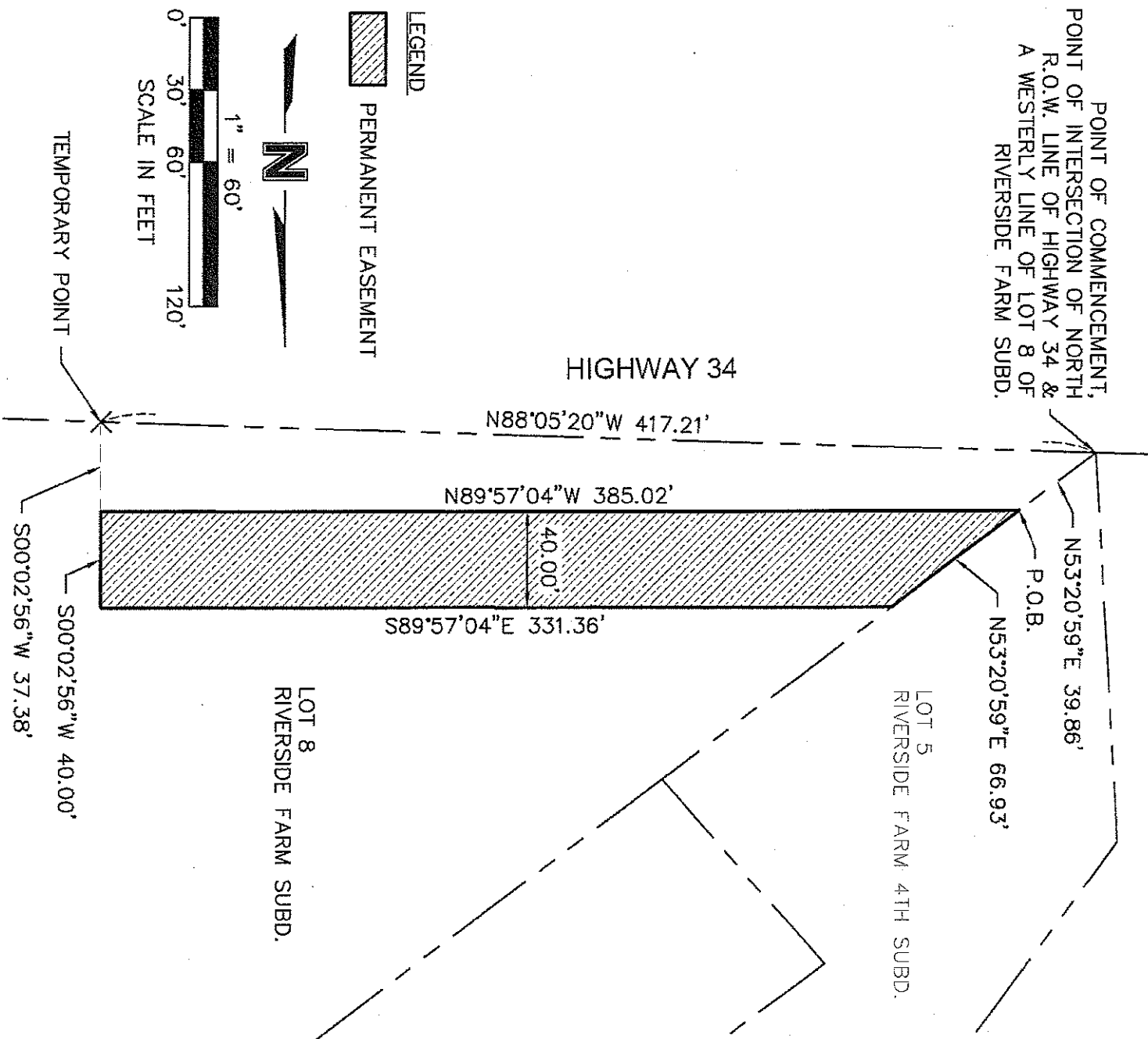
### **Recommendation**

City Administration recommends that the Council conduct a Public Hearing and approve acquisition of the Drainage Easements.

### **Sample Motion**

Move to approve the acquisition of the Drainage Easements.

# PERMANENT EASEMENT CITY OF GRAND ISLAND, HALL COUNTY, NEBRASKA DRAINAGE PROJECT 2010-D-3

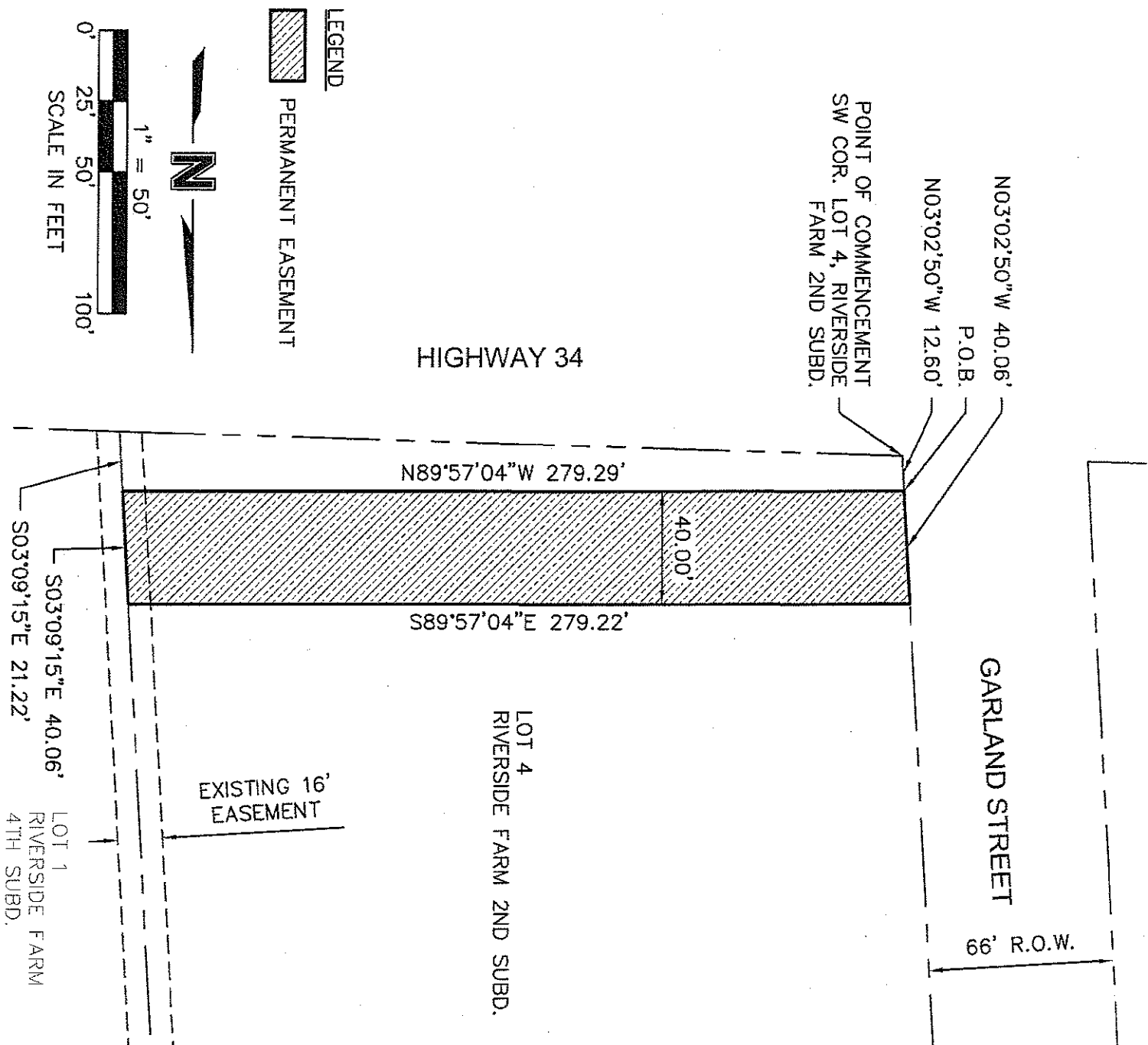


## EASEMENT DESCRIPTION

A PERMANENT DRAINAGE EASEMENT CONSISTING OF PART OF LOT 8 OF RIVERSIDE FARM SUBDIVISION, LOCATED IN THE SOUTHEAST QUARTER (SE1/4) OF SECTION 29, TOWNSHIP 11 NORTH, RANGE 9 WEST OF THE 6TH P.M., CITY OF GRAND ISLAND, HALL COUNTY, NEBRASKA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE POINT OF INTERSECTION OF THE NORTH RIGHT-OF-WAY (R.O.W.) LINE OF HIGHWAY 34 AND A WESTERLY LINE OF SAID LOT 8, SAID POINT ALSO BEING THE SOUTH CORNER OF LOT 5 OF RIVERSIDE FARM SUBDIVISION IN THE CITY OF GRAND ISLAND, HALL COUNTY, NEBRASKA; THENCE ON AN ASSUMED BEARING OF N53°20'59"E ALONG SAID WESTERLY LINE OF SAID LOT 8 A DISTANCE OF 39.86 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID WESTERLY LINE N53°20'59"E A DISTANCE OF 66.93 FEET; THENCE S89°57'04"E A DISTANCE OF 331.36 FEET; THENCE S00°02'56"W A DISTANCE OF 40.00 FEET; THENCE N89°57'04"W A DISTANCE OF 385.02 FEET TO THE POINT OF BEGINNING. SAID PERMANENT DRAINAGE EASEMENT CONTAINS 14327.68 SQUARE FEET OR 0.33 ACRES MORE OR LESS.

# PERMANENT EASEMENT CITY OF GRAND ISLAND, HALL COUNTY, NEBRASKA DRAINAGE PROJECT 2010-D-3

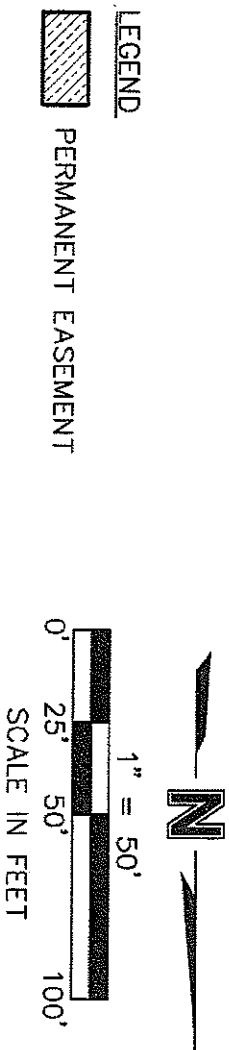
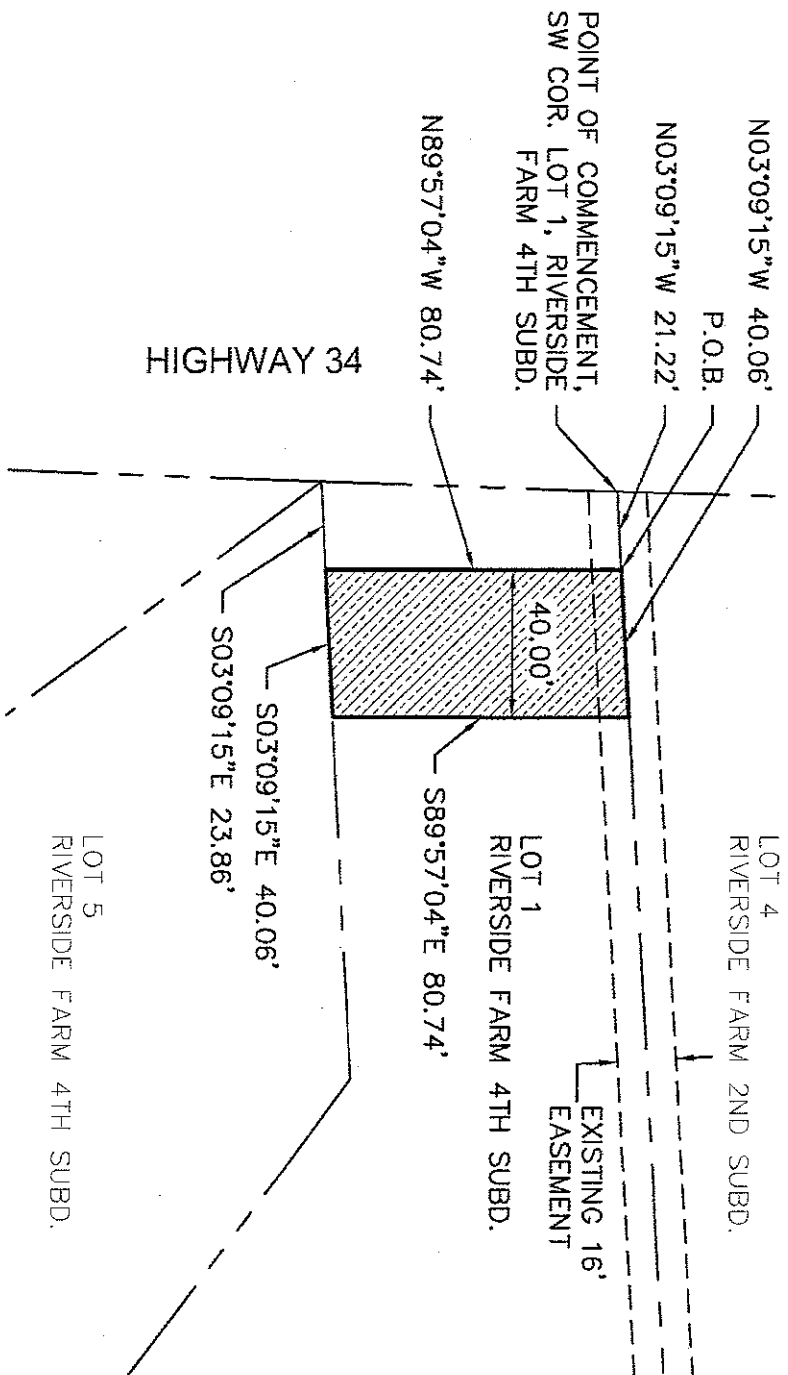


## EASEMENT DESCRIPTION

A PERMANENT DRAINAGE EASEMENT CONSISTING OF PART OF LOT 4 OF RIVERSIDE FARM SECOND SUBDIVISION, LOCATED IN THE SOUTHEAST QUARTER (SE1/4) OF SECTION 29, TOWNSHIP 11 NORTH, RANGE 9 WEST OF THE 6TH P.M., CITY OF GRAND ISLAND, HALL COUNTY, NEBRASKA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 4, SAID POINT ALSO BEING THE POINT OF INTERSECTION OF THE NORTH RIGHT-OF-WAY (R.O.W.) LINE OF HIGHWAY 34 AND THE EAST R.O.W. LINE OF GARLAND STREET; THENCE ON AN ASSUMED BEARING OF N03°02'50"W ALONG SAID EAST R.O.W. LINE A DISTANCE OF 12.60 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID EAST R.O.W. LINE N03°02'50"W A DISTANCE OF 40.06 FEET; THENCE S89°57'04"E A DISTANCE OF 279.22 FEET TO A POINT ON THE EAST LINE OF SAID LOT 4; THENCE S03°09'15"E ALONG SAID EAST LINE A DISTANCE OF 40.06 FEET; THENCE N89°57'04"W A DISTANCE OF 279.29 FEET TO THE POINT OF BEGINNING. SAID PERMANENT DRAINAGE EASEMENT CONTAINS 11170.17 SQUARE FEET OR 0.26 ACRES MORE OR LESS.

# PERMANENT EASEMENT CITY OF GRAND ISLAND, HALL COUNTY, NEBRASKA DRAINAGE PROJECT 2010-D-3

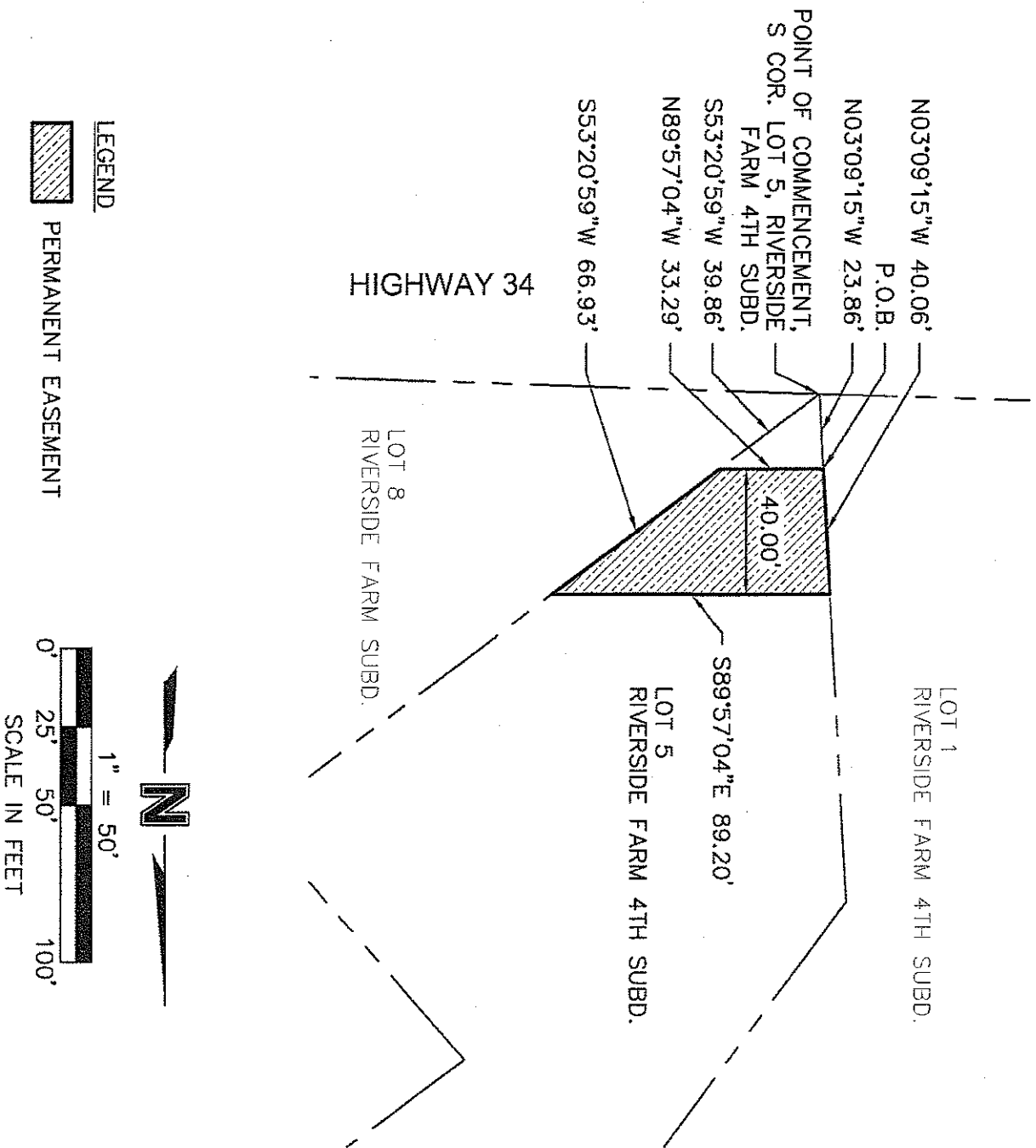


## EASEMENT DESCRIPTION

A PERMANENT DRAINAGE EASEMENT CONSISTING OF PART OF LOT 1 OF RIVERSIDE FARM FOURTH SUBDIVISION, LOCATED IN THE SOUTHEAST QUARTER (SE1/4) OF SECTION 29, TOWNSHIP 11 NORTH, RANGE 9 WEST OF THE 6TH P.M., CITY OF GRAND ISLAND, HALL COUNTY, NEBRASKA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 1, SAID POINT ALSO BEING ON THE NORTH RIGHT-OF-WAY (R.O.W.) LINE OF HIGHWAY 34; THENCE ON AN ASSUMED BEARING OF N03°09'15"W ALONG A WESTERLY LINE OF SAID LOT 1 A DISTANCE OF 21.22 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID WESTERLY LINE N03°09'15"W A DISTANCE OF 40.06 FEET; THENCE S89°57'04"E A DISTANCE OF 80.74 FEET TO A POINT ON A EASTERLY LINE OF SAID LOT 1; THENCE S03°09'15"E ALONG SAID EASTERLY LINE A DISTANCE OF 40.06 FEET; THENCE N89°57'04"W A DISTANCE OF 80.74 FEET TO THE POINT OF BEGINNING. SAID PERMANENT DRAINAGE EASEMENT CONTAINS 3229.59 SQUARE FEET OR 0.07 ACRES MORE OR LESS.

# PERMANENT EASEMENT CITY OF GRAND ISLAND, HALL COUNTY, NEBRASKA DRAINAGE PROJECT 2010-D-3



## EASEMENT DESCRIPTION

A PERMANENT DRAINAGE EASEMENT CONSISTING OF PART OF LOT 5 OF RIVERSIDE FARM FOURTH SUBDIVISION, LOCATED IN THE SOUTHEAST QUARTER (SE1/4) OF SECTION 29, TOWNSHIP 11 NORTH, RANGE 9 WEST OF THE 6TH P.M., CITY OF GRAND ISLAND, HALL COUNTY, NEBRASKA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTH CORNER OF SAID LOT 5, SAID POINT ALSO BEING ON THE NORTH RIGHT-OF-WAY (R.O.W.) LINE OF HIGHWAY 34; THENCE ON AN ASSUMED BEARING OF N03°09'15"W ALONG A WESTERLY LINE OF SAID LOT 5 A DISTANCE OF 23.86 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID WESTERLY LINE N03°09'15"W A DISTANCE OF 40.06 FEET; THENCE S89°57'04"E A DISTANCE OF 89.20 FEET TO A POINT ON A EASTERLY LINE OF SAID LOT 5; THENCE S53°20'59"W ALONG SAID EASTERLY LINE A DISTANCE OF 66.93 FEET; THENCE N89°57'04"W A DISTANCE OF 33.29 FEET TO THE POINT OF BEGINNING. SAID PERMANENT DRAINAGE EASEMENT CONTAINS 2449.87 SQUARE FEET OR 0.06 ACRES MORE OR LESS.



# City of Grand Island

Tuesday, October 9, 2012

Council Session

## Item F1

**#9402 - Consideration of Assessments for South Locust Business Improvement District 2012 (Second and Final Reading)**

Staff Contact: Marco Floreani

# **Council Agenda Memo**

**From:** Marco Floreani, Community Development Administrator

**Meeting:** October 9, 2012

**Subject:** Approving the Assessments for South Locust Business Improvement District 2012

**Item #'s:** F-1

**Presenter(s):** Marco Floreani, Community Development Administrator

## **Background**

On August 28, 2012, the City Council adopted Ordinance 2012-9395, creating the one-year appointed South Locust Business Improvement District 2012, Stolley Park Road to Fonner Park Road. The 2012-2013 Budget provides for special assessments in the amount of \$6.96 per front footage for a total of \$34,450.27 for the 4,950 front footage.

## **Discussion**

The City Council, in its capacity as the Board of Equalization, determined the benefits of the District on September 25, 2012 and took action on the assessments as provided for in the associated Ordinance on first reading only.

## **Alternatives**

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

1. Approve the benefits for the District and related assessments.
2. Deny the benefits and assessments.

## **Recommendation**

City Administration recommends that the Council approve the South Locust Business Improvement District 2012 assessments on second and final reading.

## **Sample Motion**

Move to approve the assessments as provided for in the related Ordinance on second and final reading.

## ORDINANCE NO. 9402

An ordinance to assess and levy a special tax to pay the 2012-2013 revenue year of the South Locust Business Improvement District 2012 of the City of Grand Island, Nebraska; to provide for the collection of such special tax; to repeal any provisions of the Grand Island City Code, ordinances, or parts of ordinances in conflict herewith; and to provide for publication and the effective date of this ordinance.

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

SECTION 1. There is hereby assessed upon the following described lots, tracts, and parcels of land, specially benefited, for the purpose of paying the 2012-2013 revenue year cost of South Locust Business Improvement District 2012 of the City of Grand Island, as adjudged by the Council of the City, sitting as a Board of Equalization, to the extent of benefits accruing thereto by reason of such Business Improvement District, after due notice having been given thereof as provided by law; and a special tax for such 2012-2013 revenue year cost is hereby levied at one time upon such lots, tracts and lands as follows:

<b><u>Name</u></b>	<b><u>Description</u></b>	<b><u>Assessment</u></b>
Westerby/Michael J & Mandy	Janisch Sub Pt Lt 1	834.92
Mcdermott/Niels C	Brownell Sub xc .0051 Ac To Row Lt 1 Xc E 10'	347.86
Wiltgen Corp II	Kirkpatrick Sub Lt 5	491.03
Wiltgen Corp II	Kirkpatrick Sub Lt 6	483.65
Giomaha LLC	Labelindo Second Sub Pt Lt 1 xc 18.3 Ft To City	1,945.88
Zana/James Scott	R & R Sub Pt Lt 1	979.41
Casey'S Retail Co	Pleasant Home Sub xc City E 1/2 Of S 1/2 Blk 9	977.04
Locust Street LLC	Pleasant Home Sub xc City Blk 16	1,945.67
Oberg/Danny K	Roepke Sub Pt Lt 2 & Pt Lt 1	1,074.21
Oberg/Danny K	Roepke Second Sub Pt Lt 1	316.68
Edwards Building CORP	Fonner Sub Lt 1 xc City	1,043.58
Grand Island Associates LLC	Fonner Fourth Sub Lt 1	3,410.05

Approved as to Form	☐ _____
October 5, 2012	☐ City Attorney

# ORDINANCE NO. 9402 (Cont.)

Far Reach LLC	Fonner Second Sub xc City Lt 5	1,391.03
Far Reach LLC	Fonner Second Sub xc City Lt 6	2,785.04
Three Circle Irrigation INC	Fonner Third Sub Pt Lt 1 & Pt Lt 3	2,365.22
Edwards Building CORP	Fonner Third Sub Replatted Pt Lt 3	974.4
Staab/Kenneth W & Rose Mary	Miscellaneous Tracts 21-11-9 xc To City 52' X 257' Pt Se 1/4 Se 1/4	361.78
	Miscellaneous Tracts 21-11-9 Pt Se 1/4 Se 1/4 .20 Ac To City .817 Ac	940.23
Staab Ph Units LLC	To City .817 Ac	940.23
Reilly/Michael J & Carey M	Jnw Sub Lt 1	1,071.84
Edwards Building CORP	Jnw Second Sub Lt 1	1,154.18
Sax Pizza Of America INC	Sax'S Second Sub Lt 2	752.31
	Miscellaneous Tracts xc To City 21-11-9 Pt Se 1/4 Se 1/4 .78 Ac	941.48
Braddy/Cindy	Miscellaneous Tracts 21-11-9 xc City Pt Se 1/4 Se 1/4 1.17 Ac	1,391.86
Arec 7, LLC	1.17 Ac	1,391.86
Sax Pizza Of America INC	Sax'S Second Sub Lt 1	867.84
Goodwill Indust Of Greater Nebr	Goodwill Sixth Sub Lt 2	1,282.31
	Miscellaneous Tracts 22-11-9 To The City Of Grand Island Pt Sw 1/4 Sw 1/4 & Pt Nw 1/4 Sw 1/4 xc .15 A City & 1.03 Ac Fonner Rd xc .05 Ac City Xc .98 Ac City 23.97 Ac	2,306.82
Hall County Livestock Improvement ASSN	23.97 Ac	2,306.82
Bosselman Leasing LLC	R & R Sub Pt Lt 2	969.88
Preferred Enterprises LLC	Fonner Fourth Sub To City Row Pt Lt 2	1,044.07
Total Amount		34,450.27

SECTION 2. The special tax shall become delinquent in fifty (50) days from date of this levy; the entire amount so assessed and levied against each lot or tract may be paid within fifty (50) days from the date of this levy without interest and the lien of special tax thereby satisfied and released. After the same shall become delinquent, interest at the rate of fourteen percent (14%) per annum shall be paid thereon.

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

SECTION 4. Such special assessments shall be paid into a fund to be designated as the "South Locust Business Improvement District 2012".

ORDINANCE NO. 9402 (Cont.)

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

SECTION 6. This ordinance shall be in force and take effect from and after its passage and publication, in pamphlet form, within fifteen days in one issue of the Grand Island Independent as provided by law.

Enacted: October 9, 2012.

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Jay Vavricek, Mayor

Attest:

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RaNae Edwards, City Clerk



# City of Grand Island

Tuesday, October 9, 2012

Council Session

## Item F2

**#9403 - Consideration of Request to Rezone Property Located at 2430 & 2522 Stolley Park Road and 2433 & 2425 Del Mar Avenue – Hornady Subdivision from R2 Low Density Residential to RD Residential Development. (Second and Final Reading)**

Staff Contact: Chad Nabity

# **Council Agenda Memo**

**From:** Regional Planning Commission

**Meeting:** October 9, 2012

**Subject:** Rezone Properties located North of Stolley Park Road and West of Arthur Street from R2 – Low Density Residential to RD – Residential Development Zone

**Item #'s:** F-2

**Presenter(s):** Chad Nabity AICP, Regional Planning Director

## **Background**

Concerning a request to rezone properties consisting of 7.822 acres located north of Stolley Park Road and west of Arthur Street from R2 – Low Density Residential to RD Residential Development Zone.

## **Discussion**

At the regular meeting of the Regional Planning Commission, held September 5, 2012 the above item was considered following a public hearing.

O'Neill opened the Public Hearing.

Nabity told the board an application has been made to rezone 7.822 acres located north of Stolley Park Road and west of Arthur Street from R2 – Low Density Residential to RD – Residential Development Zone. The developers are proposing to build twenty townhouse units

Dayle Schutte of 1742 Arthur Street, asked about where sewage from the development would be taken and where stormwater would flow. She noted there have been numerous sewer backups in the neighborhood, primarily after heavy rains, when stormwater infiltrates the sanitary sewer system.

Nabity explained the City is working to improve the sanitary sewer lift station that serves there area. Work is being done now and once that is complete this should help resolve the backup problem. Nabity also said the City is installing a drainage outlet to the cell at Blaine and Stolley Park. This water will drain water to the Central Community College area then out to the Wood River.

O'Neill closed the Public Hearing.

A motion was made by Ruge and seconded by Reynolds to approve the Rezone from R2 – Low Density Residential to RD – Residential Development Zone. A motion was also made simultaneously to approve the Preliminary Plat and Final Plat for Hornady Second Subdivision.

A roll call vote was taken and the motion passed with 10 members present and voting in favor (Amick, Eriksen, Connelly, McCarty, Snodgrass, O'Neill, Bredthauer, Ruge, Reynolds and Haskins) and no one voting against.

The Planning Director's recommendation to the Planning Commission is also attached to this recommendation from the Planning Commission.

### **Alternatives**

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

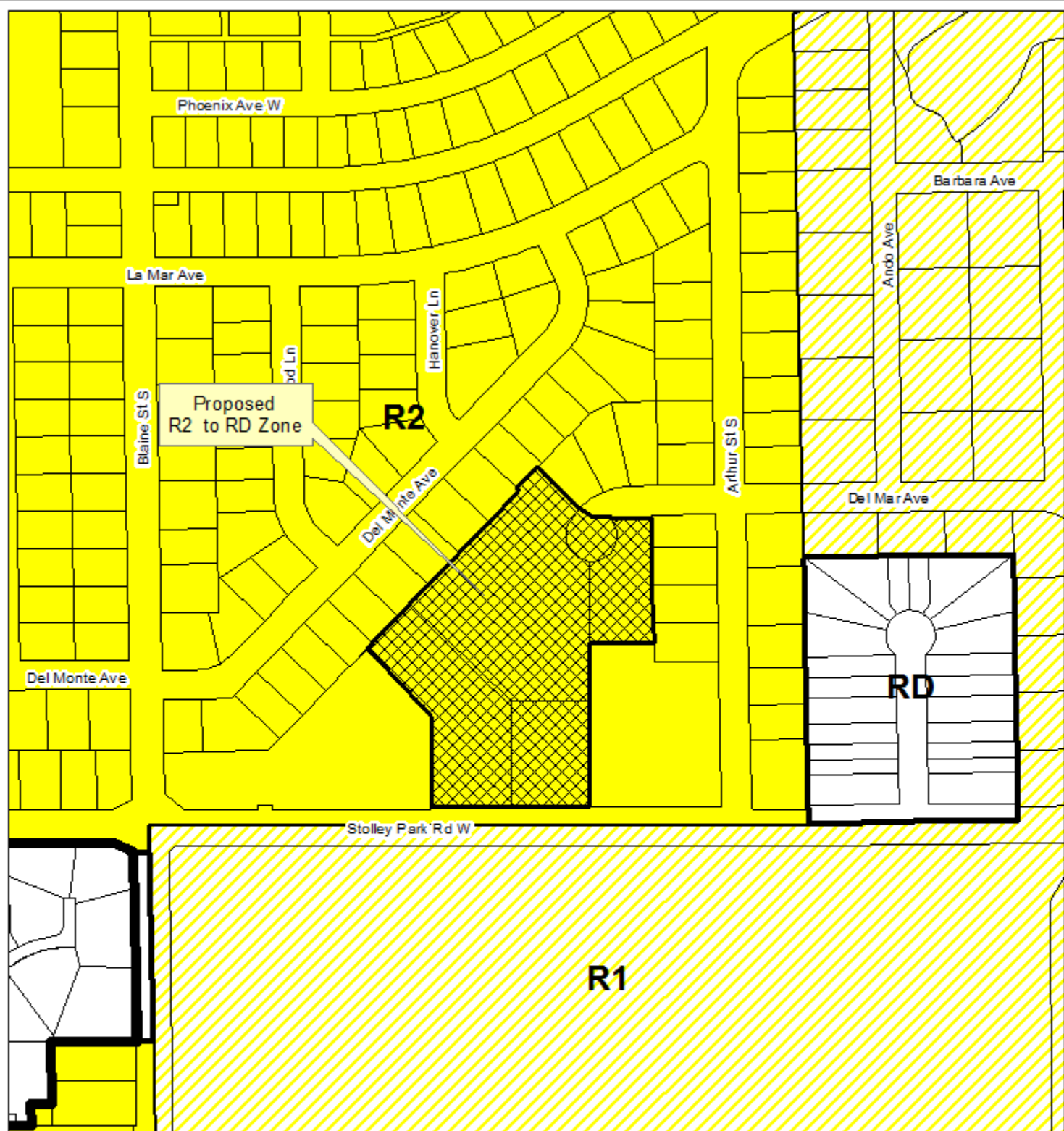
1. Approve the rezoning request as presented
2. Modify the rezoning request to meet the wishes of the Council
3. Postpone the issue

### **Recommendation**

City Administration recommends that the Council approve the proposed changes as recommended.

### **Sample Motion**

Move to approve the rezone request for property platted as 23 Lots of Hornady Second Subdivision.



# Requested Zoning



Scale : NONE

C-27-2012GI



- From R2 : Low Density Residential Zone
- to RD : Residential Development Zone



GRAND ISLAND PLANNING COMMISSION  
2012-2015  
2012-2015  
2012-2015

ORDINANCE NO. 9403

An ordinance rezoning certain tracts of land within the zoning jurisdiction of the City of Grand Island; changing the land use classification of a tract of land comprising all of Lots Two (2) Three (3), Four (4), and Five (5), of Hornady Subdivision in the City of Grand Island, Hall County, Nebraska, from R2-Low Density Residential Zone to RD-Residential Development Zone; directing the such zoning change and classification be shown on the Official Zoning Map of the City of Grand Island; amending the provisions of Section 36-44; and providing for publication and an effective date of this ordinance.

WHEREAS, the Regional Planning Commission on September 5, 2012, held a public hearing and made a recommendation on the proposed zoning of such area; and

WHEREAS, notice as required by Section 19-923, R.R.S. 1943, has been given to the Board of Education of School District No. 2 in Hall County, Nebraska; and

WHEREAS, after public hearing on September 25, 2012, the City Council found and determined the change in zoning be approved and made.

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

SECTION 1. The following tract of land is hereby rezoned and reclassified and changed from R2-Low Density Residential Zone to RD-Residential Development Zone:

all of Lots Two (2) Three (3), Four (4), and Five (5), of Hornady Subdivision in the City of Grand Island, Hall County, Nebraska,

SECTION 2. That the Official Zoning Map of the City of Grand Island, Nebraska, as established by Section 36-44 of the Grand Island City Code be, and the same is, hereby ordered to be changed, amended, and completed in accordance with this ordinance.

Approved as to Form	by _____
October 5, 2012	City Attorney

ORDINANCE NO. 9403 (Cont.)

SECTION 3. That this ordinance shall be in force and take effect from and after its passage and publication, within fifteen days in one issue of the Grand Island Independent as provided by law.

Enacted: October 9, 2012.

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Jay Vavricek, Mayor

Attest:

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RaNae Edwards, City Clerk



# City of Grand Island

Tuesday, October 9, 2012

Council Session

## Item F3

**#9404 - Consideration of Vacation of a Portion of Del Mar Avenue in Hornady Subdivision (JEH Holdings, LLC) (Second and Final Reading)**

Staff Contact: Terry Brown, Interim Public Works Director

# **Council Agenda Memo**

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

**Meeting:** October 9, 2012

**Subject:** Consideration of Vacation of a Portion of Del Mar Avenue in Hornady Subdivision (JEH Holdings, LLC)

**Item #'s:** F-3

**Presenter(s):** Terry Brown, Interim Public Works Director

## **Background**

Council action is required for vacation of a public street.

## **Discussion**

JEH Holdings, LLC is developing Hornady Subdivision and is requesting to vacate a portion of Del Mar Avenue to accommodate replatting of the subdivision. This vacation will allow for new street access, easement, and lots.

## **Alternatives**

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

1. Move to approve or deny.
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 request for the vacation of a portion of Del Mar Avenue.

## **Sample Motion**

Move to approve the Ordinance.

• THIS SPACE RESERVED FOR REGISTER OF DEEDS •

#### ORDINANCE NO. 9404

An ordinance to vacate a portion of the public street on the west side of Del Mar Avenue; a vacation of right-of-way of part of Del Mar Avenue in the City of Grand Island in part of the Southeast Quarter of the Southeast Quarter (SE  $\frac{1}{4}$ , SE  $\frac{1}{4}$ ) of Section Twenty (20), Township Eleven (11) North, Range Nine (9) West of the 6<sup>th</sup> P.M., City of Grand Island, Hall County, Nebraska and to provide for filing this ordinance in the office of the Register of Deeds of Hall County; to repeal any ordinance or parts of ordinances in conflict herewith; and to provide for publication and the effective date of this ordinance.

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

SECTION 1. That a portion of the public street consisting of a tract of land comprising that portion of Del Mar Avenue in the City of Grand Island in part of the Southeast Quarter of the Southeast Quarter (SE  $\frac{1}{4}$ , SE  $\frac{1}{4}$ ) of Section Twenty (20), Township Eleven (11) North, Range Nine (9) West of the 6<sup>th</sup> P.M., Hall County, Nebraska, and more particularly described as follows:

COMMENCING AT THE SOUTHEAST CORNER OF THE SE  $\frac{1}{4}$ , SE  $\frac{1}{4}$ ; THENCE ON AN ASSUMED BEARING OF N90°00'00"W, ALONG THE SOUTH LINE OF SAID SE  $\frac{1}{4}$ , SE  $\frac{1}{4}$ ,

Approved as to Form	▣ _____
October 5, 2012	▣ City Attorney

ORDINANCE NO. 9404 (Cont.)

A DISTANCE OF 175.00 FEET; THENCE N01°07'46"E A DISTANCE OF 333.03 FEET TO A POINT BEING THE NORTHEAST CORNER OF LOT 1, HORNADY SUBDIVISION; THENCE N89°59'22"W A DISTANCE OF 130.00 FEET; THENCE N01°08'39"W A DISTANCE OF 288.74 FEET TO A POINT ON THE SOUTH RIGHT OF WAY (R.O.W.) LINE OF DEL MAR AVENUE; THENCE S88°49'09"W, ALONG SAID SOUTH R.O.W. LINE, A DISTANCE OF 37.44 FEET TO A POINT OF CURVATURE, SAID POINT ALSO BEING THE POINT OF BEGINNING; THENCE AROUND A CURVE IN A COUNTER CLOCK-WISE DIRECTION WITH A DELTA ANGLE OF 24°28'25", HAVING A RADIUS OF 95.00 FEET, AND CHORD BEARING OF S76°53'28"W A CHORD DISTANCE OF 40.27 FEET; THENCE AROUND A CURVE IN A CLOCK-WISE DIRECTION WITH A DELTA ANGLE OF 245°58'46", HAVING A RADIUS OF 51.50 FEET, AND CHORD BEARING OF N87°43'00"W A CHORD DISTANCE OF 86.39 FEET; THENCE N35°16'23"E A DISTANCE OF 32.86 FEET; THENCE S46°02'28"E A DISTANCE OF 3.11 FEET; THENCE S46°16'42"E A DISTANCE OF 29.92 FEET; THENCE N88°49'09"E A DISTANCE OF 82.72 FEET TO THE POINT OF BEGINNING. SAID VACATION CONTAINS A CALCULATED AREA OF 7,973.45 SQUARE FEET OR 0.18 ACRES MORE OR LESS.

Such public street to be vacated is shown and more particularly described on Exhibit A attached hereto.

SECTION 2. The title to the property vacated by Section 1 of this Ordinance shall revert to the abutting properties.

SECTION 3. This Ordinance is directed to be filed in the office of the Register of Deeds of Hall County, Nebraska.

SECTION 4. This ordinance shall be in force and take effect from and after its passage and publication, without the plat, within fifteen days in one issue of the Grand Island Independent as provided by law.

Enacted: October 9, 2012

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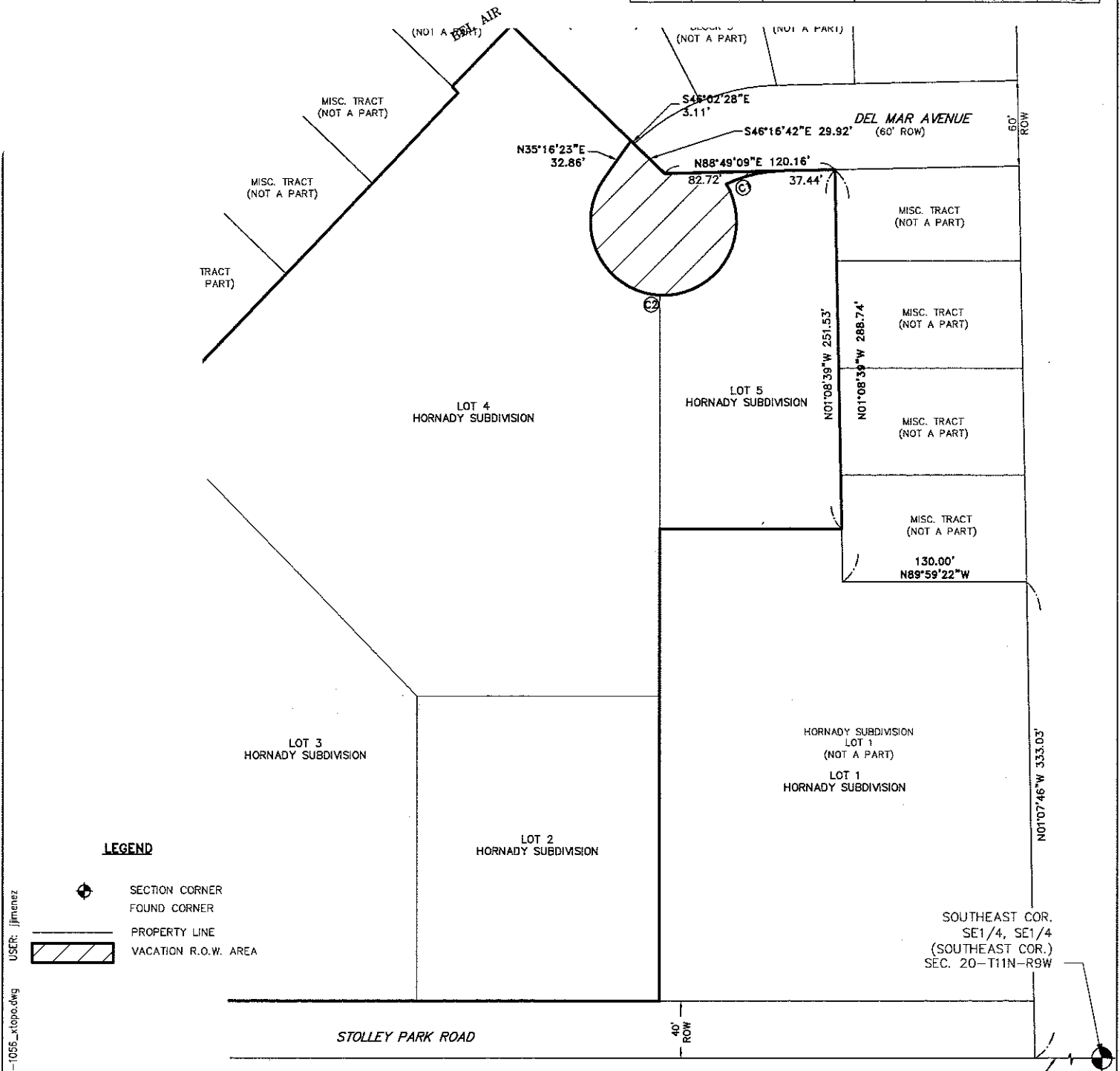
Jay Vavricek, Mayor

Attest:

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RaNae Edwards, City Clerk

CURVE TABLE					
CURVE	RADIUS	DELTA	LENGTH	CHD. BRG.	CHORD
C1	95.00'	24°28'25"	40.58'	S76°53'28"W	40.27'
C2	51.50'	245°58'46"	221.10'	N87°43'00"W	86.39'



PROJECT NO: 2012-1056  
 DRAWN BY: JMJ  
 DATE: 07.19.2012

## VACATION OF RIGHT OF WAY

**MOLSSON**  
 ASSOCIATES

201 East 2nd Street  
 P.O. Box 1072  
 Grand Island, NE 68802-1072  
 TEL 308.384.8750  
 FAX 308.384.8752

EXHIBIT  
 1



# City of Grand Island

Tuesday, October 9, 2012

Council Session

## Item F4

**#9405 - Consideration of Vacation of a Utility Easement Located in Hornady Subdivision (JEH Holdings, LLC) (Second and Final Reading)**

Staff Contact: Terry Brown, Interim Public Works Director

# **Council Agenda Memo**

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

**Meeting:** October 9, 2012

**Subject:** Consideration of Vacation of a Utility Easement Located in Hornady Subdivision (JEH Holdings, LLC)

**Item #'s:** F-4

**Presenter(s):** Terry Brown, Interim Public Works Director

## **Background**

A permanent utility easement was filed with Hall County on November 21, 2008, as part of the Hornady Subdivision.

There are no conflicts with utilities.

## **Discussion**

The developer of Hornady Subdivision has requested that a portion of the permanent utility easement be vacated to allow for redesign of the development. This vacation will allow for lot/building expansion and the majority of the easement will be rededicated as an outlot/drainage easement.

## **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 passing of an ordinance vacating the utility easement in Hornady Subdivision.

### **Sample Motion**

Move to approve the passing of an ordinance vacating the utility easement in Hornady Subdivision.

ORDINANCE NO.9405

An ordinance to vacate an existing utility easement and to provide for filing this ordinance in the office of the Register of Deeds of Hall County, Nebraska; to repeal any ordinance or parts of ordinances in conflict herewith, and to provide for publication and the effective date of this ordinance.

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

SECTION 1. That the existing utilities easement located in a tract of land comprising that portion of Hornady Subdivision, more particularly described as follows:

PART OF LOT 4, HORNADY SUBDIVISION IN THE CITY OF GRAND ISLAND IN PART OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER (SE ¼, SE ¼) OF SECTION TWENTY (20), TOWNSHIP ELEVEN (11) NORTH, RANGE NINE (9) WEST OF THE 6<sup>TH</sup> P.M., HALL COUNTY, NEBRASKA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE SE ¼, SE ¼; THENCE ON AN ASSUMED BEARING OF N90°00'00"W, ALONG THE SOUTH LINE OF SAID SE ¼, SE ¼, A DISTANCE OF 175.00 FEET; THENCE N01°07'46"W A DISTANCE OF 40.00 FEET TO A POINT OF INTERSECTION OF THE NORTH RIGHT-OF-WAY (R.O.W.) LINE OF STOLLEY PARK ROAD AND THE WEST R.O.W. LINE OF ARTHUR STREET, SAID POINT ALSO BEING THE SOUTHEAST CORNER OF LOT 1, HORNADY SUBDIVISION; THENCE N90°00'00"W, ALONG SAID NORTH R.O.W. LINE, A DISTNACE OF 584.68 FEET TO A POINT BEING THE SOUTHWEST CORNER OF LOT 3, HORNADY SUBDIVISION; THENCE N00°42'56"E, ALONG THE WEST LINE OF SAID LOT 3, A

Approved as to Form	▣ _____
October 5, 2012	▣ City Attorney

ORDINANCE NO. 9405 (Cont.)

DISTANCE OF 182.38 FEET TO A WESTERLY CORNER OF SAID LOT 3; THENCE N35°16'23"E A DISTANCE OF 219.37 FEET TO THE POINT OF BEGINNING; THENCE N13°50'22"E A DISTANCE OF 142.20 FEET; THENCE N23°31'44"E A DISTANCE OF 32.25 FEET; THENCE N35°16'23"E A DISTANCE OF 139.77 FEET TO A POINT ON THE WEST LINE OF LOT 20, BLOCK 5, BEL AIR ADDITION; THENCE S45°58'46"E, ALONG SAID WEST LINE, A DISTANCE OF 59.21 FEET; THENCE S35°16'23"W A DISTANCE OF 294.70 FEET TO THE POINT OF BEGINNING. SAID TRACT CONTAINS A CALCULATED AREA OF 13,099.94 SQUARE FEET OR 0.30 ACRES MORE OR LESS.

is hereby vacated. Such easement to be vacated is shown and more particularly described on Exhibit A attached hereto.

SECTION 2. The title to the property vacated by Section 1 of this ordinance shall revert to the owner or owners of the real estate upon which the easement is located.

SECTION 3. This ordinance is directed to be filed, with the drawing, in the office of the Register of Deeds of Hall County, Nebraska.

SECTION 3. This ordinance shall be in force and take effect from and after its passage and publication, within fifteen days in one issue of the Grand Island Independent as provided by law.

Enacted: October 9, 2012.

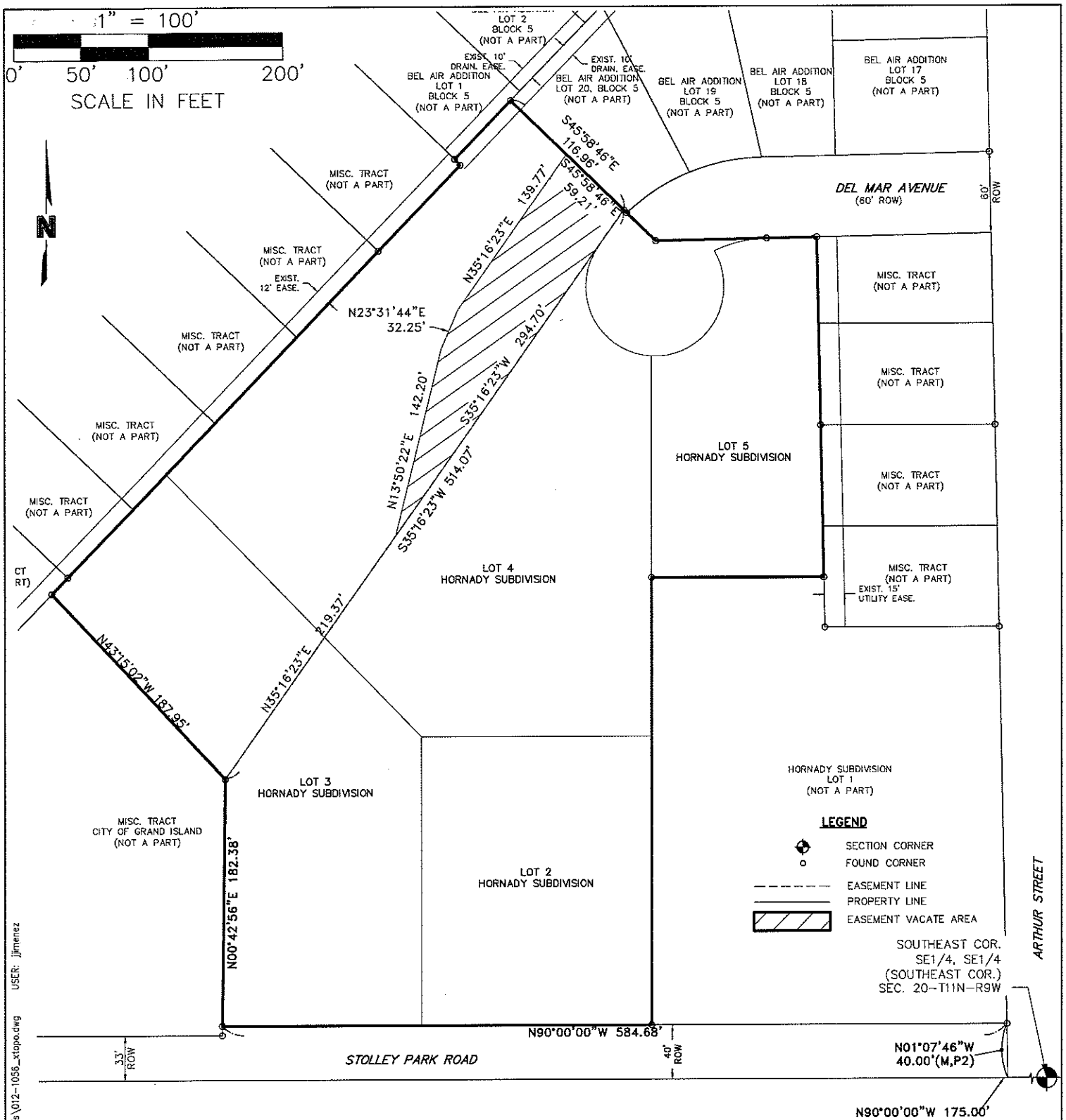
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Jay Vavricek, Mayor

Attest:

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RaNae Edwards, City Clerk



PROJECT NO: 2012-1056  
DRAWN BY: JMJ  
DATE: 07 25 2012

## VACATION OF EASEMENT

**MOLSSON**  
ASSOCIATES

201 East 2nd Street  
P.O. Box 1072  
Grand Island, NE 68802-1072  
TEL 308.384.8750  
FAX 308.384.8752

EXHIBIT

12



# **City of Grand Island**

**Tuesday, October 9, 2012**

**Council Session**

## **Item F5**

**#9406 – Consideration of Vacation a Part of Outlot A Lake  
Heritage Second Subdivision**

**Staff Contact: Chad Nabity**

# **Council Agenda Memo**

**From:** Regional Planning Commission

**Meeting:** October 9, 2012

**Subject:** Vacating a Portion of Outlot A of Lake Heritage Second Subdivision

**Item #'s:** F-5

**Presenter(s):** Chad Nabity AICP, Regional Planning Director

## **Background**

This property is located east of Blaine Street, and north of Bass Road, in the City of Grand Island, in Hall County, Nebraska. Lake Heritage Second Subdivision was platted by Doralene Niedfelt in 2010. Outlot A includes the lake and was intended for further development. The owner of the property wishes to retain a 22 foot strip of property at the southeast corner of the outlot and have it included with her adjoining property. In order to join this platted tract to the unplatted tract it is necessary vacate a portion of the platted Outlot A.

## **Discussion**

Council will be considering both the request to vacate a portion of Outlot A of the existing subdivision and to approve new subdivision for the remainder of Outlot A at this meeting on October 9, 2012. The ordinance to vacate this subdivision is subject to a requirement that the developer of Lake Heritage Third Subdivision files the new plat within 60 days of approval of this ordinance and files a consolidation deed for this vacated portion of Outlot A and the adjoining property.

The request to vacate a portion of Outlot A of Lake Heritage Second Subdivision was considered by the Regional Planning Commission at the October 3rd, 2012 meeting. A motion was made by Ruge and seconded by Connelly to approve the request. A roll call vote was taken and the motion passed with 9 members present (McCarty, Reynolds, O'Neill, Hayes, Bredthauer, Connelly, Eriksen, Ruge and Haskins voting in favor, no member present abstaining).

## **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 ordinance as presented.

## **Sample Motion**

Move to approve as recommended.



ORDINANCE NO. 9406

An ordinance to vacate a portion of Outlot A of Lake Heritage Second Subdivision in the City of Grand Island, Hall County, Nebraska; to provide for filing this ordinance in the office of the Hall County Register of Deeds; and to provide for publication and the effective date of this ordinance.

WHEREAS, the current owner of Outlot A of Lake Heritage Second Subdivision has requested that the City consider vacating a portion of that Outlot; and

WHEREAS, a plat for Lake Heritage Third Subdivision encompassing the remainder of Outlot A of Lake Heritage Second Subdivision has been filed by the current owner and recommended for approval by the Hall County Regional Planning Commission ; and

WHEREAS, this will have no impact on the rights-of-way or development of utilities to serve said property; and

WHEREAS, development of this property as proposed will provide needed housing units in an effective and efficient manner;

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

SECTION 1. That the portion of Outlot A of Lake Heritage Second Subdivision described as: PART OF OUTLOT A, LAKE HERITAGE SECOND SUBDIVISION IN THE NORTHWEST QUARTER (NW ¼ OF THE NORTHWEST QUARTER (NW ¼) OF SECTION THIRTY THREE (33), TOWNSHIP ELEVEN (11) NORTH, RANGE NINE (9) WEST OF THE SIXTH PRINCIPAL MERIDIAN, HALL COUNTY, NEBRASKA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

Approved as to Form	by _____
October 5, 2012	City Attorney

ORDINANCE NO. 9406 (Cont.)

BEGINNING AT THE SOUTHEAST CORNER OF THE NORTHWEST QUARTER (NW ¼) OF THE NORTHWEST QUARTER (NW ¼) OF SAID SECTION THIRTY THREE (33); ASSUMING THE BEARING OF THE SOUTH LINE OF THE NORTHWEST QUARTER (NW ¼) OF SAID NORTHWEST QUARTER IS S89°36'13" W AND ALL BEARINGS CONTAINED HEREIN ARE RELATIVE THERETO ON THE SOUTH LINE OF SAID NORTHWEST QUARTER OF THE NORTHWEST QUARTER (NW ¼ NW ¼) A DISTANCE OF 22.00 FEET; THENCE N 01°46'48" W A DISTANCE OF 228.48 FEET; THENCE S77°35'34" E A DISTANCE OF 22.44 FEET TO THE EAST LINE OF SAID NW ¼ OF THE NW ¼; THENCE S 01°46'48" E A DISTANCE OF 223.81 FEET TO THE PLACE OF BEGINNING. SAID TRACT CONTAINS 0.11 ACRES MORE OR LESS.

Is hereby vacated conditioned upon;

Approval of Lake Heritage Third Subdivision by the Grand Island City Council;

And

Filing of Lake Heritage Third Subdivision at the office of the Hall County Register of Deeds within 60 days of approval of this ordinance

And

Filing of a consolidation deed for that portion of Outlot A vacated by this ordinance and the unplatted tract of ground immediately adjoining to the east of this tract within 60 day of approval of this ordinance.

SECTION 2. The title to the property vacated by Section 1 of this ordinance shall revert to the owner or owners of the property platted as Outlot A of Lake Heritage Third Subdivision in the City of Grand Island, Hall County, Nebraska

ORDINANCE NO. 9406 (Cont.)

SECTION 3. This ordinance is directed to be filed in the office of the Register of Deeds of Hall County, Nebraska.

SECTION 4. This ordinance shall be in force and take effect from and after its passage and publication, without the plat, within fifteen days in one issue of the Grand Island Independent as provided by law.

Enacted: October 9, 2012.

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Jay Vavricek, Mayor

Attest:

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RaNae Edwards, City Clerk



# City of Grand Island

Tuesday, October 9, 2012

Council Session

## Item F6

**#9407 – Consideration of Ordinance Prohibiting Discrimination in Employment, Housing, and Public Accommodations against Persons based on their Sexual Orientation or Gender Identity**

Staff Contact: Robert J. Sivick, City Attorney

# **Council Agenda Memo**

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

**Meeting:** October 9, 2012

**Subject:** Consideration of Ordinance Prohibiting Discrimination in Employment, Housing, and Public Accommodations against Persons based on their Sexual Orientation or Gender Identity

**Item #'s:** F-6

**Presenter(s):** Councilman Larry Carney

## **Background**

On October 2, 2012 this matter was the topic of a Study Session of the Grand Island City Council (Council). The City of Grand Island (City) Legal Department was directed by Councilman Carney to draft an Ordinance for consideration at the regular meeting of the Council scheduled for October 9, 2012. The Ordinance before you for consideration is the result of the City Legal Department's efforts to comply with that directive.

On July 11, 2006 the Council approved Ordinance 9053 which repealed Chapter 11 of the Grand Island City Code, the chapter addressing civil rights. That chapter protected persons from discrimination in employment, housing, and public accommodations based upon their race, color, creed, religion, ancestry, sex, marital status, national origin, age, or disability. The repeal of Chapter 11 was done because the rights addressed therein and the enforcement of those rights was also addressed in State law and by State agencies.

Both United States and Nebraska law prohibits discrimination against persons who are members of protected classes such as race, religion, and ethnic origin. However, neither the laws of the United States or the State of Nebraska consider sexual orientation to be a protected class and thus offer no protection to persons suffering discrimination as a result of being gay, lesbian, bisexual, or transgendered (GLBT).

In recent years some States and numerous cities have enacted laws offering such protection lacking at the Federal or State level. In 2012 two Nebraska cities (Omaha and Lincoln) enacted ordinances prohibiting discrimination based on sexual orientation. Nebraska Attorney General Jon Bruning issued an opinion stating neither City had the right to expand civil rights protections to additional protected classes without a vote of

the electorate approving such a revision of their City charters. Both the Omaha and Lincoln City Attorneys rejected the legal reasoning in the Attorney General's opinion. Presently the Omaha ordinance is facing possible repeal through referendum and the Lincoln ordinance has already suffered such a fate.

## **Discussion**

The trend in American law is the expansion of Civil Rights protections. In recent years these protections have been afforded to the GLBT community either through the enactment of anti-discrimination laws or the expansion of marriage and adoption rights. It is debatable if these legal developments are a result of changing societal attitudes or societal attitudes have changed in response to the expansion of civil rights. Nonetheless, these changes are taking place not only in the legal arena but in communities and workplaces. Tolerance of homosexuality has increased over the last few decades as evidenced by the fact 477 of the Fortune 500 companies have written company policies prohibiting discrimination based on sexual orientation.

The Ordinance before you for consideration was written after taking into account the content of the Omaha and Lincoln ordinances as well as other legal authorities. The City Legal Department had an extremely short time frame to draft this Ordinance. In addition, as a result of Ordinance 9053 which eliminated all existing City civil rights laws, the City Legal Department had nothing to build this Ordinance on or around. For those reasons, it was written with an eye on simplicity with language designed to best withstand any legal challenges. In addition, it was written as a framework in the event the Council wished to revisit the issue of memorializing civil rights for other protected classes in the City Code or the City Personnel Rules and Regulations.

## **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**

The City Administration has no recommendation on this Ordinance.

### **Sample Motion**

Move to approve Ordinance 9407 prohibiting discrimination in employment, housing, and public accommodations against persons based on their sexual orientation or gender identity.

## ORDINANCE NO. \_\_\_\_\_

1           AN ORDINANCE amending Title 11 of the Lincoln Municipal Code, Equal  
2           Opportunity, and Chapter 2.76 of the Lincoln Municipal Code, the City's Personnel Rules and  
3           Regulations, to prohibit discrimination on the basis of sexual orientation or gender identity.

4           WHEREAS, it has long been the policy of the City of Lincoln to encourage and foster  
5           employment of people in the City on the basis of merit and to prevent discrimination based on  
6           characteristics that are unrelated to a person's abilities and productivity.

7           WHEREAS, a person's sexual orientation and gender identity are not related to his or  
8           her abilities or productivity in the workforce.

9           WHEREAS, it is good public policy to welcome and support business owners who  
10          employ workers based on their talents and work ethic rather than on the basis of sexual orientation  
11          or gender identity.

12          WHEREAS, denying equal opportunity for employment due to sexual orientation or  
13          gender identity is contrary to American principles of freedom and is a burden on the economic and  
14          cultural growth of the City of Lincoln.

15          WHEREAS, it is the policy of the City of Lincoln to promote the full and equal  
16          enjoyment of any place of public accommodation without discrimination or segregation.

17          BE IT ORDAINED by the City Council of the City of Lincoln, Nebraska:

18          Section 1. That Section 11.01.010 of the Lincoln Municipal Code be amended to read  
19          as follows:

1     **11.01.010 Definitions.**

2             As used in this title, the following terms shall mean:

3             **Age** shall mean the age of any individual from forty years of age and above.

4             **Aggrieved person** shall mean any person who (1) claims to have been injured by a  
5     discriminatory housing practice, or (2) believes that such person will be injured by a discriminatory  
6     housing practice that is about to occur.

7             **Attorney** shall mean the City Attorney or a member of that department's staff.

8             **Commission** shall mean the Commission on Human Rights of the City of Lincoln, Nebraska  
9     or any members of the Commission who may be assigned by the Commission to hear complaints  
10    by public hearing proceedings.

11            **Complainant** shall mean the person, including the Commission, who files a complaint under  
12    this title.

13            **Conciliation** shall mean the attempted resolution of issues raised by a complaint or by the  
14    investigation of a complaint through informal negotiations involving the aggrieved person, the  
15    respondent, and the Commission.

16            **Covered multi-family dwelling** shall mean:

17                (1) A building consisting of four or more units if such building has one or more  
18    elevators; and

19                (2) Ground-floor units in any other building consisting of four or more units.

20            **Disability** shall mean, with respect to a person:

21                (1) A physical or mental impairment which substantially limits one or more of such  
22    person's major life activities;

23                (2) A record of having such an impairment; or

1                   (3) Being regarded as having such an impairment.

2                   Disability shall not include current, illegal use of or addiction to a controlled substance  
3 as defined by state law.

4                   **Discriminatory housing practice** shall mean an act that is unlawful as provided by Chapter  
5 11.06.

6                   **Dwelling** shall mean any building, structure, or portion thereof or mobile home which is  
7 occupied as, or designed or intended for occupancy as, a residence for one or more families, and any  
8 vacant land which is offered for sale or lease for the construction or location of any such building,  
9 structure, or portion thereof, or mobile home.

10                  **Employee** shall mean an individual employed by an employer, or an applicant for  
11 employment.

12                  **Employer** shall mean a person engaged in an industry who has four or more employees for  
13 each working day in each of twenty or more calendar weeks in the current or preceding calendar  
14 year, and any agent of such person, but such term does not include (1) the United States government,  
15 a corporation wholly owned by the government of the United States, or an Indian tribe; or (2) the  
16 State of Nebraska; or (3) the County of Lancaster; or (4) a bona fide private membership club, other  
17 than a labor organization, which is exempt from taxation under Section 501(c) of the Internal  
18 Revenue Code of 1954; or (5) a religious organization.

19                  **Employment agency** shall mean any person regularly undertaking with or without  
20 compensation to procure employees for an employer or to procure for employees opportunities to  
21 work for an employer and includes an agent of such person.

22                  **Equal Opportunity Officer** shall mean the duly appointed Equal Opportunity Officer of the  
23 City of Lincoln or the designated representative of such person.

1           **Familial status** shall mean one or more minors being domiciled with:

2                   (1) A parent or other person having legal custody of such individual; or

3                   (2) The designee of a parent or other person having legal custody, with the written  
4 permission of the parent or other person.

5           The protections afforded against discrimination on the basis of familial status shall  
6 apply to any person who is pregnant or is in the process of securing legal custody of any minor.

7           **Family** shall include a single individual.

8           **Gender identity** shall mean the actual or perceived appearance, expression, identity, or  
9 behavior of a person as being male or female, whether or not that appearance, expression, identity,  
10 or behavior is different from that traditionally associated with the person's designated sex at birth.

11          **Housing for older persons** shall mean:

12                   (1) Housing provided under any federal, state, or local program that the Secretary of  
13 Housing and Urban Development or the Commission determines is specifically designed and  
14 operated to assist elderly persons as defined in the federal, state, or local program;

15                   (2) Housing intended for, and solely occupied by, persons sixty-two years of age or  
16 older; or

17                   (3) Housing intended and operated for occupancy by at least one person fifty-five  
18 years of age or older per unit. In determining whether housing qualifies as housing for older persons  
19 under this subsection, the Commission shall develop regulations which require at least the following  
20 factors:

21                   A. The existence of significant facilities and services specifically designed to  
22 meet the physical or social needs of older persons or, if the provision of such

1 facilities and services is not practicable, that such housing is necessary to  
2 provide important housing opportunities for older persons;

3 B. That at least eighty percent of the units are occupied by at least one person  
4 fifty-five years of age or older per unit; and

5 C. The publication of and adherence to policies and procedures which  
6 demonstrate an intent by the owner or manager to provide housing for  
7 persons fifty-five years of age or older.

8 Housing shall not fail to meet the requirements of housing for older persons by reason of:

9 (i) Persons residing in the housing as of the effective date of this ordinance  
10 who do not meet the age requirements of (2) or (3) above if succeeding  
11 occupants of the housing meet the age requirements; or

12 (ii) Unoccupied units if the units are reserved for occupancy by persons who  
13 meet the age requirements.

14 **Labor organization** shall mean any organization which exists wholly or in part for one or  
15 more of the following purposes: Collective bargaining; dealing with employers concerning  
16 grievances, terms, or conditions of employment; or of mutual aid or protection in relation to  
17 employment.

18 **Person** shall include one or more individuals, corporations, partnerships, associations, labor  
19 organizations, legal representatives, mutual companies, joint stock companies, trusts, unincorporated  
20 organizations, trustees, trustees in bankruptcy, receivers, and fiduciaries.

21 **Private membership club** shall mean one that is organized and operated exclusively for  
22 pleasure, recreation, and other nonprofitable purposes, but if any part of its earnings is used to the  
23 benefit of any private shareholder or member thereof, it shall be deemed not to be a private club.

1 A club which engages in business, such as making its social and recreational facilities available to  
2 the general public, shall not be deemed to be a private club. Generally, it is the intent of this  
3 definition to apply to social and recreational clubs which are supported solely by membership fees,  
4 dues, and assessment.

5 **Public accommodations** shall mean all places or businesses offering or holding out to the  
6 general public goods, services, privileges, facilities, advantages, and accommodations for the peace,  
7 comfort, health, welfare, and safety of the general public and such public places providing food,  
8 shelter, recreation, and amusement including, but not limited to:

9 (1) Any inn, hotel, motel, or other establishment which provides lodging to transient  
10 guests, other than an establishment located within a building which contains not more than five  
11 rooms for rent or hire and which is actually occupied by the proprietor of such establishment as such  
12 proprietor's residence;

13 (2) Any restaurant, cafeteria, lunchroom, lunch counter, soda fountain, or other  
14 facility principally engaged in selling food for consumption on the premises, including, but not  
15 limited to, any such facility located on the premises of any retail establishment;

16 (3) Any gasoline station, including all facilities located on the premises of such  
17 station and made available to the patrons thereof;

18 (4) Any motion picture house, theater, concert hall, sports arena, stadium, or other  
19 place of exhibition or entertainment;

20 (5) Any public facility owned, operated, or managed by or on behalf of the City of  
21 Lincoln or any agency thereof, or any public corporation, and any such facility supported in whole  
22 or in part by public funds; and

1 (6) Any establishment which is physically located within the premises of any  
2 establishment otherwise covered by this section or within the premises of which is physically located  
3 any such covered establishment, and which holds itself out as serving patrons of such covered  
4 establishment.

5 **Qualified individual with a disability** shall mean an individual with a disability who, with  
6 or without reasonable accommodation, can perform the essential functions of the employment  
7 position that such individual holds or desires. For the purposes of this title, consideration shall be  
8 given to the employer's judgment as to what functions of a job are essential, and if an employer has  
9 prepared a written description before advertising or interviewing applicants for the job, this  
10 description shall be considered evidence of the essential functions of the job.

11 **Reasonable accommodation** shall include making existing facilities used by employees  
12 readily accessible to and usable by individuals with disabilities, job-restructuring, part-time or  
13 modified work schedules, reassignment to a vacant position, acquisition or modification of  
14 equipment or devices, appropriate adjustment or modification of examinations, training manuals,  
15 or policies, the provision of qualified readers or interpreters, and other similar accommodations for  
16 individuals with disabilities. Reasonable accommodation shall not include accommodations which  
17 the employer can demonstrate require significant difficulty or expense thereby posing an undue  
18 hardship upon the employer. Factors to be considered in determining whether an accommodation  
19 would pose an undue hardship shall include:

- 20 (1) The nature and the cost of the accommodation needed under this title;  
21 (2) The overall financial resources of the facility or facilities involved in the  
22 provision of the reasonable accommodation, the number of persons employed at such facility, the

1 effect on expenses and resources, or the impact otherwise of such accommodation upon the  
2 operation of the facility;

3 (3) The overall financial resources of the employer, the overall size of the business  
4 of the employer with respect to the number of its employees, and the number, type, and location of  
5 its facilities; and

6 (4) The type of operation or operations of the employer, including the composition,  
7 structure, and functions of the work force of such employer, and the geographic separateness and  
8 administrative or fiscal relationship of the facility or facilities in question to the employer.

9 **Residential real estate-related transaction**, as used in this title, shall mean:

10 (1) The making or purchasing of loans or providing other financial assistance (i) for  
11 purchasing, constructing, improving, repairing, or maintaining a dwelling; or (ii) secured by  
12 residential real estate.

13 (2) The selling, brokering, or appraising of residential real property.

14 **Respondent** shall mean:

15 (1) The person or other entity accused in a complaint of an unfair housing practice;  
16 and

17 (2) Any other person or entity identified in the course of an investigation and notified  
18 as required with respect to respondents so identified under this title.

19 **Restrictive covenants** shall mean any specification limiting the transfer, rental, or lease of  
20 any real property because of race, color, religion, sex, sexual orientation, gender identity, disability,  
21 national origin, familial status, ancestry, age, or marital status.

22 **Sexual orientation** shall mean actual or perceived heterosexuality, homosexuality, or  
23 bisexuality.

1           **Because of sex or on the basis of sex** shall include, but not be limited to, because of or on  
2 the basis of pregnancy, childbirth, or related medical conditions.

3           **Title** shall mean Title 11 of the Lincoln Municipal Code.

4           **To rent** shall include to lease, to sublease, to let, and otherwise to grant for consideration  
5 the right to occupy the premises not owned by the occupant.

6           Section 2. That Section 11.01.020 of the Lincoln Municipal Code be amended to read  
7 as follows:

8       **11.01.020   Protection, Preservation, and Perpetuation of Constitutional Rights.**

9           It is the policy of the City of Lincoln to foster equal opportunity to all persons in the City  
10 regardless of their race, color, religion, sex, sexual orientation, gender identity, disability, national  
11 origin, familial status, ancestry, age, or marital status. Denying equal access to places of public  
12 accommodation or equal opportunity for housing or employment because of race, color, religion,  
13 sex, sexual orientation, gender identity, disability, national origin, familial status, handicap, age,  
14 ancestry, or marital status is contrary to the principles of freedom and is a burden upon the  
15 objectives of the aforestated public policy of the City of Lincoln. It is the intent, purpose, and public  
16 policy of the City of Lincoln to protect, preserve, and perpetuate all constitutional rights, including  
17 the constitutional right to freely speak, write, and publish on all lawful subjects, including the right  
18 to make a comprehensive distribution of such printed material, either commercial or noncommercial,  
19 by using the most effective lawful means or methods.

20           Section 3. That Section 11.02.040 of the Lincoln Municipal Code be amended to read  
21 as follows:

1     **11.02.040   Commission on Human Rights; Powers and Duties.**

2             The provisions of this title shall be administered by the Commission on Human Rights for  
3     the City of Lincoln. The City Attorney is granted the authority to enforce this title. In carrying out  
4     the provisions of this title, the Commission shall act as an advisory body to the Mayor, City Council,  
5     and Equal Opportunity Officer on all matters within its jurisdiction and shall have the power to:

6             (a)   Review those actions of the Equal Opportunity Officer as provided by this title, and  
7     affirm or reverse such actions as may be necessary to further the purposes of this title. If any such  
8     actions are reversed, the Commission shall then direct the Equal Opportunity Officer in appropriate  
9     courses of action to further such purposes.

10            (b)   Institute actions to educate the public as to unlawful discriminatory practices and the  
11    enforcement measures provided in this title for the prevention and punishment of such practices.

12            (c)   Enforce the provisions of this title by appropriate measures, including the requiring of  
13    affirmative action on the part of violators of such provisions in order to correct such violations, and  
14    by ordering such violators to cease and desist from doing any act in violation of this title.

15            (d)   Seek to eliminate and prevent discrimination in places of public accommodation,  
16    housing, and employment as provided in this title on the basis of race, color, religion, sex, sexual  
17    orientation, gender identity, disability, national origin, familial status, ancestry, age, or marital  
18    status.

19            (e)   Effectuate the purposes of this title by conference, conciliation, and persuasion so that  
20    persons may be guaranteed their civil rights and goodwill may be fostered.

21            (f)   Formulate policies to effectuate the purposes of this title and to make recommendations  
22    to agencies and officers of the city government in aid of such policies and purposes, and to advocate

1 for the rights of women, minorities, and disabled individuals and promote causes in the name of the  
2 Commission before agencies and legislative bodies on matters of human rights.

3 (g) Designate one or more members of the Commission, or the Equal Opportunity Officer,  
4 or the Equal Opportunity Officer's staff and such other persons who may be retained for such  
5 purpose to conduct investigations of any complaint alleging discrimination because of race, color,  
6 religion, sex, sexual orientation, gender identity, disability, national origin, familial status, ancestry,  
7 age, or marital status, and in aid of such investigation, subpoena records or witnesses and compel  
8 their attendance, and to attempt to resolve such complaint by conference, conciliation, or persuasion  
9 and conduct such conciliation meetings and conferences as are deemed necessary to resolve a  
10 particular complaint.

11 (h) Determine whether reasonable cause exists to credit the allegations of a complaint;  
12 provided, that reasonable cause may be determined by any Commission committee of at least three  
13 commissioners or a Commission-appointed hearing officer, and such committee's or hearing officer's  
14 actions shall be deemed to be the action of the Commission.

15 (i) Determine that a complaint cannot be resolved by conference, conciliation, or  
16 persuasion.

17 (j) Dismiss complaints when it is determined there is not reasonable cause to credit the  
18 allegations of a complaint, or when a complainant requests the withdrawal of such complaint.

19 In the event that a complainant cannot be reasonably located, or circumstances are such  
20 that the complainant's complaint cannot be finally disposed of, the Commission shall have authority  
21 to administratively close such investigation of such complaint. If no further action is taken on such  
22 claim for a period of four years from the date of closure, the complaint shall then be deemed  
23 dismissed without prejudice.

1 (k) Hold hearings in aid thereof, subpoena witnesses and compel their attendance, and  
2 administer oaths, take testimony of any person under oath and in connection therewith require for  
3 examination any books or papers relating to any matter under investigation or in question before the  
4 Commission.

5 (l) Issue publications and the results of studies and research which will tend to promote  
6 goodwill and minimize or eliminate discrimination because of race, color, religion, sex, sexual  
7 orientation, gender identity, disability, national origin, familial status, ancestry, age, or marital  
8 status.

9 (m) Recommend damages, based on actual pecuniary loss or such damages as the  
10 Commission or Commission-appointed hearing officer may determine should be assessed against  
11 a respondent violating the provisions of this title. Additionally, the Commission may require such  
12 other remedial measures to accomplish the purposes of this title as the Commission may deem  
13 necessary. Such remedial measures may include directing the display of equal access to public  
14 accommodations or housing posters, equal employment posters, and such other informational  
15 materials as the Commission may deem appropriate.

16 (n) The Commission may file in a like manner a verified complaint of an alleged unfair  
17 discriminatory practice whenever there is reason to believe an unfair discriminatory practice has  
18 occurred, but this complaint must contain a bill of particulars setting out dates, names of witnesses,  
19 and the facts upon which the complaint is based.

20 (o) The Commission may, after the filing of a complaint, request the City Attorney to  
21 institute appropriate legal proceedings to protect the rights and privileges of the complainant  
22 provided by this title.

1           Section 4. That Title 11 of the Lincoln Municipal Code be amended so that the section  
2           numbered 11.04.010 reads as follows:

3           **11.04.010   Full and Equal Enjoyment of Place of Public Accommodation.**

4           All persons within the City of Lincoln shall be entitled to a full and equal enjoyment of any  
5           place of public accommodation, as defined in Section 11.01.010 without discrimination or  
6           segregation on the grounds of race, color, sex, sexual orientation, gender identity, religion, national  
7           origin, ancestry, disability, or marital status. Every totally or partially blind person shall have the  
8           right to be accompanied by a dog guide, especially trained for the purpose, in any place of public  
9           accommodation without being required to pay an extra charge for the dog guide.

10          Section 5. That Section 11.04.030 of the Lincoln Municipal Code be amended to read  
11          as follows:

12          **11.04.030   Refusal, Withholding From, or Denial of, Public Accommodations; Unlawful.**

13          Any person who directly or indirectly refuses, withholds from, denies or attempts to  
14          refuse, withhold, or deny to any person the accommodations, advantages, facilities, services, or  
15          privileges otherwise available in a place of public accommodation on the basis of race, color, sex,  
16          sexual orientation, gender identity, religion, national origin, ancestry, disability, or marital status  
17          shall be guilty of discriminatory practice and shall be subject to the penalties set forth in this title.

18          Section 6. That Section 11.04.060 of the Lincoln Municipal Code be amended to read  
19          as follows:

20          **11.04.060   Religious Organization Exempt; Conditions.**

21          Any place of public accommodation owned by or operated on behalf of a religious  
22          corporation, association, or society which gives preference in the use of such place to members of  
23          the same faith as that of the administering body shall not be guilty of discriminatory practice. If a

1 place of public accommodation owned by or operated on behalf of a religious organization is made  
2 available for use only to members of the same faith as that of the administering body, the provisions  
3 concerning discriminatory practices that relate to sexual orientation and gender identity shall not  
4 apply.

5 Section 7. That Section 11.06.020 of the Lincoln Municipal Code be amended to read  
6 as follows:

7 **11.06.020 Unlawful Acts Enumerated.**

8 Except as exempted by Section 11.06.070, it shall be unlawful to:

9 (a) Refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for  
10 the sale or rental of, or otherwise make unavailable or deny, or to refuse to show, or to refuse to  
11 receive and transmit an offer for, a dwelling to any person because of race, color, religion, sex,  
12 sexual orientation, gender identity, disability, national origin, familial status, handicap, ancestry, or  
13 marital status;

14 (b) Discriminate against any person in the terms, conditions, privileges of sale or rental of  
15 a dwelling, or in the provision of service or facilities in connection therewith, because of race, color,  
16 religion, sex, sexual orientation, gender identity, disability, national origin, familial status, handicap,  
17 ancestry, or marital status;

18 (c) Make, print, or publish, or cause to be made, printed, or published, any notice,  
19 statement, or advertisement with respect to the sale or rental of a dwelling that indicates any  
20 preference, limitation, or discrimination based on race, color, religion, sex, sexual orientation,  
21 gender identity, disability, national origin, familial status, handicap, ancestry, or marital status, or  
22 an intention to make any such preference, limitation, or discrimination;

1 (d) Represent to any person because of race, color, religion, sex, sexual orientation, gender  
2 identity, disability, national origin, familial status, handicap, ancestry, or marital status, that any  
3 dwelling is not available for inspection, sale, or rental when such dwelling is, in fact, so available;

4 (e) Cause to be made any written or oral inquiry or record concerning the race, color,  
5 religion, sex, sexual orientation, gender identity, disability, national origin, familial status, handicap,  
6 ancestry, or marital status of a person seeking to purchase, rent, or lease any housing;

7 (f) Include in any transfer, sale, rental or lease of housing any unlawful restrictive  
8 covenants, or to honor or exercise or attempt to honor or exercise any unlawful restrictive covenants  
9 pertaining to housing;

10 (g) Discharge or demote an employee or agent or discriminate in the compensation of such  
11 employee or agent because of such employee's or agent's obedience to the provisions of this chapter;

12 (h) Induce or attempt to induce, for profit, any person to sell or rent any dwelling by  
13 representation regarding the entry or prospective entry into the neighborhood of a person or persons  
14 of a particular race, color, religion, sex, sexual orientation, gender identity, disability, national  
15 origin, familial status, handicap, ancestry, or marital status;

16 (i) Discriminate in the sale or rental of or otherwise make unavailable or deny a dwelling  
17 to any buyer or renter because of a handicap of:

18 (1) The buyer or renter;

19 (2) Any person associated with the buyer or renter; or

20 (3) A person residing in or intending to reside in the dwelling after it is so sold,  
21 rented, or made available.

(j) Discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection with a dwelling because of a handicap of:

(1) Such person;

(2) Any person associated with such person; or

(3) A person residing in or intending to reside in the dwelling after it is so sold, rented, or made available.

Section 8. That Section 11.06.050 of the Lincoln Municipal Code be amended to read as follows:

**11.06.050 Discriminatory Denial of Loan; Unlawful.**

It shall be unlawful for any bank, building and loan association, insurance company, or other corporation, association, firm, or enterprise whose business consists in whole or in part in the making of commercial real estate loans within the city, to deny a loan or other financial assistance to a person applying therefore for the purpose of purchasing, constructing, making of commercial real estate loans within the city, to deny a loan or other financial assistance to a person applying therefore for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or to discriminate against a person in the fixing of the amount, interest rate, duration, or other terms or conditions of such loan or other financial assistance because of race, color, religion, sex, sexual orientation, gender identity, national origin, familial status, handicap, disability, ancestry, or marital status of such person or of any person associated with such person in connection with such loan or other financial assistance for the purposes of such loan or other financial assistance, or of the present or prospective owners, lessees, tenants, or occupants of the dwelling or dwellings in relation to which such loan or other financial assistance is to be made or given; provided, that

nothing contained in this section shall impair the scope or effectiveness of the exceptions contained in Section 11.06.070.

Section 9. That Section 11.06.060 of the Lincoln Municipal Code be amended to read as follows:

**11.06.060 Discrimination in Multiple Listing Service or Other Real Estate Service Organization; Discriminatory Refusal of Access or Membership; Unlawful.**

It shall be unlawful to deny any person access to or membership or participation in any multiple listing service, real estate brokers' organization, or other service, organization, or facility relating to the business of selling or renting dwellings, or to participate or discriminate against any person in the terms or conditions of such access, membership, or participation on account of race, color, religion, sex, sexual orientation, gender identity, national origin, disability, ancestry, familial status, or marital status.

Section 10. That Section 11.06.065 of the Lincoln Municipal Code be amended to read as follows:

**11.06.065 Residential Real Estate Transactions; Discriminatory Refusal to Make Available Transactions.**

(a) It shall be unlawful for any person or other entity whose business includes engaging in transactions related to residential real estate to discriminate against any person in making available such a transaction or in the terms or condition of such a transaction because of race, color, religion, sex, sexual orientation, gender identity, familial status, national origin, marital status, disability, or ancestry.

(b) For purposes of this section, transaction related to residential real estate shall mean any of the following:

(1) The making or purchasing of loans or providing other financial assistance:

(i) For purchasing, constructing, improving, repairing, or maintaining a dwelling; or

(ii) Secured by residential real estate; or

(2) The selling, brokering, or appraising of residential real property.

(c) Nothing in this section shall prohibit a person engaged in the business of furnishing appraisals of real property from taking into consideration factors other than race, color, religion, national origin, ancestry, sex, sexual orientation, gender identity, disability, marital status, or familial status.

Section 11. That Section 11.08.010 of the Lincoln Municipal Code be amended to read as follows:

**11.08.010 Purpose.**

It is the policy of the City of Lincoln to foster employment of all employable persons in the city on the basis of merit regardless of their race, color, religion, sex, sexual orientation, gender identity, disability, national origin, ancestry, age, or marital status, and to safeguard their right to obtain and hold employment without discrimination because of their race, color, religion, sex, sexual orientation, gender identity, disability, national origin, ancestry, age, or marital status.

Denying equal opportunity for employment because of race, color, religion, sex, sexual orientation, gender identity, disability, national origin, ancestry, age, or marital status is contrary to the principles of freedom and is a burden on the objectives of the public policy of the City of Lincoln.

Section 12. That Section 11.08.030 of the Lincoln Municipal Code be amended to read as follows:

1     **11.08.030   Exceptions.**

2             This chapter shall not apply to:

3             (a)   A religious corporation, association, or society with respect to the employment  
4     of individuals of a particular religion to perform work connected with the carrying on by such  
5     corporation, association, or society of its religious activities, or

6             **(b)   A religious corporation, association, or society with respect to the employment of**  
7     **individuals based on sexual orientation or gender identity to perform work connected with the**  
8     **carrying on by such corporation, association, or society of its religious activities, or**

9             **(c)   A school, college, university, or other educational institution with respect to the**  
10    **employment of individuals of a particular religion if the school, college, university, or other**  
11    **educational institution is, in whole or substantial part, owned, supported, controlled, or managed by**  
12    **a particular religion, or by a particular religious organization and if the curriculum of the school,**  
13    **college, university, or other educational institution is directed toward the propagation of a particular**  
14    **religion and the choice of employees is necessary to promote the religious principles for which it**  
15    **is established or maintained, or**

16            **(d)** The employment of any individual by:

17                (1)   their parent, grandparent, spouse, child, or grandchild, or

18                (2)   in the domestic service of any person.

19            Section 13. That Section 11.08.040 of the Lincoln Municipal Code be amended to read  
20    as follows:

21     **11.08.040   Unlawful Employment Practices for an Employer.**

22            It shall be an unlawful employment practice for an employer:

(a) To fail or refuse to hire, or to discharge any individual, or otherwise to discriminate against any individual with respect to such individual's compensation, terms, advancement potential, conditions, or privileges of employment because of such individual's race, color, religion, sex, sexual orientation, gender identity, disability, national origin, ancestry, age, or marital status; provided, however, that this section shall not be interpreted to require an employer to provide family benefits to same sex partners;

(b) To limit, segregate, or classify employees in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect their status as an employee because of such individual's race, color, religion, sex, sexual orientation, gender identity, disability, national origin, ancestry, age, or marital status.

Section 14. That Section 11.08.050 of the Lincoln Municipal Code be amended to read as follows:

**11.08.050 Unlawful Employment Practice for Employment Agency.**

It shall be an unlawful employment practice for an employment agency to fail or refuse to refer for employment or otherwise to discriminate against any individual because of race, color, religion, sex, sexual orientation, gender identity, national origin, ancestry, disability, age, or marital status, or to classify or refer for employment any individual on the basis of race, color, religion, sex, sexual orientation, gender identity, disability, national origin, ancestry, age, or marital status.

Section 15. That Section 11.08.060 of the Lincoln Municipal Code be amended to read as follows:

**11.08.060 Unlawful Employment Practices for Labor Organization.**

It shall be an unlawful employment practice for a labor organization:

(a) To exclude or to expel from its membership or otherwise to discriminate against any

individual because of race, color, religion, sex, sexual orientation, gender identity, disability, national origin, ancestry, age, or marital status; or

(b) To limit, segregate, or classify its membership, or to classify or fail or refuse to refer for employment any individual in any way which would deprive or tend to deprive any individual of employment opportunities, or would limit such employment opportunities or otherwise adversely affect their status as an employee or as an applicant for employment because of such individual's race, color, religion, sex, sexual orientation, gender identity, disability, national origin, ancestry, age, or marital status; or

(c) Cause or attempt to cause an employer to discriminate against any individual in violation of this chapter.

Section 16. That Section 11.08.070 of the Lincoln Municipal Code be amended to read as follows:

**11.08.070 Unlawful Employment Practice; Controlling Apprenticeship or Training Program.**

It shall be an unlawful employment practice for any employer, labor organization, or joint labor management committee controlling apprenticeship or other training or retraining, including on-the-job training programs, to discriminate against any individual because of race, color, religion, sex, sexual orientation, gender identity, disability, national origin, ancestry, age, or marital status in admission to or employment in any program established to provide apprenticeship or other training.

Section 17. That Section 11.08.100 of the Lincoln Municipal Code be amended to read as follows:

1     **11.08.100   Standards for Compensation Permitted; When.**

2           (a)   Notwithstanding any other provision of this chapter, it shall not be an unlawful  
3   employment practice for an employer to apply different standards of compensation, for different  
4   terms, conditions, or privileges of employment pursuant to a bona fide seniority or merit system, or  
5   a system which measures earnings by quantity or quality of production or to employees who work  
6   in different locations, if the employer can show that such differences are not the result of  
7   discrimination because of race, color, religion, sex, sexual orientation, gender identity, disability,  
8   national origin, ancestry, age, or marital status; nor shall it be unlawful employment practice for an  
9   employer to give and to act upon the results of any validated ability tests if the employer can show  
10   that such test, its administration, or action upon the result is not designed, intended, or used to  
11   discriminate because of race, color, religion, sex, sexual orientation, gender identity, disability,  
12   national origin, ancestry, age, or marital status and are reasonably related to such employment.

13          (b)   It shall not be an unlawful employment practice for an employer, employment agency,  
14   labor organization, or joint labor-management committee to deny privileges of employment when  
15   the nature and extent of a disability reasonably precludes the performance of the particular  
16   employment.

17          (c)   Women affected by pregnancy, childbirth, or related medical conditions shall be treated  
18   the same for all employment-related purposes, including receipt of employee benefits, as other  
19   persons not so affected but similar in their ability or inability to work, and nothing in this section  
20   shall be interpreted to provide otherwise. This section shall not require an employer to provide  
21   employee benefits for abortion except when medical complications have arisen from an abortion.

22                Section 18. That Section 11.08.110 of the Lincoln Municipal Code be amended to read  
23   as follows:

1     **11.08.110    Preferential Treatment Not to be Granted on Account of Existing Numbers or**  
2     **Percentage Imbalance.**

3             Nothing contained in this chapter shall be interpreted to require any employer, employment  
4     agency, labor organization or joint labor-management committee subject to this chapter to grant  
5     preferential treatment to any individual or to any group because of the race, color, religion, sex,  
6     sexual orientation, gender identify, national origin, ancestry, age, or marital status of such  
7     individual or group, on account of an imbalance which may exist with respect to the total number  
8     or percentage of persons of any race, color, religion, sex, sexual orientation, gender identity, national  
9     origin, ancestry, age, or marital status in the city, or in the available work force in the city.

10            Section 19. That Section 11.08.070 of the Lincoln Municipal Code be amended to read  
11     as follows:

12     **11.08.130    Notice of Employment; Preference or Discrimination Because of Race, Color,**  
13     **Religion, Sex, Sexual Orientation, Gender Identity, Disability, National Origin,**  
14     **Ancestry, Age, or Marital Status; Unlawful.**

15            It shall be an unlawful employment practice for an employer, labor organization, or  
16     employment agency to print or publish or cause to be printed or published any notice or  
17     advertisement relating to employment by such an employer or membership in, or any classification  
18     or referral for employment by such a labor organization, or relating to any classification or referral  
19     for employment by such an employment agency indicating any preference, limitation, specification,  
20     or discrimination based on race, color, religion, sex, sexual orientation, gender identity, disability,  
21     national origin, ancestry, age, or marital status, except that such a notice or advertisement may  
22     indicate a preference, limitation, specification, or discrimination based on religion, sex or national  
23     origin, when religion, sex, or national origin is a bona fide occupational qualification for  
24     employment.

Section 20. That Section 11.08.160 of the Lincoln Municipal Code be amended to read as follows:

**11.08.160 Contracts with the City of Lincoln; Requirements.**

Every contract to which the City of Lincoln or any of its agencies is a party shall contain a provision requiring the contractor and subcontractors not to discriminate against any employee or applicant for employment to be employed in the performance of such contract with respect to hire, tenure, terms, conditions, or privileges of employment because of race, color, religion, sex, sexual orientation, gender identity, disability, national origin, ancestry, age, or marital status.

Section 21. That Section 2.76.280 of the Lincoln Municipal Code be amended to read as follows:

**2.76.280 Discrimination.**

(a) No action affecting the employment status of an employee or applicant for a position in the city service, including appointment, promotion, demotion, disciplinary action, suspension, dismissal, or layoff shall be taken or withheld by reason of the race, color, religion, sex, sexual orientation, gender identity, disability, national origin, age, marital status, or political opinions or affiliations, except that no person shall be employed or retained in the city service who advocates or belongs to an organization that advocates the overthrow or change of our government by force or violence.

(b) Any reference made in this Chapter 2.76 of the Lincoln Municipal Code to the terms he, she, his, her, or any similar term shall be interpreted in the generic and shall imply no restriction or other action because of the sex of the employee or applicant.

Section 22. That Sections 11.01.010, 11.01.020, 11.02.040, 11.04.010, 11.04.030, 11.04.060, 11.06.020, 11.06.050, 11.06.060, 11.06.065, 11.08.010, 11.08.030, 11.08.040, 11.08.050,

1 11.08.060, 11.08.070, 11.08.100,11.08.110, 11.08.130, 11.08.160, and 2.76.280 of the Lincoln  
2 Municipal Code as hitherto existing be and the same are hereby repealed.

3 Section 23. That this ordinance shall take effect and be in force from and after passage  
4 and publication in one issue of a daily or weekly newspaper of general circulation in the City,  
5 according to law.

Introduced by:

\_\_\_\_\_

Approved as to Form & Legality:

\_\_\_\_\_  
City Attorney

Approved this \_\_\_\_ day of \_\_\_\_\_, 2012:

\_\_\_\_\_  
Mayor



City of Omaha  
Jim Suttle, Mayor

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CITY CLERK  
OMAHA, NEBRASKA

**Law Department**

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1819 Farnam Street, Suite 804  
Omaha, Nebraska 68183-0804  
(402) 444-5115  
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**Paul D. Kratz**  
City Attorney

Honorable President

and Members of the City Council,

Attached please find an Ordinance which was prepared at the request of Councilmember Ben Gray. This Ordinance adds sexual orientation and gender identity as additional protected categories under the City of Omaha's prohibitions against discriminatory practices. In addition, the Ordinance provides an exemption for religious organizations from these new requirements. The Ordinance also amends the Equal Employment Opportunity clause which is required to be inserted in City contracts to include these protected categories.

Should you have any questions or wish to discuss this further, please do not hesitate to contact me.

Respectfully submitted,

Bernard J. in den Bosch  
Assistant City Attorney

2/21/12  
Date

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ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE to amend 13-82, 13-84, 13-85, 13-89, 13-90, 13-91, 13-92, 13-93, 13-94, 13-95, 13-97 and 10-192 of the Omaha Municipal Code to add prohibitions for discrimination on the basis of sexual orientation, and gender identity within the City of Omaha and in City of Omaha contracts; and to provide the effective date hereof.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF OMAHA:

Section 1. That section 13-82 of the Omaha Municipal Code is hereby amended as follows:

**Sec. 13-82. General definitions.**

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them:

(a) *Age*: Forty through 70 years of age inclusive for employment purposes and all ages 40 and above on all matters; provided, however, that the definition of "age" as contained in this section shall not apply to the mandatory retirement age for uniformed personnel of the police and fire departments as established by section 23-309.

(b) *Charge*: A written statement under oath or affirmation which alleges an unlawful practice and which is filed with the director.

(c) *Charge filed with the director*: A charge which is received and accepted by the director for further action.

(d) *Charging party*: The individual making a charge alleging an unlawful practice, or the director.

(e) *Director*: The human rights and relations director or a designate.

(f) *Discrimination*: Any act or failure to act, whether by itself or as a part of a practice, the effect of which is to differentiate between or among individuals or groups of individuals by reason of race, color, creed, religion, sex, marital status, sexual orientation, gender identity, national origin, age or disability.

(g) *Disability*: The physical or mental condition of an individual who:

1 (1) Has a physical or mental impairment which substantially limits one or more  
2 major life activities;

3  
4 (2) Has a record of such impairment; or

5  
6 (3) Is regarded as having such impairment.  
7

8 (h) Gender identity: Means the actual or perceived appearance, expression, identity or  
9 behavior of a person as being male or female, whether or not that appearance, expression,  
10 identity or behavior is different from that traditionally associated with the person's  
11 designated sex at birth.  
12

13 (i) *Hearing board*: The civil rights hearing board created by this article.  
14

15 (j) *Individual*: Includes individuals.  
16

17 (k) *Marital status*: The state of being married, single, divorced, separated or widowed or  
18 the changing of such state.  
19

20 (l) *National origin*: Ancestry, lineage, name, place of birth or any factor indicative of any  
21 of these; includes the national origin of an ancestor.  
22

23 (m) *Person*: Any individual, association, committee, corporation, joint apprenticeship  
24 committee, joint-stock company, labor organization, legal representative, mutual company,  
25 partnership, receiver, trust, trustee, trustee in bankruptcy, unincorporated organization, and  
26 any other legal or commercial entity, the city or any governmental entity or agency, excluding  
27 the United States of America and the State of Nebraska, or any agent or representative of any  
28 of the foregoing.  
29

30 (n) *Religious organization*: A bona fide religious corporation, association, institution or  
31 society which does not limit or exclude or discriminate against individuals on the basis of  
32 race, color, national origin, sex or disability.  
33

34 (o) *Respondent*: Any person against whom a charge has been filed.  
35

36 (p) *Sex*: The state of being either male or female.  
37

38 (q) Sexual Orientation: Actual or perceived heterosexuality, homosexuality, or bisexuality.

39 (r) *Unlawful practice*: A practice or act within the city which is designated as  
40 discriminatory under the terms of this article.

Section 2. That section 13-84 of the Omaha Municipal Code is hereby amended as follows:

**Sec. 13-84. Unlawful practices.**

It is an unlawful practice for any person, wholly or partially because of race, color, creed, religion, sex, marital status, sexual orientation, gender identity, national origin, age or disability, to do any of the following:

(a) To deny an individual a full and equal enjoyment of any place of public accommodation;

(b) To discriminate against or segregate any individual in a place of public accommodation;

(c) Directly or indirectly to refuse, withhold from or deny to any individual the accommodations, advantages, facilities, services or privileges of a place of public accommodation;

(d) To attempt to refuse, withhold from or deny to any individual, directly or indirectly, the accommodations, advantages, facilities, services or privileges of a place of public accommodation; or

(e) To print, circulate, post, or mail or otherwise cause to be published a statement, advertisement, or sign which indicates that the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation will be refused, withheld from, or denied an individual because of race, color, creed, religion, sex, marital status, sexual orientation, gender identity, national origin, age, or disability, or that an individual's patronage of or presence at a place of public accommodation is objectionable, unwelcome, unacceptable, or undesirable, because of race, color, creed, religion, sex, marital status, sexual orientation, gender identity, national origin, age or disability.

Section 3. That section 13-85 of the Omaha Municipal Code is hereby amended as follows:

**Sec. 13-85. Authorized exceptions—Religious preference.**

It is not an unlawful practice for any place of public accommodation owned by or operated on behalf of a religious organization to give preference in the use of such place to members of the same faith as that of the administering body. If a place of public accommodation owned by or operated on behalf of a religious organization is made available for use only to members of the

1 same faith as that of the administering body, the provisions concerning discriminatory practices  
2 that relate to sexual orientation and gender identity shall not apply.  
3

4 Section 4. That section 13-89 of the Omaha Municipal Code is hereby amended as follows:

5 **Sec. 13-89. Unlawful practices--Employers.**  
6

7 It is an unlawful practice for an employer, wholly or partially because of race, color, creed,  
8 religion, sex, marital status, sexual orientation, gender identity, national origin, age, or disability, to  
9 do any of the following:

10  
11 (a) To fail or refuse to hire an individual;

12  
13 (b) To discharge an individual;

14  
15 (c) To discriminate against an individual with respect to compensation, benefits, or  
16 the terms, conditions or privileges of employment; provided, however, that this  
17 section shall not be interpreted to require an employer provide employment benefits  
18 to same sex partners; or  
19

20 (d) To limit, segregate or classify an employee or any prospective employee in a  
21 way which would deprive or tend to deprive an individual of employment  
22 opportunities or otherwise adversely affect an individual's employment status.  
23

24 Section 5. That section 13-90 of the Omaha Municipal Code is hereby amended as follows:

25 **Sec. 13-90. Same--Employment agencies.**  
26

27 It is an unlawful practice for an employment agency, wholly or partially because of race,  
28 color, creed, religion, sex, marital status, sexual orientation, gender identity, national origin, age or  
29 disability, to do any of the following:

30  
31 (a) To fail or refuse to refer an individual for employment;

32  
33 (b) To fail to list or properly classify an individual for employment; or

34 (c) To comply with a request from an employer for referral of applicants for  
35 employment if the request indicates either directly or indirectly that the employer  
36 discriminates in employment.  
37

Section 6. That section 13-91 of the Omaha Municipal Code is hereby amended as follows:

**Sec. 13-91. Same--Labor organizations.**

It is an unlawful practice for a labor organization, wholly or partially because of race, color, creed, religion, sex, marital status, sexual orientation, gender identity, national origin, age or disability, to do any of the following:

(a) To exclude or to expel from membership, or otherwise to discriminate against, a member or prospective member;

(b) To limit, segregate or classify its membership or prospective membership, or to classify or to fail or refuse to refer for employment an individual in a way:

(1) Which would deprive or tend to deprive an individual of employment opportunities; or

(2) Which would limit employment opportunities or otherwise adversely affect the status of an employee or of a prospective employee;

(c) To cause or attempt to cause an employer, or to cooperate with an employer, to violate any of the provisions of section 13-89; or

(d) To fail or refuse to represent a person in a dispute with respect to compensation, benefits or other terms, conditions or privileges of employment.

Section 7. That section 13-92 of the Omaha Municipal Code is hereby amended as follows:

**Sec. 13-92. Same--Training programs.**

It is an unlawful practice for an employer, labor organization or joint labor-management committee controlling apprenticeship, on-the-job training or other training or retraining program, wholly or partially because of race, color, creed, religion, sex, sexual orientation, gender identity, marital status, national origin, age or disability, to discriminate against an individual in admission to, or employment in, a program established to provide apprenticeship or other training.

Section 8. That section 13-93 of the Omaha Municipal Code is hereby amended as follows:

**Sec. 13-93. Same--Advertisements.**

1 It is an unlawful practice for any person to print, publish, circulate or display or cause to be  
2 published, printed, circulated or displayed any advertisement, notice or statement relating to  
3 employment, employment opportunities, job openings, union membership, apprentice programs, job-  
4 training programs, or any of the terms, conditions or privileges thereof, the language of which  
5 advertisement, notice or statement expresses any limitation, specification, discrimination or  
6 preference as to race, color, creed, religion, sex, marital status, sexual orientation, gender identity,  
7 national origin, age or disability. A limitation, specification, discrimination or preference as to  
8 religion, national origin, sex, age or marital status is not a violation where religion, national origin,  
9 sex, age or marital status is a bona fide occupational qualification for the particular job advertised.

10  
11 Section 9. That section 13-94 of the Omaha Municipal Code is hereby amended as follows:

12 **Sec. 13-94. Same--Applications.**

13  
14 It is an unlawful practice for an employer, labor organization, employment agency or joint  
15 labor-management training committee to make or use a written or oral inquiry or form of application  
16 that expresses or implies a preference, limitation or specification based on race, color, creed,  
17 religion, sex, marital status, sexual orientation, gender identity, national origin, age or disability,  
18 where the employer, employment agency, labor organization or joint labor-management training  
19 committee cannot show that religion, national origin, sex, age or marital status is a bona fide  
20 occupational qualification for the particular job.

21  
22  
23 Section 10. That section 13-95 of the Omaha Municipal Code is hereby amended as follows:

24 **Sec. 13-95. Authorized exceptions--Employers.**

25  
26 It is not an unlawful practice for an employer to do any of the following:

27  
28 (a) To fail or refuse to hire an individual or to discharge an individual on the basis  
29 of disability if:

30  
31 (1) The disability actually prevents the disabled individual from performing  
32 the essential functions of the job in question; and

33  
34 (2) There is no reasonable accommodation that the employer can make with  
35 regard to the disability;

36 (b) To fail or refuse to hire an individual on the basis of national origin, sex, marital  
37 status or age in those certain instances where national origin, sex, marital status or  
38 age is a bona fide occupational qualification for the particular job;

(c) To apply different standards of compensation or different terms, conditions or privileges of employment pursuant to a bona fide seniority or merit system, or a system which measures earnings by quantity or quality of production, or to employees who work in different locations, provided that such differences do not discriminate because of race, color, creed, religion, sex, marital status, sexual orientation, gender identity, national origin, age or disability;

(d) To refuse an individual employment based on a policy of not employing both husband and wife if such policy is equally applied to both sexes;

(e) To adopt a voluntary affirmative action plan designed to aid in the elimination of patterns of exclusion, segregation or discrimination based on race, color, creed, religion, sex, marital status, sexual orientation, gender identity, national origin, age or disability.

Section 11. That section 13-97 of the Omaha Municipal Code is hereby amended as follows:

**Sec. 13-97. Same—Other.**

It is not an unlawful practice for:

(a) A religious organization to employ an individual on the basis of the individual's religion to perform work connected with the carrying on by such religious organization of its religious activity. Furthermore, the provisions in this Chapter relating to unlawful practices based on sexual orientation and gender identity do not apply to any religious organization with respect to its employment of individuals to perform work connected with the carrying on by such religious organization of its religious activity.

(b) A school, college, university or other educational institution to hire and employ employees of a particular religion if the school, college, university or other educational institution is, in whole or substantial part, owned, supported, controlled or managed by a particular religion or by a particular religious organization and if the curriculum of the school, college, university or other education institution is directed toward the propagation of a particular religion and the choice of employees is necessary to promote the religious principles for which it is established or maintained. Furthermore, the provisions in this Chapter relating to unlawful practices based on sexual orientation and gender identity do not apply to any school, college, university or other educational institution if that school, college, university or other educational institution is, in whole or substantial part, owned, supported,

controlled or managed by a particular religion or by a particular religious institution and if the curriculum of the school, college, university or other education institution is directed toward the propagation of a particular religion and the choice of employees is necessary to promote the religious principles for which it is established or maintained.

(c) A labor organization to classify its membership or to classify or refer for employment an individual or for a labor organization or joint labor-management committee controlling apprenticeship or other training or retraining program to admit or employ an individual in any such program on the basis of religion, national origin, sex, age or marital status in those certain instances where religion, national origin, sex, age or marital status is a bona fide occupational qualification for the particular job.

(d) A labor organization or a joint labor-management committee to adopt a voluntary affirmative action plan designed to aid in the elimination of patterns of exclusion, segregation or discrimination based on race, color, creed, religion, sex, marital status, national origin, age or disability.

Section 12. That section 10-192 of the Omaha Municipal Code is hereby amended as

follows:

**Sec. 10-192. Equal employment opportunity clause.**

All contracts hereafter entered into by the city shall incorporate an equal employment opportunity clause, which shall read as follows:

During the performance of this contract, the contractor agrees as follows:

(1) The contractor shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, age, sexual orientation, gender identity, disability or national origin. The contractor shall ensure that applicants are employed and that employees are treated during employment without regard to their race, religion, color, sex, sexual orientation, gender identity, or national origin. As used herein, the word "treated" shall mean and include, without limitation, the following: recruited, whether by advertising or by other means; compensated; selected for training, including apprenticeship; promoted; upgraded; demoted; downgraded; transferred; laid off; and terminated. The contractor agrees to and shall post in conspicuous places, available to employees and applicants for employment,

1 notices to be provided by the contracting officers setting forth the provisions of this  
2 nondiscrimination clause.

3 (2) The contractor shall, in all solicitations or advertisements for employees placed  
4 by or on behalf of the contractor, state that all qualified applicants will receive  
5 consideration for employment without regard to race, religion, color, sex, sexual  
6 orientation, gender identity, or national origin, age, disability.  
7

8 (3) The contractor shall send to each representative of workers with which he has a  
9 collective bargaining agreement or other contract or understanding a notice advising  
10 the labor union or workers' representative of the contractor's commitments under the  
11 equal employment opportunity clause of the city and shall post copies of the notice in  
12 conspicuous places available to employees and applicants for employment.  
13

14 (4) The contractor shall furnish to the human rights and relations director all federal  
15 forms containing the information and reports required by the federal government for  
16 federal contracts under federal rules and regulations, including the information  
17 required by sections 10-192 to 10-194, inclusive, and shall permit reasonable access  
18 to his records. Records accessible to the human rights and relations director shall be  
19 those which are related to paragraphs (1) through (7) of this subsection and only after  
20 reasonable notice is given the contractor. The purpose of this provision is to provide  
21 for investigation to ascertain compliance with the program provided for herein.  
22

23 (5) The contractor shall take such actions with respect to any subcontractor as the  
24 city may direct as a means of enforcing the provisions of paragraphs (1) through (7)  
25 herein, including penalties and sanctions for noncompliance; however, in the event  
26 the contractor becomes involved in or is threatened with litigation as the result of  
27 such directions by the city, the city will enter into such litigation as is necessary to  
28 protect the interests of the city and to effectuate the provisions of this division; and,  
29 in the case of contracts receiving federal assistance, the contractor or the city may  
30 request the United States to enter into such litigation to protect the interests of the  
31 United States.  
32

33 (6) The contractor shall file and shall cause his subcontractors, if any, to file  
34 compliance reports with the contractor in the same form and to the same extent as  
35 required by the federal government for federal contracts under federal rules and  
36 regulations. Such compliance reports shall be filed with the human rights and  
37 relations director. Compliance reports filed at such times as directed shall contain  
38 information as to the employment practices, policies, programs and statistics of the  
39 contractor and his subcontractors.

ORDINANCE NO. \_\_\_\_\_  
PAGE 10

(7) The contractor shall include the provisions of paragraphs (1) through (7) of this section, "Equal employment opportunity clause," and section 10-193 in every subcontract or purchase order so that such provisions will be binding upon each subcontractor or vendor.

Section 13. This Ordinance shall be in full force and take effect fifteen (15) days from and after its passage.

INTRODUCED BY COUNCILMEMBER

APPROVED BY:

MAYOR OF THE CITY OF OMAHA DATE

PASSED \_\_\_\_\_

ATTEST:

CITY CLERK OF THE CITY OF OMAHA DATE

APPROVED AS TO FORM:

 2/21/12  
ASSISTANT CITY ATTORNEY DATE

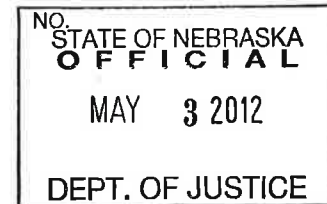
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**JON BRUNING**  
ATTORNEY GENERAL



12.009

**SUBJECT:** Protected Classes Under The State Civil Rights Statutes; Do Cities And Counties Have Statutory Authority To Create Protected Classes Not Listed In State Statute?

**REQUESTED BY:** Senator Beau McCoy  
Nebraska State Legislature

**WRITTEN BY:** Jon Bruning, Attorney General  
Dale A. Comer, Assistant Attorney General

You introduced LB 912 during the 2012 legislative session. Among other things, that bill would have prohibited political subdivisions, including municipalities, from adopting or enforcing any local laws or ordinances which created protected classifications beyond those contained in the state's civil rights statutes such as the Age Discrimination In Employment Act or the Fair Employment Practices Act. LB 912 did not progress out of committee.

In your opinion request correspondence, you indicate that you are now considering reintroducing LB 912. However, to determine if that step is necessary, you have asked us if, under current Nebraska law, "cities and counties have the authority to create protected classes not listed in state statute." For the reasons set out below, it is our opinion that while political subdivisions may pass ordinances or other laws on the

same subject matter which are not inconsistent with the state's civil rights classifications, political subdivisions are not authorized to expand protected classes beyond the scope of the civil rights provided for in state statute.

As a preliminary matter, it is worth noting that this issue has been considered previously by a Nebraska municipality. In the early 1980s, the people of Lincoln voted to reject a proposal to amend the City Charter to include protections for classes beyond those which are currently defined by state statute. At that time, Lincoln's City Attorney, William F. Austin, a highly respected lawyer whose public career includes nearly thirty years of service to Lincoln, issued an opinion to the City's leaders that the proper mechanism for making such a change would require a vote of the people to amend the City Charter. Following the issuance of that opinion, the question was properly submitted to the people of Lincoln and summarily rejected.

We are aware of no changes with regard to that aspect of municipal corporation law in the intervening years since Mr. Austin's opinion, and he recently reaffirmed his views in a letter published in the *Lincoln Journal Star*. Notwithstanding what Nebraska cities may or may not do with regard to the expansion of protected classes beyond that provided by statute, and even if one discounts the analysis that follows in *this* opinion, it remains the case that such an expansion at the city level *must* be pursuant to an amendment to a city's charter. Such an amendment indisputably requires a vote of the people. Lincoln's government recognized the soundness of Mr. Austin's opinion in 1982, and the foundation of that opinion remains fully applicable today.

Apart from home rule charter revisions, there are two Nebraska statutes which pertain to the authority of certain political subdivisions, including municipalities, to create and enforce legislation pertaining to civil rights – Neb. Rev. Stat. § 18-1724 (2007) and Neb. Rev. Stat. § 20-113 (2007). We will discuss each of those statutes in turn.

In *Midwest Employers Council, Inc. v. Omaha*, 177 Neb. 877, 131 N.W.2d 609 (1964), two Omaha corporations challenged Omaha Ordinance No. 22026, entitled "Fair Employment Practices," which would have prohibited "an employer of three or more persons . . . from discriminating on the basis of race, religious creed, color, national origin, or ancestry." *Id.* at 881, 131 N.W.2d at 612. In striking down the ordinance, the Court stated "the state by its Legislature has extensively entered the field of labor" and "it is obvious that the Department of Labor . . . is vested with the power and responsibility of enforcing employment regulations within the state." *Id.* at 886-87, 131 N.W.2d at 615. The Court held that ordinance No. 22026:

[Is] unconstitutional in its entirety for the reason that the state, through the Legislature, did not delegate to the city of Omaha the power to permit its city council to legislate on fair employment practices and civil rights by passing ordinance No. 22026; and for the further reason that the power relating to labor relations and practices, and civil rights, lies in the state, and such matters are of statewide concern and not of local concern nor municipal government concern.

*Id.* at 888. 131 N.W.2d at 616. Clearly the Court was concerned with municipal corporations expanding upon existing state fair employment practices and exercising enforcement in an area in which the state had been vested with power and responsibility.

In an apparent response to the Court's ruling in *Midwest Employers*, the Legislature specifically gave municipal corporations the power to enact civil rights laws by ordinance in 1971. 1971 Neb. Laws LB 161 (codified as amended at Neb. Rev. Stat. § 18-1724 (2007)). Section 18-1724 addressed the situation in *Midwest Employers* by allowing municipal corporations to establish ordinances on the classifications specifically outlined in the bill, and provided for local control and enforcement. However, the power of municipalities under § 18-1724 is limited. That statute currently states:

Notwithstanding any other law or laws heretofore enacted, all cities and villages in this state shall have the power by ordinance to define, regulate, suppress, and prevent discrimination on the basis of race, color, creed, religion, ancestry, sex, marital status, national origin, familial status as defined in section 20-311, handicap as defined in section 20-313, age, or disability in employment, public accommodation, and housing and may provide for the enforcement of such ordinances by providing appropriate penalties for the violation thereof. It shall not be an unlawful employment practice to refuse employment based on a policy of not employing both husband and wife if such policy is equally applied to both sexes.

Neb. Rev. Stat. § 18-1724 (Reissue 2007) (Emphasis added). Thus, municipal corporations have the power, under § 18-1724, to define, regulate and enforce existing classifications as defined by statute.

Neb. Rev. Stat. § 20-113 (2007) also pertains to civil rights legislation by political subdivisions. Section 20-113 specifically states:

Any incorporated city may enact ordinances and any county may adopt resolutions which are substantially equivalent to the Age Discrimination in Employment Act, the Nebraska Fair Employment Practice Act, the Nebraska Fair Housing Act, and sections 20-126 to 20-143 and 48-1219 to 48-1227 or which are more comprehensive than such acts and sections in the protection of civil rights. No such ordinance or resolution shall place a duty or liability on any person, other than an employer, employment agency, or labor organization, for acts similar to those prohibited by section 48-1115. Such ordinance or resolution may include authority for a local agency to seek an award of damages or other equitable relief on behalf of the complainant by the filing of a petition in the district court in the county with appropriate jurisdiction. The local agency shall have within its authority jurisdiction substantially equivalent to or more comprehensive than the Equal Opportunity Commission or other enforcement agencies

provided under such acts and sections and shall have authority to order backpay and other equitable relief or to enforce such orders or relief in the district court with appropriate jurisdiction. Certified copies of such ordinances or resolutions shall be transmitted to the commission. When the commission determines that any such city or county has enacted an ordinance or adopted a resolution that is substantially equivalent to such acts and sections or is more comprehensive than such acts and sections in the protection of civil rights and has established a local agency to administer such ordinance or resolution, the commission may thereafter refer all complaints arising in such city or county to the appropriate local agency. All complaints arising within a city shall be referred to the appropriate agency in such city when both the city and the county in which the city is located have established agencies pursuant to this section. When the commission refers a complaint to a local agency, it shall take no further action on such complaint if the local agency proceeds promptly to handle such complaint pursuant to the local ordinance or resolution. If the commission determines that a local agency is not handling a complaint with reasonable promptness or that the protection of the rights of the parties or the interests of justice require such action, the commission may regain jurisdiction of the complaint and proceed to handle it in the same manner as other complaints which are not referred to local agencies. In cases of conflict between this section and section 20-332, for complaints subject to the Nebraska Fair Housing Act, section 20-332 shall control.

Any club which has been issued a license by the Nebraska Liquor Control Commission to sell, serve, or dispense alcoholic liquor shall have that license revoked if the club discriminates because of race, color, religion, sex, familial status as defined in section 20-311, handicap as defined in section 20-313, or national origin in the sale, serving, or dispensing of alcoholic liquor to any person who is a guest of a member of such club. The procedure for revocation shall be as prescribed in sections 53-134.04, 53-1,115, and 53-1,116.

Neb. Rev. Stat. § 20-113 (2007) (Emphasis added).

We have considered the parameters of § 20-113 previously in our Op. Att'y Gen. No. 160 (December 14, 1981). In that instance, Sen. Landis asked us whether "the state civil rights' enabling statutes [provide] sufficient legislative authority for a home rule charter city to enact anti-discrimination protections for classifications not specifically mentioned in state law." In response, we first concluded that a determination regarding the scope of the authority set out in § 20-113 required an "interpretation of the language 'more comprehensive than.'" *Id.* at 3. To assist in that interpretation, we considered the legislative history of two amendments to §20-113 contained in 1974 Neb. Laws LB 681, where the language at issue was added to the statute, and 1979 Neb. Laws LB 438, which added intent language to the statute. Ultimately, we opined that "although the 'more comprehensive than' language could provide incorporated cities and counties

with the authority to enact ordinances or resolutions protecting classifications of persons not specifically set out in the state anti-discrimination statutes, a contrary interpretation also is feasible.” For that reason, we stated that “[i]n order to eliminate any doubts in this matter, one might wish to introduce clarifying legislation.”

While we continue to believe, as we did in 1981, that the legislative history of § 20-113 does not provide an entirely clear answer to your question, it also seems to us that other aspects of the relevant statutes, which we did not discuss in 1981, indicate that the authority of political subdivisions to legislate in the area of civil rights is limited to the civil rights enumerated in state statute, absent changes in a home rule charter. However, before we turn to those additional considerations, we will discuss the portions of the legislative history of § 20-113 which support our conclusion that political subdivisions do not have statutory authority to enlarge the protected classes created by state statute.

The words “or which are more comprehensive than such acts and sections in the protection of civil rights,” were added to § 20-113 in 1974 by LB 681. James Faimon, Assistant City Attorney for the City of Lincoln, who participated in the drafting of LB 681 and testified in support of the change, explained the purpose of the bill, in part, as an attempt to facilitate enforcement of civil rights provisions by cities:

The substantially equivalent language [in § 20-113] I think may, in some instances, create problems in reference to technical objections to passage of ordinances that may be otherwise legal, but because of the substantially equivalent requirement if the ordinance is not exactly the same language as the statute, there’s always that possibly (sic) that enforcement of that ordinance could be delayed because of litigation to determine whether that ordinance is substantially equivalent to state statutes. So, I would like to change that, so we don’t have that possibility arising.

Committee Records on LB 681, 83rd Neb. Leg., 2nd Sess. 11 (February 13, 1974)(Statement of James Faimon). In addition, the introducer of LB 681, Senator Hal Simpson, stated that LB 681 adds language to § 20-113 so “that the locals may, within these sections, be more comprehensive and then so would be able to enforce them at the local level.” Committee Records on LB 681, 83rd Neb. Leg., 2nd Sess. 28 (February 13, 1974)(Statement of Senator Hal Simpson) (Emphasis added). Moreover, Senator Simpson asserted to the legislative committee that there was likely no opposition to the bill from the public because:

We’re not adding something, that isn’t already a fact of law. We’re only asking where the enforcement is going to be.

*Id.* at 27.

Therefore, it appears to us that portions of the legislative history of LB 681 strongly indicate that the purpose of that amendment was not to allow political subdivisions to expand those existing civil rights classifications specifically enumerated in state statute, but only to provide for local enforcement as well as more comprehensive protections within existing state classifications. This is underscored by the fact that the second section of LB 681, relating to the Nebraska Liquor Control Commission, specifically delineates the classifications as they existed in § 18-1724.

Four years after the passage of LB 681, the right of political subdivisions to enforce civil rights protections was addressed again in *Omaha Human Relations Dep't on behalf of Guy v. City Wide Rock & Excavating Co.*, 201 Neb. 405, 268 N.W.2d 98 (1978). That proceeding involved a complaint filed by an employee of City Wide Rock that alleged discrimination because of race, a classification already covered in existing state statute. *Id.* at 406, 268 N.W.2d at 100. The Nebraska Supreme Court cited to *Midwest Employers*, and stated again that in the area of civil rights legislation, municipal corporations require statutory authority from the Legislature.

In 1979, in response to the decision in *City Wide Rock*, the Legislature restated its intent to provide for local enforcement of civil rights remedies as well as more comprehensive protections within existing state classifications by passing LB 438. 1979 Nebraska Laws LB 438. LB 438 amended § 20-113 to provide for additional procedures related to enforcement by municipal corporations. The introducer of LB 438, Senator Newell, indicated that the purpose of the bill was :

. . . to deal with the Supreme Court decision that said the Human Relations Department of the City of Omaha had no authority because it had not been given specific statutory authority by the State of Nebraska. This bill will give it specific statutory authority by the State of Nebraska and it will be able to continue to function.

Floor Debate on LB 438, 86th Neb. Leg., 1st Sess. 2374 (March 29, 1979) (Statement of Senator Dave Newell). The passage of LB 438 supports our conclusion regarding the meaning of the "more comprehensive than" language in § 20-113 because the bill expanded the enumerated sections of state law covered under § 20-113. If "more comprehensive than" in that statute was intended to allow political subdivisions to add new protected classifications for civil rights enforcement, then there was no need for the Legislature to amend new authority into § 20-113.

The passage of LB 438 in 1979 also supports our ultimate conclusion in this instance in another significant way which was not discussed in our previous opinion in 1981. LB 438 created Neb. Rev. Stat. § 20-113.01. That statute provides:

In order to declare the intent of the present Legislature and to effect the original intent of sections 18-1724 and 20-113, the Legislature finds that civil rights are a local as well as state concern and the Legislature desires

to provide for the local enforcement and enactment of civil rights legislation concurrent with the authority of the State of Nebraska.

(Emphasis added). In Nebraska, statutory language is to be given its plain and ordinary meaning in the absence of anything indicating to the contrary. *PSC Credit Services, Inc. v. Rich*, 251 Neb. 474, 558 N.W.2d 295 (1997). In that regard, the term “concurrent” has the following meaning:

Running together, having the same authority; acting in conjunction; agreeing in the same act or opinion; pursuit of the same course; contributing to the same event; contemporaneous.

BLACK'S LAW DICTIONARY 263 (5<sup>th</sup> ed. 1979). As a result, the precise language of § 20-113.01 indicates that the Legislature intended that political subdivisions in Nebraska, including municipalities, should enforce and enact civil rights legislation under §§ 18-1724 and 20-113 in conjunction with the State, and that those entities *have the same authority* under those statutes as the State. That language in § 20-113.01 requires us to conclude that the authority of political subdivisions to legislate in the area of civil rights is limited to the civil rights enumerated in state statute.

We would also point out that our conclusion regarding the authority of political subdivisions to enact civil rights legislation is supported by the fact that the Nebraska Fair Employment Practice Act, cited within § 20-113, explicitly does not include “homosexuality, bisexuality, transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender-identity disorders not resulting in physical impairments, [or] other sexual behavior disorders . . . ” within the definition of disability. Neb. Rev. Stat. § 48-1102 (Reissue 2010). Further, the purpose of the Nebraska Fair Employment Practice Act is “to foster the employment of all employable persons in the state on the basis of merit regardless of their race, color, religion, sex, disability, or national origin . . . ” Neb. Rev. Stat. § 48-1101 (Reissue 2010). A municipal corporation operating with “concurrent” authority to the State should not be allowed to create a new category of employer liability that the Legislature has specifically rejected.

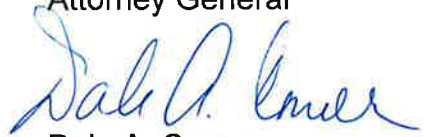
It is also clear that should a political subdivision try to enforce an ordinance beyond the scope of its authority in such a way as to implicate the federal constitutional rights of those subject to enforcement, that action may expose public officers and the political subdivision to liability under 42 U.S.C. § 1983. In *Monroe v. Pape*, the Supreme Court held that a police officer was acting “under color of state law” even though his actions were in violation of state law. 365 U.S. 167 (1961). This was the first case in which the Supreme Court allowed liability to attach where a government official acted outside the scope of the authority granted to him by state law. Although the Court in *Monroe v. Pape* originally held that municipal corporations were excluded from such liability, the Court later reversed its decision and determined in *Monell v. Department of Social Service*, that municipal corporations were within the ambit of § 1983. 436 U.S. 658 (1978). (Local governing bodies can be sued directly under § 1983 for monetary, declaratory, or injunctive relief where the action that is alleged to be unconstitutional

implements or executes a policy statement, ordinance, regulation, or decision officially adopted and promulgated by that body's officers.) Therefore, any enforcement action by a political subdivision outside of the authority granted to it under state law which implicates federal constitutional rights could subject the subdivision and its officers to liability. Additionally, a plaintiff need only succeed on "any significant issue" in the § 1983 litigation and achieve "some of the benefit" sought in bringing the suit to be deemed a "prevailing party" under 42 U.S.C. § 1988 and be entitled to an award of attorney's fees. See *Texas State Teachers Assoc. v. Garland Indep. Sch. Dist.*, 489 U.S. 782, 791-92 (1989).

In conclusion, Nebraska law, like federal law, recognizes and protects certain classifications of people from discrimination. And, Nebraska's anti-discrimination provisions may be enforced by both the State and certain local political subdivisions. However, while the pertinent Nebraska statutes authorize local legislation on the same subject matter which is not inconsistent with the state's civil rights classifications, they do not authorize political subdivisions in Nebraska, including municipalities, to expand protected classifications beyond the scope of the civil rights classifications created in state statute.

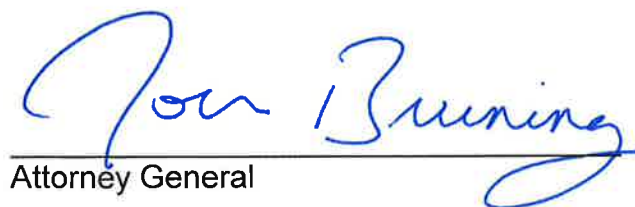
Sincerely,

JON BRUNING  
Attorney General



Dale A. Comer  
Assistant Attorney General

Approved by:



Attorney General

pc. Patrick J. O'Donnell  
Clerk of the Nebraska Legislature

§ 18-1724. Discrimination; employment, public accommodations, and housing; ordinance to prevent.

## **Nebraska**

### **Chapter 18. Cities and Villages: Laws Applicable to All**

#### **Article 17. Miscellaneous**

*Current through the 2012 legislative session*

#### **§ 18-1724. Discrimination; employment, public accommodations, and housing; ordinance to prevent**

Notwithstanding any other law or laws heretofore enacted, all cities and villages in this state shall have the power by ordinance to define, regulate, suppress, and prevent discrimination on the basis of race, color, creed, religion, ancestry, sex, marital status, national origin, familial status as defined in section 20-311, handicap as defined in section 20-313, age, or disability in employment, public accommodation, and housing and may provide for the enforcement of such ordinances by providing appropriate penalties for the violation thereof. It shall not be an unlawful employment practice to refuse employment based on a policy of not employing both husband and wife if such policy is equally applied to both sexes.

**Cite as Neb. Rev. Stat. § 18-1724**

#### **Source:**

**Laws 1971, LB 161, § 1; Laws 1978, LB 830, § 1; Laws 1991, LB 825, § 1.**

§ 20-113. Protection of civil rights; incorporated cities; ordinances; county; resolutions; powers; jurisdiction; revocation of liquor license, when.

## **Nebraska**

### **Chapter 20. Civil Rights**

#### **Article 1. Individual Rights**

##### **(a). General Provisions**

*Current through the 2012 legislative session*

##### **§ 20-113. Protection of civil rights; incorporated cities; ordinances; county; resolutions; powers; jurisdiction; revocation of liquor license, when**

Any incorporated city may enact ordinances and any county may adopt resolutions which are substantially equivalent to the Age Discrimination in Employment Act, the Nebraska Fair Employment Practice Act, the Nebraska Fair Housing Act, and sections 20-126 to 20-143 and 48-1219 to 48-1227 or which are more comprehensive than such acts and sections in the protection of civil rights. No such ordinance or resolution shall place a duty or liability on any person, other than an employer, employment agency, or labor organization, for acts similar to those prohibited by section 48-1115. Such ordinance or resolution may include authority for a local agency to seek an award of damages or other equitable relief on behalf of the complainant by the filing of a petition in the district court in the county with appropriate jurisdiction. The local agency shall have within its authority jurisdiction substantially equivalent to or more comprehensive than the Equal Opportunity Commission or other enforcement agencies provided under such acts and sections and shall have authority to order backpay and other equitable relief or to enforce such orders or relief in the district court with appropriate jurisdiction. Certified copies of such ordinances or resolutions shall be transmitted to the commission. When the commission determines that any such city or county has enacted an ordinance or adopted a resolution that is substantially equivalent to such acts and sections or is more comprehensive than such acts and sections in the protection of civil rights and has established a local agency to administer such ordinance or resolution, the commission may thereafter refer all complaints arising in such city or county to the appropriate local agency. All complaints arising within a city shall be referred to the appropriate agency in such city when both the city and the county in which the city is located have established agencies pursuant to this section. When the commission refers a complaint to a local agency, it shall take no further action on such complaint if the local agency proceeds promptly to handle such complaint pursuant to the local ordinance or resolution. If the commission determines that a local agency is not handling a complaint with reasonable promptness or that the protection of the rights of the parties or the interests of justice require such action, the commission may regain

jurisdiction of the complaint and proceed to handle it in the same manner as other complaints which are not referred to local agencies. In cases of conflict between this section and section 20-332, for complaints subject to the Nebraska Fair Housing Act, section 20-332 shall control.

Any club which has been issued a license by the Nebraska Liquor Control Commission to sell, serve, or dispense alcoholic liquor shall have that license revoked if the club discriminates because of race, color, religion, sex, familial status as defined in section 20-311, handicap as defined in section 20-313, or national origin in the sale, serving, or dispensing of alcoholic liquor to any person who is a guest of a member of such club. The procedure for revocation shall be as prescribed in sections 53-134.04, 53-1,115, and 53-1,116.

**Cite as Neb. Rev. Stat. § 20-113**

**Source:**

**Laws 1969, c. 120, § 9, p. 544; Laws 1974, LB 681, § 1; Laws 1979, LB 438, § 2; Laws 1991, LB 344, § 1; Laws 1991, LB 825, § 46; Laws 2007, LB265, § 2.**

**Cross References:**

**Age Discrimination in Employment Act**, see section 48-1001.

**Nebraska Fair Employment Practice Act**, see section 48-1125.

**Nebraska Fair Housing Act**, see section 20-301.

ORDINANCE NO. 9407

An Ordinance prohibiting discrimination in employment, housing, and public accommodations against persons based on their sexual orientation or gender identity and providing for the publication and effective date of this ordinance.

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

I. That the Grand Island City Code be amended to contain the following provisions:

**Chapter 11 – Civil Rights**

**Article I – Discrimination Based on Sexual Orientation and Gender Identity Prohibited**

**§11-1 – Definitions**

**City** – The area within the boundaries of the City of Grand Island.

**Discriminate** – Any act or failure to act, whether by itself or part of a pattern of behavior, the effect of which is to differentiate between or among persons or groups of persons by reason of their sexual orientation or gender identity.

**Employee** – Any person who is an applicant or employed in exchange for compensation.

**Employer** – Any person, partnership, corporation, association, or any other type of organization employing ten (10) or more persons at an average of thirty (30) or more hours per week over the course of a year.

**Employment Agency** – Any person, partnership, corporation, association, or any other type of organization engaged in procuring employees for an employer or procuring employment for persons.

**Exempt Organizations** – The government of the United States of America, the State of Nebraska, the County of Hall, or any religious organization.

**Gender Identity** – The actual or perceived appearance, expression, identity, or behavior of a person as being male or female whether or not that appearance, expression, identity or behavior is different from that traditionally associated with that person's designated sex at birth.

**Housing** – Any building, structure, mobile home, or portion thereof which is designed, intended, or occupied as a residence for any person, persons, family, or families, and any land which is intended or offered for sale or lease for the construction of any building, structure, or mobile home.

Approved as to Form	by _____
October 5, 2012	City Attorney

**Labor Organization** – Any organization having status as a legal entity or as an unincorporated group or association existing for the purpose of collective bargaining, addressing employee grievances against employers, or providing mutual aid to persons or other labor organizations regarding collective bargaining or addressing employee grievances against employers.

**Person** – Any individual or group of individuals having status as a legal entity or as an unincorporated group or association.

**Public Accommodation** – Any place offering the public goods, services, food, shelter, or recreation in exchange for remuneration.

**Religious Organization** – A bona fide religious corporation, association, institution, or society which does not limit or exclude from membership or discriminate against any person based upon their race, color, ethnicity, national origin, sex, or disability.

**Sexual Orientation** – Actual or perceived heterosexuality, homosexuality, bisexuality, or asexuality.

#### **§11-2 – Prohibited Acts – Employers**

It shall be unlawful for any employer located or conducting business in the City to discriminate based on the sexual orientation or gender identity of a person by engaging in the following acts:

- (a) refusing to employ a person;
- (b) disciplining, demoting, or discharging from employment a person;
- (c) discriminating against a person regarding compensation, benefits, or the terms of employment; or
- (d) refusing to promote a person.

#### **§11-3 – Prohibited Acts – Employment Agencies**

It shall be unlawful for any employment agency located or conducting business in the City to discriminate based on the sexual orientation or gender identity of a person by engaging in the following acts:

- (a) refusing to refer a person for employment; or
- (b) complying with a request or directive from an employer for a referral of applicants for employment if the request indicates the employer discriminates in violation of Grand Island City Code §11-2.

#### **§11-4 – Prohibited Acts – Labor Organizations**

It shall be unlawful for any labor organization located or conducting business in the City to discriminate based on the sexual orientation or gender identity of a person by engaging in the following acts:

- (a) excluding or expelling from membership a person in the organization;
- (b) refusing to refer a person for employment;
- (c) failing to represent a person it is legally obligated to do so in any dispute with an employer; or
- (d) requesting an employer do anything or complying with a request from an employer to do anything in violation of Grand Island City Code §11-2 or §11-4.

**§11-5 – Prohibited Acts – Housing**

It shall be unlawful for any person, partnership, corporation, association, or any other type of organization located or conducting business in the City to discriminate based on the sexual orientation or gender identity of a person by engaging in the following acts:

- (a) refusing to sell or rent housing after receiving a bona fide offer;
- (b) altering the terms of the sale or rental of housing;
- (c) making, publishing, or advertising any notice indicating discrimination in the sale or rental of housing against persons based on their sexual orientation or gender identity; or
- (d) falsely representing housing is unavailable for sale or rent.

**§11-6 – Prohibited Acts – Public Accommodations**

It shall be unlawful for any person, partnership, corporation, association, or any other type of organization located or conducting business in the City to discriminate based on the sexual orientation or gender identity of a person by engaging in the following acts:

- (a) refusing a person entry or full access to goods, services, food, shelter, or recreation offered the public in any place of public accommodation;
- (b) segregating any person in a place of public accommodation; or
- (c) making, publishing, or advertising any notice indicating discrimination in entry or access to goods, services, food, shelter, or recreation offered the public in any place of public accommodation.

**§11-7 – Inapplicability to Exempt Organizations**

The provisions of Grand Island City Code, Chapter 11, Art. I are not applicable to exempt organizations including religious organizations and those organizations are exempt from the requirements, directives, and prohibitions contained therein.

II. Any ordinances or portions of ordinances in conflict with this ordinance are hereby repealed.

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

Enacted: October 9, 2012.

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Jay Vavricek, Mayor

Attest:

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RaNae Edwards, City Clerk



# **City of Grand Island**

**Tuesday, October 9, 2012**

**Council Session**

## **Item G1**

### **Approving Minutes of September 25, 2012 City Council Regular Meeting**

**Staff Contact: RaNae Edwards**

CITY OF GRAND ISLAND, NEBRASKA

MINUTES OF CITY COUNCIL REGULAR MEETING  
September 25, 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 September 25, 2012. Notice of the meeting was given in *The Grand Island Independent* on September 19, 2012.

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

INVOCATION was given by Pastor Caroline Price-Gibson, First Presbyterian Church, 2103 West Anna Street followed by the PLEDGE OF ALLEGIANCE.

Mayor Vavricek introduced Community Youth Council member Josh Sugita.

PRESENTATIONS AND PROCLAMATIONS:

Presentation of the "Mayor's Builder Award" to Karl Hughes. Mayor Vavricek presented the third "Mayor's Builder Award" to Karl Hughes for his efforts in the community through Project Hunger and the Salvation Army serving meals to the homeless. Mr. Hughes was present to receive the award.

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

#2012-BE-5 – Consideration of Determining Benefits for South Locust Business Improvement District 2012. Community Development Administrator Marco Floreani reported that the City Council in its' capacity as the Board of Equalization was required to determine the benefits for the South Locust BID 2012. Special assessments were for the amount of \$34,450.27.

Motion by Gericke, second by Dugan to approve Resolutions #2012-BE-5. Upon roll call vote, all voted aye. Motion adopted.

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

PUBLIC HEARINGS:

Public Hearing on Request from Turkey Maes, LLC dba Peacock Lounge, 2430 North Broadwell Avenue for a Class "C" Liquor License. City Clerk RaNae Edwards reported that an application for a Class "C" Liquor License had been received from Turkey Maes, LLC dba Peacock Lounge, 2430 North Broadwell Avenue. Ms. Edwards presented the following exhibits for the record:

application submitted to the Liquor Control Commission and received by the City on September 4, 2012; notice to the general public of date, time, and place of hearing published on September 15, 2012; notice to the applicant of date, time, and place of hearing mailed on September 4, 2012; along with Chapter 4 of the City Code. Staff recommended approval contingent upon final inspections. No public testimony was heard.

Public Hearing on Request to Rezone Property Located at 2430 & 2522 Stolley Park Road and 2433 & 2425 Del Mar Avenue – Hornady Subdivision from R2 Low Density Residential to RD Residential Development. Regional Planning Director Chad Nabity reported that a request had been made to rezone 7.822 acres located north of Stolley Park Road and west of Arthur Street from R2 – Low Density Residential to RD – Residential Development. The developers were proposing to build twenty townhouse units. Staff recommended approval. No public testimony was heard.

Public Hearing on Annual Report by the Citizens' Review Committee on the Economic Development Program Plan. Marlan Ferguson, President of the Economic Development Corporation gave an overview of GIAEDC activities. Since 2003 over 1,188 direct jobs had been created with LB-840 funds with an estimated payroll of \$36,000,000 annually. Over 2,100 indirect jobs had been created with over 3,300 total jobs created in the last 8 years. Over 700 new jobs were created in 2011. Mentioned was support for the November 6, 2012 Election LB-840 renewal for another 10 years.

Mark Stelk, Vice-Chairman of the CRC gave the annual report. Over the past year, the GIAEDC brought forward one application for funding – Medbury Fabrication, LLC which was awarded \$76,000. Ten audits were completed and complied with the terms of their agreements. Mentioned was the November 6, 2012 Election for the renewal of the LB-840 program. Staff recommended approval. Terry Pfeifer, Chairman of the Chamber of Commerce spoke in support. No further public testimony was heard.

Public Hearing on Neighborhood Stabilization Grant Program 09-3N-11 Budget Amendment. Community Development Administrator Marco Floreani reported that grant funds had been received and used by the City of Grand Island for Neighborhood Stabilization Program for property acquisition, demolition, redevelopment of new housing, housing administration, and general administration. All demolition and construction had been completed with remaining funds available for us in the Clearance/Demolition activity of the budget. The amendment would allocate \$4,000 of the Clearance/Demolition funds remaining and re-allocate these to New Construction activity to finalize all expenses incurred during the construction of 8 homes built for low-moderate income individuals and families. Staff recommended approval. No public testimony was heard.

#### RESOLUTIONS:

#2012-275 – Consideration of Approving the Issuance of Redevelopment “Bonds for the Lincoln Park Pool Project by the Community Redevelopment Authority. Regional Planning Director Chad Nabity reported that Bond Council was recommending that the Grand Island City Council pass a resolution authorizing the CRA to issue redevelopment bonds in the amount of \$1,800,000 as approved in the 2012-2013 budget. Bill Beavers representing Ameritas stated all bonds had been sold for 10 years at an interest rate of 1.89%. Closing would take place in 2 to 3 weeks.

Motion by Carney, second by Ramsey to approve Resolution #2012-275. Upon roll call vote, all voted aye. Motion adopted.

#2012-279 – Consideration of Approving Appointment of Cory Schmidt as Fire Chief. Mayor Jay Vavricek recommended the appointment of Cory Schmidt as Fire Chief. Cory Schmidt was present and introduced his family. Mayor Vavricek acknowledged the service of Russ Blackburn and Tim Hiemer as Interim Fire Chiefs.

Motion by Minton, second by Gericke to approve Resolution #2012-279. Upon roll call vote, all voted aye. Motion adopted.

#2012-274 - Consideration of Approving Funding of Economic Development Request. EDC President Marlan Ferguson stated this request was for the annual \$350,000 to the LB 840 Program. Mentioned was the November election ballot issue to renew the LB 840 program for another 10 years and that the EDC was moving forward for the renewal of the program.

Discussion was held regarding the financial data through April 30, 2012. Mr. Ferguson stated there was \$193,738.93 available for future projects.

Motion by Gericke, second by Carney to approve Resolution #2012-274. Upon roll call vote, all voted aye. Motion adopted.

#### ORDINANCES:

#9402 – Consideration of Assessments for South Locust Business Improvement District 2012

Motion by Dugan, second by Minton to approve Ordinance No. 9402 on first reading only. Upon roll call vote, all voted aye. Motion adopted.

#9403 – Consideration of Request to Rezone Property Located at 2430 & 2522 Stolley Park Road and 2433 & 2425 Del Mar Avenue – Hornady Subdivision from R2 Low Density Residential to RD Residential Development

#9404 – Consideration of Vacation of a Portion of Del Mar Avenue in Hornady Subdivision (JEH Holdings, LLC)

#9405 – Consideration of Vacation of a Utility Easement Located in Hornady Subdivision (JEH Holdings, LLC)

Regional Planning Director Chad Nabity reported that Ordinances #9404 and #9405 was the request from JEH Holdings, LLC. They were developing Hornady Subdivision and were requesting to vacate a portion of Del Mar Avenue and the vacation of a utility easement to accommodate re-platting of the subdivision and allow for new street access, easement and lot.

Discussion was held regarding the drainage for this area. Mr. Nabity stated the drainage from Highway 281 by Case New Holland was currently draining to Brentwood Lake through the storm sewer drainage. The city was currently working to divert that drainage to go through Central Community College and dump into the Wood River Diversion.

Motion by Dugan, second by Carney to approve Ordinances #9403, #9404, and #9405 on first reading only. Upon roll call vote, all voted aye.

CONSENT AGENDA: Consent Agenda item G-6 was pulled for further discussion. Motion by Ramsey, second by Minton to approve the Consent Agenda excluding item G-6. Upon roll call vote, all voted aye. Motion adopted.

Approving Minutes of September 11, 2012 City Council Regular Meeting.

Approving Re-Appointment of Barry Sandstrom to the Community Redevelopment Authority Board.

Approving Garbage Permits for Clark Brothers Sanitation, Heartland Disposal, Mid-Nebraska Disposal, Inc. and Refuse Permits for Full Circle, Inc., O'Neill Transportation and Equipment and Scott's Hauling.

Approving Liquor Manager Request for Ruby Cargill, 315 South Plum for The Firehouse Bar, 418 West 4<sup>th</sup> Street.

Approving Request from Skagway Discount Dept. Stores dba Skagway, 620 State Street for a Deletion to their Class "CK-84624" Liquor License.

#2012-259 – Approving Preliminary and Final Plat and Subdivision Agreement for Hornady Second Subdivision. It was noted that JEH Holdings, LLC, owners had submitted the preliminary plat, final plat and subdivision agreement for Hornady Second Subdivision located north of Stolley Park Road and west of Arthur Street for the purpose of creating 23 lots containing 7.822 acres.

Motion by Gericke, second by Carney to postpone Resolution #2012-259 to the October 9, 2012 City Council meeting. Upon roll call vote, all voted aye. Motion adopted.

#2012-260 – Approving Annual Report by the Citizens' Review Committee on the Economic Development Program Plan.

#2012-261 – Approving Job Specific Service Agreement with Nebraska Public Power District.

#2012-262 – Approving 2012-2013 Victim of Crime Act (VOCA) Grant.

#2012-263 – Approving Amendment #1 for Professional Consulting Services for the Southwest Outfall Drainage – Central Community College to the Wood River; Project No. 2011-D-1 Construction Services with Olsson Associates of Grand Island, NE in an Amount of \$35,000.00.

#2012-264 – Approving Use of Land Owned by the City of Grand Island for the Concrete Driveway and Traffic Signals to be Constructed on the Walk to Walnut Project.

#2012-265 – Approving Amending the 2012/2013 Fee Schedule – Wastewater Rates.

#2012-266 – Approving 24 Month Agreement for Five City Hall Copiers Maintenance and Supplies with Capital Business Systems, Inc./Modern Methods.

#2012-267 – Approving Amendment #1 to the Crossing Surface Installation Agreement with Burlington Northern Santa Fe (BNSF) Railway Company for Improvements at the Broadwell Avenue/BNSF Railroad Crossing in an Amount not to exceed \$20,000.00 and a Revised Contract Amount of \$51,572.00.

#2012-268 – Approving Agreement for Appraisal Services for the US-30 Drainage Improvement Project with Capital Appraisal Company, LLC in an Amount of \$1,800.00.

#2012-269 – Approving Change Order No. 1 to the Sanitary Sewer District 527T – Platte Valley Industrial Park – East with The Diamond Engineering Company of Grand Island for an Increase of \$9,572.88 and a Revised Contract Amount of \$1,272,482.44.

#2012-270 – Approving Change Order #1 for Lincoln Pool with Hausmann Construction, Inc. of Lincoln NE for a Decrease of \$8,800.00 and a Revised Contract Amount of \$1,670,200.00.

#2012-271 – Approving Neighborhood Stabilization Grant Program 09-3N-11 Budget Amendment.

#2012-272 – Approving Annual Agreement for Financial Software Licensing and Support with Tyler Technologies, Inc. in an Amount of \$131,830.71.

#### REQUESTS AND REFERRALS:

Consideration of Letter Designating Grand Island as Recipient of 5307 Urbanized Area Transit Dollars for Federal FY 2013 – Metropolitan Planning Organization (MPO). Regional Planning Director Chad Nabity reported that in March of 2012 the City of Grand Island was declared an urbanized area with a population of 50,440. The MPO will deal with both Federal Highway and Federal Transit Dollars. This request was to authorize the Mayor to sign and send a letter to the Governor of Nebraska to designate the City of Grand Island as the recipient of 5307 funds for 2013 and future budget years.

Discussion was held regarding the procedures in forming an MPO. Mr. Nabity stated there would be two boards created which would consist of a Policy Board and a Technical Board. Mentioned were these would be Federal matching dollars. The City would not take over the Hall County Transportation System or the Handi-Bus. The City budget for 2012-2013 would not need to be changed and the funding was yet to be determined.

Interim Public Works Director Terry Brown stated this was the first step in forming a MPO with many more steps to come. This would create more transit in Grand Island.

Motion by Carney, second by Nickerson to approve the letter designating Grand Island as recipient of 5307 Urbanized Area Transit Dollars for Federal FY 2013. Upon roll call vote, all voted aye. Motion adopted.

RESOLUTIONS:

#2012-273 - Consideration of Request from Turkey Maes, LLC dba Peacock Lounge, 2430 North Broadwell Avenue for a Class "C" Liquor License and Liquor Manager Designation for Lori Bohnart-Maes, 108 West Cedar, Doniphan, NE. This item is related to the aforementioned Public Hearing.

Motion by Nickerson, second by Donaldson to approve Resolution #2012-273. Upon roll call vote, all voted aye. Motion adopted.

#2012-276 – Consideration of Approving Additional Funds Necessary for the City to Meet Its Obligations Pursuant to Its Contract for Cable Consultant Services. City Attorney Robert Sivick reported that in 2006 the City Council approved the expenditure of \$87,500.00 for consulting services provided by the law firm of Moss & Barnett of Minneapolis. Due to slow progress in negotiations with Charter Communications for the renewal of the City's cable franchise agreement it was recommended to pay Moss & Barnett an additional \$8,584.672 for legal and consulting services.

Discussion was held regarding the payment and expiration of the contract. The original contract was for \$87,500. Finance Director Jaye Monter explained the payments were made through the contingency line item in the non-departmental fund.

Motion by Carney, second by Minton to approve Resolution #2012-276. Upon roll call vote, all voted aye. Motion adopted.

#2012-277 – Consideration of Approving Bid Award for Southwest Outfall drainage – Central Community College to the Wood River; Project No. 2011-D-1. Interim Public Works Director Terry Brown reported that bids were received for the Southwest Outfall drainage project. It was recommended to approve awarding a contract to Van Kirk Bros. Contracting of Sutton, NE in an amount of \$442,496.20.

Discussion was held concerning the length of time for the project. Mr. Brown stated the projected time of completion was yet this year. Drainage to Wood River and utility easements were mentioned.

Motion by Dugan, second by Ramsey to approve Resolution #2012-277. Upon roll call vote, all voted aye. Motion adopted.

#2012-278 – Consideration of Approving Purchase of 2012 Ford F250 for the Fire Department. Interim Fire Chief Russ Blackburn reported that \$70,000 was budgeted in the 2011-2012 Capital Budget to replace broken concrete on the approach to Fire Station 3 and the parking lot. Bids received were over the estimate and the funds would not be spent. It was recommended that \$31,280.00 from the 2011-2012 Fire Department Capital Budget be used to purchase a 2012 F250 pickup from Anderson Ford of Lincoln, NE.

Motion by Carney, second by Gericke to approve Resolution #2012-278. Upon roll call vote, all voted aye. Motion adopted.

PAYMENT OF CLAIMS:

Motion by Dugan, second by Nickerson to approve the Claims for the period of September 12, 2012 through September 25, 2012, for a total amount of \$6,851,177.87. Unanimously approved.

ADJOURNMENT: The meeting was adjourned at 8:55 p.m.

RaNae Edwards  
City Clerk



# **City of Grand Island**

**Tuesday, October 9, 2012**

**Council Session**

## **Item G2**

**Approving Minutes of October 2, 2012 City Council Study Session**

**Staff Contact: RaNae Edwards**

CITY OF GRAND ISLAND, NEBRASKA

MINUTES OF CITY COUNCIL STUDY SESSION

October 2, 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 October 2, 2012. Notice of the meeting was given in the *Grand Island Independent* on September 26, 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, Mitch Nickerson, Linna Dee Donaldson, Scott Dugan, Vaughn Minton and John Gericke. Councilmember Peg Gilbert was absent. The following City Officials were present: City Clerk RaNae Edwards, City Attorney Robert Sivick, Interim Public Works Director Terry Brown and Finance Director Jaye Monter.

INVOCATION was given by Community Youth Council member Alex Trejo followed by the PLEDGE OF ALLEGIANCE.

Mayor Vavricek introduced Community Youth Council member Alex Trejo and board member Liz Mayfield.

PRESENTATION:

Grand Island Fire Department Pinning Ceremony for Fire Chief Cory Schmidt. Mayor Vavricek presented Fire Chief Cory Schmidt with his Fire Chief badge at a pinning ceremony. Present were his family and several firefighters. Fire Chief Schmidt thanked those present for the opportunity to serve as the next Fire Chief.

SPECIAL ITEMS:

Discussion Concerning Renewal of City's Cable Franchise Agreement with Charter Communications. City Attorney Robert Sivick reported that the City was in negotiations with Charter Communication which stalled due to a bankruptcy. Mentioned was that Moss & Barnett of Minneapolis was hired for legal and consulting services and an agreement had been reached.

Tom Bordwell, Director of Government Relations and Rex Buettgenbach, Director of Operations with Charter Communications commented on the agreement with the City and Charter Communications. A 15 year agreement had been negotiated and will be brought to Council for approval on October 9, 2012.

Cory Gierhard, 123 South Webb Road spoke of a potential opportunity that would benefit the City and the schools. Other cities had required a franchise agreement to include fiber optics and network connections for all city buildings and public schools.

Discussion was held regarding the improvements throughout the city in the last few months by Charter and if the dead spaces would be covered. Mr. Buettgenbach stated there were processes in place to target the dead spaces. The rebuild that had taken place was under the current franchise agreement. Mr. Sivick stated the proposed agreement had provisions to take care of the dead spaces.

Capacity was mentioned at 750 MHz with a minimum of 550 MHz. Mr. Bordwell explained the network and bandwidth. It was mentioned that the City should be at industry standards. Mr. Sivick stated industry standards were a vague term and he would rather see a minimum MHz in the agreement. Explained were the changes in the agreement from the previous agreement.

Cory Gierhard explained the option that Charter provide public buildings with network connection and internet services.

Mentioned was the length of time for the contract and the changes that had taken place and may take place in the future. Mr. Sivick stated there was a Performance Guarantee in the agreement. Mr. Bordwell commented on the public building connections. Governmental facilities and schools would receive free cable television service. The agreement sets the franchise fee for the City at 5%. It would increase the Public, Educational and Government (PEG) channels from two to three with a forty cent fee per subscriber, per month.

Mr. Bordwell stated the customer would drive the future of the cable industry. Mr. Sivick explained Article XX with regards to Termination and Article XXIII relative to Periodic Reevaluation and Renegotiations.

Discussion Concerning Residency Requirements for City Department Directors at the Request of Councilmember Chuck Haase. Councilmember Haase stated the reason he brought this forward was the difference in what was in the Personnel Rules, what was approved by the City Council and inconsistency in this issue. Explained were the events that had taken place since 2001.

Human Resources Director Brenda Sutherland explained different departments had different regulations with regards to the number of miles an employee could live outside the City. Explained was the meeting of December 4, 2001 which extended the Department Directors residency to within ten miles of the zoning jurisdiction. Mr. Sivick stated that if the Council decided to change the residency requirement it would not affect any current department director as they would be grandfathered in under current law.

Discussion was held regarding the different departments and residency requirements. It was stated that the only mention of zoning jurisdiction was related to department directors. Comments were made concerning the importance of living in the community for department directors. Generally the courts were prone to strike down residency requirements.

Joyce Haase, 3024 Colonial Lane commented about the money the city would be losing if all department directors lived outside the city limits. If you work for the city you should live in the city. Mentioned was that if you were a Councilmember you had to live within a Ward.

Ms. Sutherland stated this issue could be brought back to Council for a decision at the October 9, 2012 City Council meeting. It was suggested that we start with what's on the books currently and then Council could make changes at that meeting.

Discussion Concerning Proposed Ordinance Prohibiting Discrimination Based on Sexual Orientation at the Request of Councilmember Larry Carney. Councilmember Larry Carney explained how he came involved in this topic. Mentioned was the trend in American law to expand the Civil Rights protection to include sexual orientation.

Brian Whitecalf, 1506 N. St. Paul Road spoke in support of including an ordinance prohibiting discrimination based on sexual orientation.

Mentioned was that every class of citizen could be included in a protected class and this might not be the time to bring this forward. It was stated that no one should discriminate for any reason. Proving an infraction for sexual orientation through an ordinance would be hard to enforce.

Mr. Sivick stated the way to prove discrimination would be the way you prove for other protected classes and gave several examples. Explained was why churches were exempt. At the request of Mayor Vavricek, Mr. Sivick explained the Home Rule Charter which Lincoln and Omaha served under. The Council could either pass an ordinance or put it on the ballot.

Mayor suggested that a broad discussion should be held before this was brought forward. Councilmember Carney disagreed. Discussion was held regarding a possible date for this to be brought forward. Councilmember Carney requested this be brought before Council at the October 9, 2012 Council meeting.

Marian Bahensky, St. Paul, NE and Richard Maciejewski, 2650 New York Avenue stated sexual orientation was not a choice and supported this as a protected class.

ADJOURNMENT: The meeting was adjourned at 9:20 p.m.

RaNae Edwards  
City Clerk



# City of Grand Island

Tuesday, October 9, 2012

Council Session

## Item G3

### **Approving Re-Appointments of Julie Connelly and Karen Bredthauer to the Regional Planning Commission Board**

*The Mayor has submitted the re-appointments of Julie Connelly and Karen Bredthauer to the Regional Planning Commission Board. These appointments would become effective November 1, 2012 upon approval by the City Council and would expire on October 31, 2015.*

*Approval is recommended.*

**Staff Contact: Mayor Jay Vavricek**



# City of Grand Island

Tuesday, October 9, 2012

Council Session

## Item G4

**#2012-259 - Approving Preliminary and Final Plat and Subdivision Agreement for Hornady Second Subdivision**

Staff Contact: Chad Nabity

# **Council Agenda Memo**

**From:** Regional Planning Commission

**Meeting:** September 25, 2012

**Subject:** Hornady Second Subdivision - Preliminary & Final Plat

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

**Presenter(s):** Chad Nabity AICP, Regional Planning Director

## **Background**

This property is located north of Stolley Park and west of Arthur Street. This final plat proposes to create 23 Lots on a replat of Lots 2, 3, 4, and 5 Hornady Subdivision in the City of Grand Island, in part of the Southeast Quarter of the Southeast Quarter (SE1/4, SE1/4 of Section Twenty (20), Township Eleven (11) North, Range Nine (9) West of the 6<sup>th</sup> P.M., in the City of Grand Island, Hall County, Nebraska, said tract containing 7.822 acres.

## **Discussion**

The revised plat for Hornady Second Subdivision Preliminary & Final Plat was considered by the Regional Planning Commission at the September 5, 2012 meeting.

A motion was made by Ruge and seconded by Reynolds to approve the plat as presented.

A roll call vote was taken and the motion passed with 10 members present and voting in favor (Amick, Eriksen, Connelly, McCarty, Snodgrass, O'Neill, Bredthauer, Ruge, Reynolds and Haskins) and no one voting against.

## **Alternatives**

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

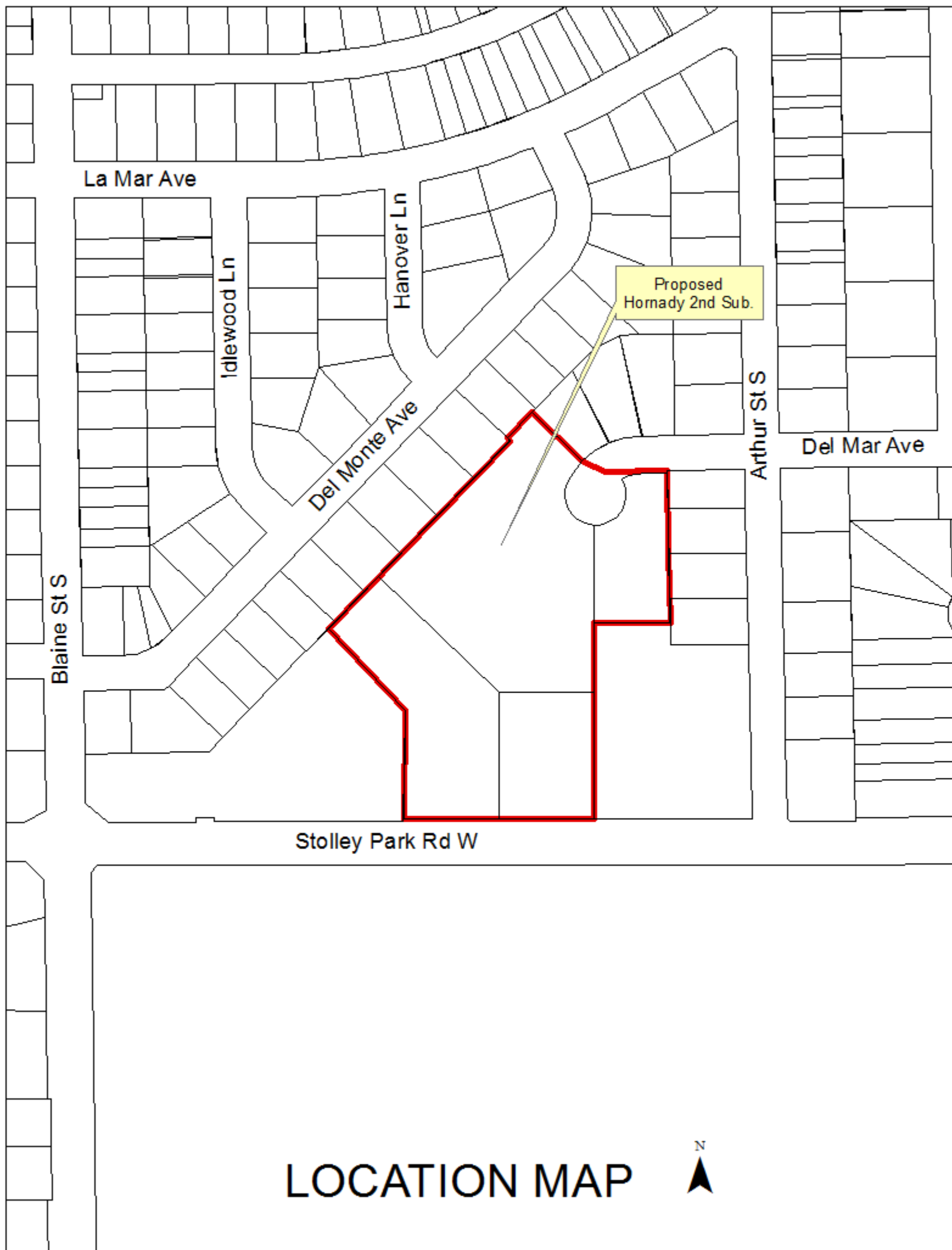
1. Move to approve
2. Refer the issue to a Committee
3. Postpone the issue to future date
4. Take no action on the issue

### **Recommendation**

City Administration recommends that the Council approve the final plat as presented.

### **Sample Motion**

Move to approve as recommended.



**Sterling Estates Second Subdivision**  
**Developer/Owner**

JEH Holdings LLC  
2517 Apache Road  
Grand Island NE 68801

To create 23 lots north of Stolley Park Road and west of Arthur Street, in the City of Grand Island, in Hall County, Nebraska.

**Size:** 7.822 acres

**Zoning:** RD – Residential Development Zone

**Road Access:** City Roads

**Water Public:** City water is available

**Sewer Public:** City sewer is available



RESOLUTION 2012-259

WHEREAS, JEH HOLDINGS, LLC, being the said owner of the land described hereon, have caused same to be surveyed, subdivided, platted and designated as "HORNADY SECOND SUBDIVISION", to be laid out into 23 lots, a replat of Lots 2, 3, 4 and 5, Hornady Subdivision in the City of Grand Island, in Part of the Southeast Quarter of the Southeast Quarter (SE1/4, SE1/4) of Section Twenty (20), Township Eleven (11) North, Range Nine (9) West of the 6<sup>th</sup> P.M., in the City of Grand Island, Hall County Nebraska, and has caused a plat thereof to be acknowledged by it; and

WHEREAS, a copy of the plat of such subdivision has been presented to the Boards of Education of the various school districts in Grand Island, Hall County, Nebraska, as required by Section 19-923, R.R.S. 1943; and

WHEREAS, a form of subdivision agreement has been agreed to between the owner of the property and the City of Grand Island.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the form of subdivision agreement hereinbefore described is hereby approved, and the Mayor is hereby authorized to execute such agreement on behalf of the City of Grand Island.

BE IT FURTHER RESOLVED that the final plat of HORNADY SECOND SUBDIVISION, as made out, acknowledged, and certified, is hereby approved by the City Council of the City of Grand Island, Nebraska, and the Mayor is hereby authorized to execute the approval and acceptance of such plat by the City of Grand Island, Nebraska.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, October 9, 2012.

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

Attest:

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

Approved as to Form	☐ _____
October 5, 2012	☐ City Attorney



# City of Grand Island

Tuesday, October 9, 2012

Council Session

## Item G5

**#2012-280 - Approving Final Plat and Subdivision Agreement for  
DSK Second Subdivision**

Staff Contact: Chad Nabity

# **Council Agenda Memo**

**From:** Regional Planning Commission

**Meeting:** October 9, 2012

**Subject:** DSK Second Subdivision - Final Plat

**Item #'s:** G-5

**Presenter(s):** Chad Nabity AICP, Regional Planning Director

## **Background**

This property is located north of Bismark Road and south of Stoneridge Path. This final plat proposes to create 2 Lots on a tract of land comprising all of Lot Two (2), DSK Subdivision and all of Lot Thirteen (13), Eaglewood Acres Subdivision, all located in a part of the Southwest Quarter of the Southeast Quarter (SW1/4 SE1/4), of Section Thirteen (13), Township Eleven (11) North, Range Nine (9) West of the 6<sup>th</sup> P.M., in the City of Grand Island, Hall County, Nebraska, said tract containing 3.250 acres.

## **Discussion**

The revised plat for DSK Second Subdivision Final Plat was considered by the Regional Planning Commission at the October 3, 2012 meeting.

A motion was made by Bredthauer and seconded by Reynolds to approve the plat as presented.

A roll call vote was taken and the motion passed with 9 members present and voting in favor (McCarty, O'Neill, Ruge, Hayes, Reynolds, Haskins, Eriksen, Connelly, and Bredthauer) and no one voting against.

## **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 final plat as presented.

### **Sample Motion**

Move to approve as recommended.



**DSK Second Subdivision**  
**Developer/Owner**

Danny Kunze  
4318 E Bismark Rd  
Grand Island NE 68801

To create 2 lots north of Bismark Ave., and south of Stoneridge Path, in the City of Grand Island, in Hall County, Nebraska.

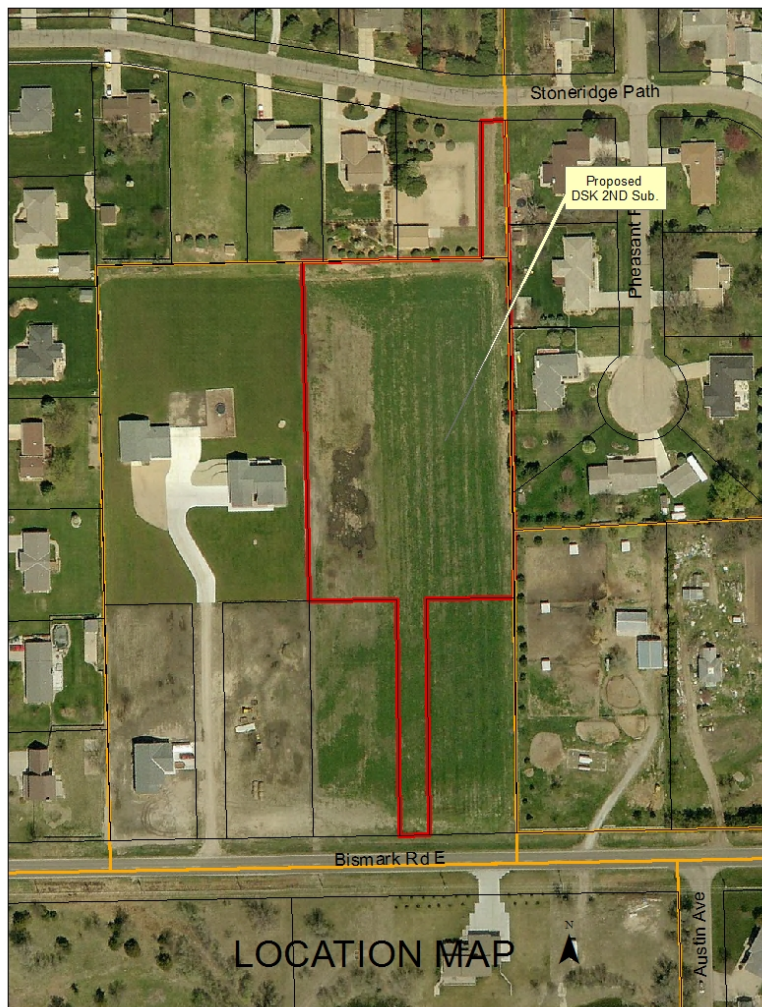
**Size:** 3.250 acres

**Zoning:** LLR – Large Lot Residential

**Road Access:** City Roads

**Water Public:** City water is not available

**Sewer Public:** City sewer is not available



RESOLUTION 2012-280

WHEREAS, Danny Kunze and Susan M. Kunze, husband and wife, being the owners of the land described hereon, have caused same to be surveyed, subdivided, platted and designated as "DSK SECOND SUBDIVISION", to be laid out into 2 lots, a tract of land comprising all of Lot Two (2), DSK Subdivision and all of Lot Thirteen (13), Eaglewood Acres Subdivision, all located in a part of the Southwest Quarter of the Southeast Quarter (SW1/4 SE1/4), of Section Thirteen (13) Township Eleven (11) North, Range Nine (9) West of the 6<sup>th</sup> P.M., in the City of Grand Island, Hall County Nebraska, and has caused a plat thereof to be acknowledged by it; and

WHEREAS, a copy of the plat of such subdivision has been presented to the Boards of Education of the various school districts in Grand Island, Hall County, Nebraska, as required by Section 19-923, R.R.S. 1943; and

WHEREAS, a form of subdivision agreement has been agreed to between the owner of the property and the City of Grand Island.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the form of subdivision agreement hereinbefore described is hereby approved, and the Mayor is hereby authorized to execute such agreement on behalf of the City of Grand Island.

BE IT FURTHER RESOLVED that the final plat of DSK SECOND SUBDIVISION, as made out, acknowledged, and certified, is hereby approved by the City Council of the City of Grand Island, Nebraska, and the Mayor is hereby authorized to execute the approval and acceptance of such plat by the City of Grand Island, Nebraska.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, October 9, 2012.

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

Attest:

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

Approved as to Form	☐ _____
October 5, 2012	☐ City Attorney



# City of Grand Island

Tuesday, October 9, 2012

Council Session

## Item G6

**#2012-281 - Approving Final Plat and Subdivision Agreement for Lake Heritage Third Subdivision**

Staff Contact: Chad Nabity

# **Council Agenda Memo**

**From:** Regional Planning Commission

**Meeting:** October 9, 2012

**Subject:** Lake Heritage Third - Final Plat

**Item #'s:** G-6

**Presenter(s):** Chad Nabity AICP, Regional Planning Director

## **Background**

This property is located south of US Hwy 34 and east of Blaine Street. This final plat proposes to create 3 Lots on a part of Outlot A, Lake Heritage Second Subdivision in the Northwest Quarter (NW1/4) of the Northwest Quarter (NW1/4) of Section Thirty Three (33), Township Eleven (11) North, Range Nine (9) West of the 6<sup>th</sup> P.M., in the City of Grand Island, Hall County, Nebraska, said tract containing 9.43 acres.

## **Discussion**

The revised plat for Lake Heritage Third Subdivision Final Plat was considered by the Regional Planning Commission at the October 3, 2012 meeting.

A motion was made by Ruge and seconded by Connely to approve the plat as presented.

A roll call vote was taken and the motion passed with 9 members present and voting in favor (McCarty, O'Neill, Ruge, Hayes, Reynolds, Haskins, Eriksen, Connelly, and Bredthauer) and no one voting against.

## **Alternatives**

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

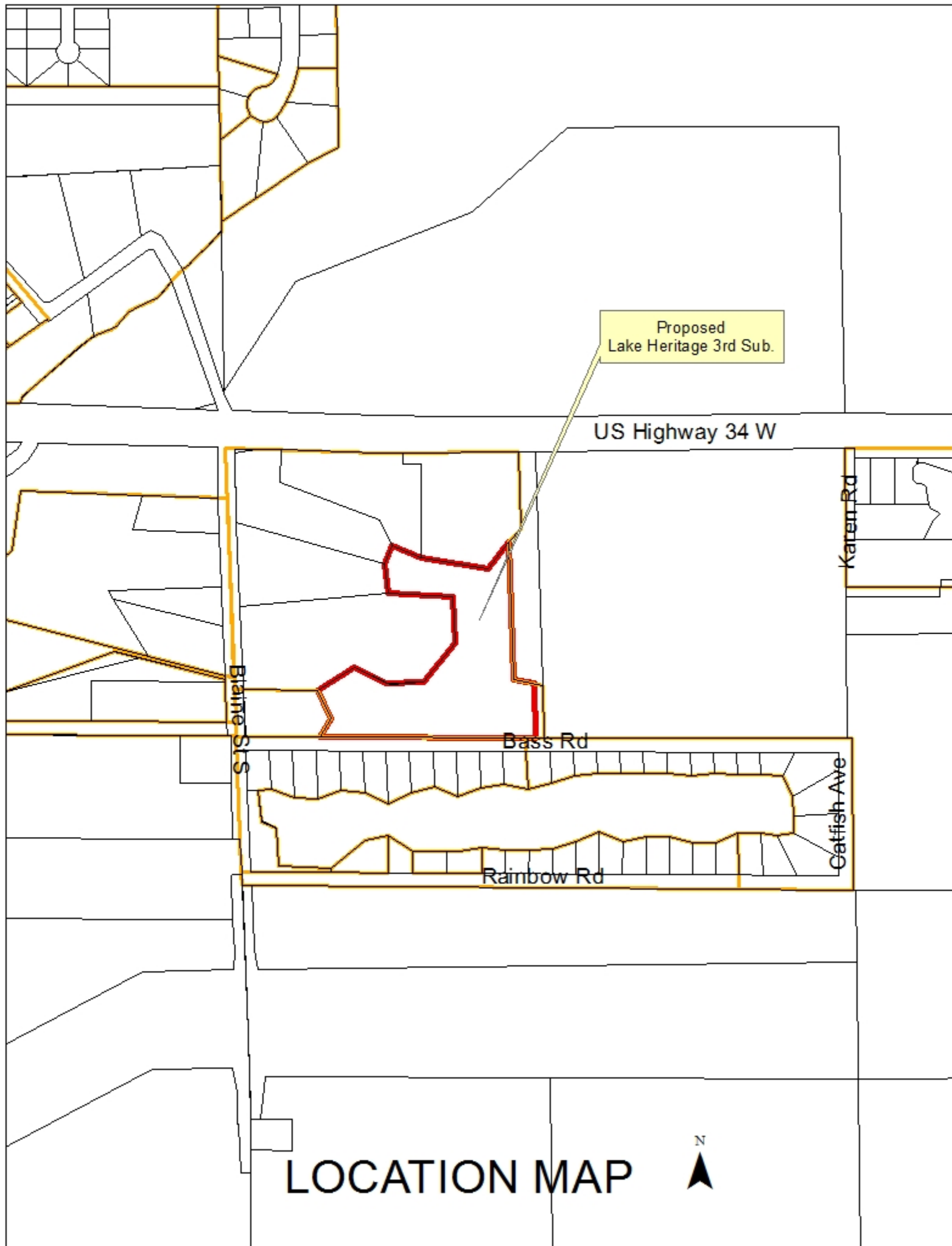
1. Move to approve
2. Refer the issue to a Committee
3. Postpone the issue to future date
4. Take no action on the issue

### **Recommendation**

City Administration recommends that the Council approve the final plat as presented.

### **Sample Motion**

Move to approve as recommended.



**Doralene Niedfelt**  
**Developer/Owner**

Doralene Niedfelt  
1515 W Hwy 34  
Grand Island NE 68801

To create 3 lots south of US Hwy 34 and east of Blaine Street, in the City of Grand Island, in Hall County, Nebraska.

**Size:** 9.43 acres

**Zoning:** LLR - Large Lot Residential

**Road Access:** City Roads

**Water Public:** City water will be available as extension will be required with this subdivision

**Sewer Public:** City sewer is available



RESOLUTION 2012-281

WHEREAS, Doralene F. Niedfelt Revocable Trust, Soralene F. Niedfelt, Trustee being the said owner of the land described hereon, have caused same to be surveyed, subdivided, platted and designated as "LAKE HERITAGE THIRD SUBDIVISION", to be laid out into 3 lots, a part of Outlot A, Lake Heritage Second Subdivision in the Northwest Quarter (NW1/4) of the Northwest Quarter (NW1/4) of Section Thirty Three (33), Township Eleven (11) North, Range Nine(9) West of the 6<sup>th</sup> P.M., in the City of Grand Island, Hall County Nebraska, and has caused a plat thereof to be acknowledged by it; and

WHEREAS, a copy of the plat of such subdivision has been presented to the Boards of Education of the various school districts in Grand Island, Hall County, Nebraska, as required by Section 19-923, R.R.S. 1943; and

WHEREAS, a form of subdivision agreement has been agreed to between the owner of the property and the City of Grand Island.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the form of subdivision agreement hereinbefore described is hereby approved, and the Mayor is hereby authorized to execute such agreement on behalf of the City of Grand Island.

BE IT FURTHER RESOLVED that the final plat of LAKE HERITAGE SECOND SECOND SUBDIVISION, as made out, acknowledged, and certified, is hereby approved by the City Council of the City of Grand Island, Nebraska, and the Mayor is hereby authorized to execute the approval and acceptance of such plat by the City of Grand Island, Nebraska.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, October 9, 2012.

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

Attest:

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

Approved as to Form	☐ _____
October 5, 2012	☐ City Attorney



# City of Grand Island

Tuesday, October 9, 2012

Council Session

## Item G7

**#2012-282 - Approving City Council Meeting Schedule for 2013**

Staff Contact: RaNae Edwards

# **Council Agenda Memo**

**From:** RaNae Edwards, City Clerk  
**Meeting:** October 9, 2012  
**Subject:** City Council Meeting Schedule for 2013  
**Item #'s:** G-7  
**Presenter(s):** RaNae Edwards, City Clerk

## **Background**

Grand Island City Code Chapter 2 specifies that Regular Meetings of the City Council shall be held in the Council Chambers of City Hall on the second and fourth Tuesdays of each month beginning at 7:00 p.m. City Council approved Ordinance No. 9009 on September 27, 2005 amending Chapter 2 of the Grand Island City Code allowing Study Sessions to be held at the discretion of the City Council.

## **Discussion**

The City Clerk has prepared the proposed 2013 meeting schedule. This provides for the first City Council meeting to be a Regular Meeting on Tuesday, January 8, 2013. See attached proposed meeting dates.

## **Alternatives**

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

1. Move to approve the 2013 meeting schedule as presented
2. Refer the issue to a Committee
3. Modify the 2013 meeting schedule to meet the wishes of the Council
4. Take no action on the issue

## **Recommendation**

City Administration recommends that the Council approve the proposed 2013 City Council meeting schedule.

## **Sample Motion**

Move to approve the 2013 City Council meeting schedule as proposed.

## **PROPOSED**

**2013**

### **CITY COUNCIL MEETING DATES**

January 8, 2013	July 9, 2013
January 22, 2013	July 23, 2013
February 12, 2013	August 13, 2013
February 26, 2013	August 27, 2013
March 12, 2013	September 10, 2013
March 26, 2013	September 24, 2013
April 9, 2013	October 8, 2013
April 23, 2013	October 22, 2013
May 14, 2013	November 12, 2013
May 28, 2013	November 26, 2013
June 11, 2013	December 3, 2013
June 25, 2013	December 17, 2013

RESOLUTION 2012-282

BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA that the City Council of the City of Grand Island, Nebraska will meet in the Council Chambers, 100 East First Street at 7:00 p.m. on the below-mentioned dates:

**2013 City Council Meetings:**

January 8, 2013  
January 22, 2013  
February 12, 2013  
February 26, 2013  
March 12, 2013  
March 26, 2013  
April 9, 2013  
April 23, 2013  
May 14, 2013  
May 28, 2013  
June 11, 2013  
June 25, 2013

July 9, 2013  
July 23, 2013  
August 13, 2013  
August 27, 2013  
September 10, 2013  
September 24, 2013  
October 8, 2013  
October 22, 2013  
November 12, 2013  
November 26, 2013  
December 3, 2013  
December 17, 2013

- - -

Adopted by the City Council of the City of Grand Island, Nebraska on October 9, 2012.

—

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

Attest:

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

Approved as to Form	▣ _____
October 5, 2012	▣ City Attorney



# City of Grand Island

Tuesday, October 9, 2012

Council Session

## Item G8

**#2012-283 - Approving Agreement for Funding with the Crisis Center, Inc.**

Staff Contact: Jaye Monter

# **Council Agenda Memo**

**From:** Jaye Monter, Finance Director

**Meeting:** October 9, 2012

**Subject:** Approving Funding Contracts for Outside Agencies

**Item #'s:** G-8 thru G-15

**Presenter(s):** Jaye Monter, Finance Director

## **Background**

During the June 23, 2009 City Council meeting, Council agreed to a proposal suggested in 2008 that funding for charitable organizations be reduced to zero over a five year period from the 2009 funding level. The City's 2012-2013 Budget will be the fifth and final year of Outside Agency Funding.

The Clean Community System does not fall under the reduced funding proposal. The City is authorized to establish and provide for the support of any service, facility, or system required by the Integrated Solid Waste Management Act. The City has been providing funds to the Clean Community System since 1987.

## **Discussion**

Resolutions #2012-283 through #2012-290 are agreements with these agencies to provide their services. No agreement is needed with the Central District Health Department, as there is a current inter-local agreement in place which details their services.

## **Alternatives**

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

1. Move to approve the contracts with the Outside Agencies
2. Postpone the issue to future date
3. Modify the resolution to meet the wishes of the Council

## **Recommendation**

City Administration recommends that the Council approve the Outside Agency agreements.

## **Sample Motion**

Move to approve the Funding Agreements for the Outside Agencies.

## City of Grand Island

### OUTSIDE AGENCY FUNDING

<u>ORGANIZATION</u>	<u>2009 FUNDING</u>	<u>2010 FUNDING</u>	<u>2011 FUNDING</u>	<u>2012 FUNDING</u>	<u>2013 FUNDING</u>	<u>Fund</u>
Community Humanitarian Resource (Hope Harbor)	\$4,500	\$3,600	\$2,880	\$1,800	\$900	General
Convention and Visitors Bureau	\$10,000	\$8,000	\$6,400	\$4,000	\$2,000	General
Council for International Visitors	\$1,000	\$800	\$640	\$400	\$200	General
Crisis Center	\$12,000	\$9,600	\$7,680	\$4,800	\$2,400	General
Retired and Senior Volunteer Program (RSVP) *	\$10,000	\$0	\$0	\$0	\$0	General
Senior Citizens Industries, Inc.	\$15,000	\$12,000	\$9,600	\$6,000	\$3,000	General
Multicultural Coalition	\$10,000	\$8,000	\$6,400	\$4,000	\$2,000	General
Izaak Walton Kids Fishing Derby	\$2,000	\$1,600	\$1,280	\$800	\$400	General
Totals	\$ 64,500	\$ 43,600	\$ 34,880	\$ 21,800	\$ 10,900	General

\*Note: The RSVP Program closed on March 31, 2009 and returned \$6,667 in unspent grant monies to the City.

### AGENCIES WITH WORKING RELATIONSHIPS WITH CITY DEPARTMENTS

<u>ORGANIZATION</u>	<u>2009 FUNDED</u>	<u>2010 FUNDED</u>	<u>2011 FUNDED</u>	<u>2012 FUNDED</u>	<u>2013 FUNDED</u>	
Central District Health Department	\$ 120,000	\$ 120,000	\$ 114,900	\$ 110,740	\$ 110,740	General
Clean Community Systems	\$ 20,000	\$ 20,000	\$ 20,000	\$ 20,000	\$ 20,000	Solid Waste Enterprise
Totals	\$ 140,000	\$ 140,000	\$ 134,900	\$ 130,740	\$ 130,740	
<b>TOTALS</b>	<b>\$ 204,500</b>	<b>\$ 183,600</b>	<b>\$ 169,780</b>	<b>\$ 152,540</b>	<b>\$ 141,640</b>	

## AGREEMENT

THIS AGREEMENT is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2012, by and between the **CITY OF GRAND ISLAND, NEBRASKA**, a Municipal Corporation, hereinafter referred to as “City”, and the **CRISIS CENTER, INC.**, a non-profit agency.

WHEREAS, the City is authorized pursuant to Neb. Rev. Stat. §16-246 to preserve order and secure persons or property from violence, danger and destruction; and

WHEREAS, the Crisis Center provides a 24-hour per day service for victims of family violence and sexual assault; and

WHEREAS, the City desires to contract with the Crisis Center to perform certain services associated with victims of family violence and sexual assault.

NOW, THEREFORE, in consideration of the mutual promises set forth herein, the City and the Crisis Center agree as follows:

1. RESPONSIBILITIES. The Crisis Center agrees to perform the following services pursuant to this agreement:

(A) Provide a safe shelter for victims and victims’ family members who are in danger or when there is a threat of danger.

(B) Provide emergency and support transportation to enable victims and victims’ family members to access law enforcement agencies, medical treatment, necessary support agencies, court hearings, and/or a safer environment.

(C) Provide medical attention, if needed, and obtain prescriptions (if not covered by client’s insurance or through Medicaid).

(D) Assist in filing protection orders.

(E) Provide clothing/food to persons forced to leave their home without time to pack belongings.

(F) Provide child care while the victim are seeking housing, jobs, and keeping appointments with human service agencies.

(G) Assist victims in developing plans to address goals, feelings, roadblocks and services in the community.

(H) Provide support to victims during criminal and civil court proceedings.

(I) Provide support groups to address domestic violence, sexual assault, and teen dating violence issues.

(J) Conduct presentations on date rape, dating violence, domestic violence, elder abuse, rape, acquaintance rape, incest, child abuse, and suicide issues and concerns to school groups, civic organizations and governmental agencies.

2. COMPENSATION. In consideration of the Crisis Center performing the services provided for in this agreement, the City agrees to pay the Crisis Center Two Thousand Four Hundred and No/100 Dollars (\$2,400.00). Such amount shall be paid upon the execution of this agreement by all parties, and upon approval of this agreement by the Grand Island City Council.

3. TERM. This agreement shall take effect upon its approval by the City Council and execution by the Mayor, and shall terminate on September 30, 2013.

4. LIMITATION. The Crisis Center hereby agrees that the money paid by the City hereunder shall be used solely and specifically for the purposes stated in the 2012-2013 budget presentation and approved by City Council in the 2012-2013 fiscal year City budget.

5. ENTIRE AGREEMENT. This agreement constitutes the entire agreement between the City and the Crisis Center notwithstanding any other oral agreements or understandings to the contrary and may be amended only in writing, approved and executed as required by law.

IN WITNESS WHEREOF, this agreement is executed by the respective parties.

CITY OF GRAND ISLAND, NEBRASKA,  
A Municipal Corporation,

By: \_\_\_\_\_  
Jay Vavricek, Mayor

Attest: \_\_\_\_\_  
RaNae Edwards, City Clerk

THE CRISIS CENTER, INC.,  
A Non-Profit Agency,

By: \_\_\_\_\_  
Shellie Pointer, Executive Director

STATE OF NEBRASKA            )  
  ) ss  
COUNTY OF HALL            )

On \_\_\_\_\_, 2012, before me, the undersigned, a Notary Public in and for said County and State, personally appeared Shellie Pointer, Executive Director of the Crisis Center, Inc., a Non-Profit Agency, known personally to me to be the identical person who signed the foregoing Agreement and acknowledged the execution thereof to be his/her voluntary act and deed for the purpose therein expressed.

WITNESS my hand and notarial seal the date above written.

\_\_\_\_\_  
Notary Public

RESOLUTION 2012-283

WHEREAS, the City is authorized by state law to contract with The Crisis Center, Inc., a non-profit agency, to provide services to victims of family violence and sexual assault; and

WHEREAS, the City desires to enter into a contract with The Crisis Center to provide such services to victims of family violence and sexual assault; and

WHEREAS, the City shall provide funding to The Crisis Center in the amount of \$2,400 during fiscal year 2012-2013 for performing agreed upon services as outlined in the agreement; and

WHEREAS, such funding was approved by the Mayor and City Council pursuant to adopted budget statements and annual appropriation ordinance.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the Mayor is hereby authorized and directed to sign on behalf of the City of Grand Island, an agreement by and between the City and The Crisis Center, Inc. to provide services to victims of family violence and sexual assault.

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

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, October 9, 2012.

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

Attest:

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

Approved as to Form	☐ _____
October 5, 2012	☐ City Attorney



# City of Grand Island

Tuesday, October 9, 2012

Council Session

## Item G9

### **#2012-284 - Approving Agreement for Funding with the Grand Island Area Council for International Visitors**

*This item relates to Consent item G-8.*

Staff Contact: Jaye Monter

## AGREEMENT

THIS AGREEMENT is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2012, by and between the **CITY OF GRAND ISLAND, NEBRASKA**, a Municipal Corporation, hereinafter referred to as “City”, and the **GRAND ISLAND AREA COUNCIL FOR INTERNATIONAL VISITORS**, a non-profit agency, hereinafter referred to as “CIV”.

WHEREAS, the City is authorized pursuant to Neb. Rev. Stat. §16-246 to maintain the peace, good government, and welfare of the City, and for promoting the public health, safety, convenience, comfort, morals and the general interests and welfare of the inhabitants of the city; and

WHEREAS, CIV designs and implements professional programs and provides cultural activities and home hospitality opportunities for foreign leaders, specialists and international scholars; and

WHEREAS, the City desires to contract with CIV to coordinate visits from international guests in promoting the various aspects of the community.

NOW, THEREFORE, in consideration of the mutual promises set forth herein, the City and CIV agree as follows:

1. **Responsibilities.** CIV shall maintain a group of trained persons available to coordinate arrangements with international guests to promote the Grand Island community. The City will provide administrative assistance in compiling press releases, providing agendas and fax services.

2. **Compensation.** In consideration of CIV performing the services provided for in this agreement, the City agrees to pay CIV Two Hundred and No/100 Dollars (\$200.00). Such amount to be paid upon the execution of this agreement by all parties, and approval of this agreement by the Grand Island City Council.

3. **Term.** This agreement shall take effect upon its approval by the City Council and execution by the Mayor, and shall terminate on September 30, 2013.

4. **Limitation.** CIV hereby agrees that the money paid by the City hereunder shall be used solely and specifically for the purposes stated herein and approved by City Council in the City's 2012-2013 fiscal year budget.

5. **Entire Agreement.** This agreement constitutes the entire agreement between the City and CIV notwithstanding any other oral agreements or understandings to the contrary and may be amended only in writing, approved and executed as required by law.

IN WITNESS WHEREOF, this agreement is executed by the respective parties.

CITY OF GRAND ISLAND, NEBRASKA,  
A municipal corporation,

By: \_\_\_\_\_  
Jay Vavricek, Mayor

Attest: \_\_\_\_\_  
RaNae Edwards, City Clerk

GRAND ISLAND AREA COUNCIL FOR  
INTERNATIONAL VISITORS, a Nebraska  
non-profit agency,

By: \_\_\_\_\_  
Julie Bringelson, President

STATE OF NEBRASKA            )  
  ) ss  
COUNTY OF HALL            )

On \_\_\_\_\_, 2012, before me, the undersigned, a Notary Public in and for said County and State, personally appeared Julie Bringelson, President of the Grand Island Area Council for International Visitors, a Nebraska non-profit agency, known personally to me to be the identical person who signed the foregoing Agreement and acknowledged the execution thereof to be his voluntary act and deed for the purpose therein expressed.

WITNESS my hand and notarial seal the date above written.

\_\_\_\_\_  
Notary Public

RESOLUTION 2012-284

WHEREAS, the City is authorized by state law to contract with the Grand Island Area Council For International Visitors, a non-profit agency, to provide cultural activities and home hospitality opportunities for foreign leaders, specialists and international scholars in promoting the various aspects of the Grand Island community; and

WHEREAS, the City desires to enter into a contract with the Grand Island Area Council for International Visitors to provide such services; and

WHEREAS, it is recommended that the City provide funding to the Grand Island Area Council for International Visitors in the amount of \$200 during fiscal year 2012-2013 for performing agreed upon services as outlined in the agreement; and

WHEREAS, such funding was approved by the Mayor and City Council pursuant to adopted budget statements and annual appropriation ordinance.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the Mayor is hereby authorized and directed to sign on behalf of the City of Grand Island, an agreement by and between the City and the Grand Island Area Council for International Visitors to provide funding in the amount of \$400 in support of cultural activities and home hospitality opportunities for foreign leaders, specialists and international scholars in promoting the various aspects of the Grand Island community.

BE IT FURTHER RESOLVED, that the Mayor is hereby authorized and directed to execute such contract with the Grand Island Area Council for International Visitors on behalf of the City of Grand Island.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, October 9, 2012.

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

Attest:

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

Approved as to Form	☐ _____
October 5, 2012	☐ City Attorney



# City of Grand Island

Tuesday, October 9, 2012

Council Session

## Item G10

### **#2012-285 - Approving Agreement for Funding with the Convention & Visitors Bureau**

*This item relates to Consent item G-8.*

Staff Contact: Jaye Monter

## AGREEMENT

THIS AGREEMENT is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2012, by and between the **CITY OF GRAND ISLAND, NEBRASKA**, a Municipal Corporation, hereinafter referred to as “City”, and the **GRAND ISLAND HALL COUNTY CONVENTION & VISITORS BUREAU**, a non-profit agency, hereinafter referred to as “CVB”.

WHEREAS, the City is authorized pursuant to Neb. Rev. Stat. §16-246 to maintain the peace, good government, and welfare of the City, and for promoting the public health, safety, convenience, comfort, morals and the general interests and welfare of the inhabitants of the city; and

WHEREAS, CVB promotes and markets convention business and tourism to the Grand Island/Hall County area; and

WHEREAS, the City desires to contract with CVB to continue coordination efforts to attract and pursue such convention business and tourists to this area.

NOW, THEREFORE, in consideration of the mutual promises set forth herein, the City and CVB agree as follows:

1. **Responsibilities.** CVB shall market and promote the City of Grand Island for the purpose of attracting convention business and tourists to the Grand Island community.

2. **Compensation.** In consideration of CVB performing the services provided for in this agreement, the City agrees to pay CVB Two Thousand and No/100 Dollars (\$2,000.00). Such amount to be paid upon the execution of this agreement by all parties, and approval of this agreement by the Grand Island City Council.

3. **Term.** This agreement shall take effect upon its approval by the City Council and execution by the Mayor, and shall terminate on September 30, 2013.

4. **Limitation.** CVB hereby agrees that the money paid by the City hereunder shall be used solely and specifically for the purposes stated in their budget presentation for 2012-2013 fiscal year.

5. **Entire Agreement.** This agreement constitutes the entire agreement between the City and CVB notwithstanding any other oral agreements or understandings to the contrary and may be amended only in writing, approved and executed as required by law.

IN WITNESS WHEREOF, this agreement is executed by the respective parties.

CITY OF GRAND ISLAND, NEBRASKA,  
A municipal corporation,

By: \_\_\_\_\_  
Jay Vavricek, Mayor

Attest: \_\_\_\_\_  
RaNae Edwards, City Clerk

GRAND ISLAND HALL COUNTY  
CONVENTION AND VISITORS  
BUREAU, a Nebraska non-profit agency,

By: \_\_\_\_\_  
\_\_\_\_\_, Executive Director

STATE OF NEBRASKA            )  
  ) ss  
COUNTY OF HALL            )

On \_\_\_\_\_, 2012, before me, the undersigned, a Notary Public in and for said County and State, personally appeared \_\_\_\_\_, Executive Director of the Grand Island Hall County Convention and Visitors Bureau, a Nebraska non-profit agency, known personally to me to be the identical person who signed the foregoing Agreement and acknowledged the execution thereof to be her voluntary act and deed for the purpose therein expressed.

WITNESS my hand and notarial seal the date above written.

\_\_\_\_\_  
Notary Public

RESOLUTION 2012-285

WHEREAS, the City is authorized by state law to contract with the Grand Island Hall County Convention and Visitors Bureau, a non-profit agency, to market and promote tourism and convention activities in the area; and

WHEREAS, the City desires to enter into a contract with the Grand Island Hall County Convention and Visitors Bureau to provide such services; and

WHEREAS, it is recommended that the City provide funding to the Grand Island Hall County Convention and Visitors Bureau in the amount of \$2,000 during the fiscal year 2012-2013 for performing agreed upon services as outlined in the agreement; and

WHEREAS, such funding was approved by the Mayor and City Council pursuant to adopted budget statements and annual appropriation ordinance.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the Mayor is hereby authorized and directed to sign on behalf of the City of Grand Island, an agreement by and between the City and the Grand Island Hall County Convention and Visitors Bureau to provide funding in the amount of \$4,000 in support of tourism and convention activities in the Grand Island area.

BE IT FURTHER RESOLVED, that the Mayor is hereby authorized and directed to execute such contract with the Grand Island Hall County Convention and Visitors Bureau on behalf of the City of Grand Island.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, October 9, 2012.

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

Attest:

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

Approved as to Form	☐ _____
October 5, 2012	☐ City Attorney



# City of Grand Island

Tuesday, October 9, 2012

Council Session

## Item G11

### **#2012-286 - Approving Agreement for Funding with Izaak Walton Kids Fishing Derby**

*This item relates to Consent item G-8.*

Staff Contact: Jaye Monter

## AGREEMENT

THIS AGREEMENT is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2012, by and between the **CITY OF GRAND ISLAND, NEBRASKA**, a Municipal Corporation, hereinafter referred to as "City", and the "**IZAACK WALTON KIDS FISHING DERBY**", hereinafter referred to as the Fishing Derby.

WHEREAS, the City desires to contract with the Fishing Derby to increase public awareness of fishing, to encourage youth to experience the sport first hand and to advocate an alternative activity to drugs and alcohol.

NOW, THEREFORE, in consideration of the mutual promises set forth herein, the Fishing Derby agrees to perform the services as set forth in the City budget approved on September 11, 2012.

COMPENSATION. In consideration of the Fishing Derby performing the services provided for in this agreement, the City agrees to pay the Fishing Derby Four Hundred and No/100 Dollars (400.00). Payment shall be made upon execution of this agreement by all parties, and upon approval of this agreement by the Grand Island City Council.

TERM. This agreement shall take effect upon its approval by the City Council and execution by the Mayor, and shall terminate on September 30, 2013.

LIMITATION. The Fishing Derby hereby agrees that the money paid by the City hereunder shall be used solely and specifically for the purposes stated herein.

ENTIRE AGREEMENT. This agreement constitutes the entire agreement between the City and the Fishing Derby notwithstanding any other oral agreements or understandings to the contrary and may be amended only in writing, approved and executed as required by law.

IN WITNESS WHEREOF, this agreement is executed by the respective parties.

CITY OF GRAND ISLAND, NEBRASKA,  
A Municipal Corporation,

By: \_\_\_\_\_  
Jay Vavricek, Mayor

Attest: \_\_\_\_\_  
RaNae Edwards, City Clerk

“IZAACK WALTON KIDS  
FISHING DERBY”

By: \_\_\_\_\_  
John Meister, Director

STATE OF NEBRASKA       )  
  ) ss  
COUNTY OF HALL        )

On \_\_\_\_\_, 2012, before me, the undersigned, a Notary Public in and for said County and State, personally appeared John Meister, Director of “Izaak Walton Kids Fishing Derby”, known personally to me to be the identical person who signed the foregoing Agreement and acknowledged the execution thereof to be his voluntary act and deed for the purpose therein expressed.

WITNESS my hand and notarial seal the date above written.

\_\_\_\_\_  
Notary Public

RESOLUTION 2012-286

WHEREAS, in June, 2011, the fourteenth annual “Izaak Walton Kids Fishing Derby” was held at the Nebraska Veterans Home Lake in Grand Island; and

WHEREAS, the goal of this event is to increase public awareness of fishing, to encourage youth to experience the sport first hand and to advocate an alternative activity to drugs and alcohol; and

WHEREAS, the City agrees to pay the Fishing Derby \$400 for performing agreed upon services during the 2012-2013 fiscal year as outlined in the agreement; and

WHEREAS, such funding was approved by the Mayor and City Council pursuant to adopted budget statements and annual appropriation ordinance.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the Mayor is hereby authorized and directed to sign on behalf of the City of Grand Island, an agreement by and between the City and the Fishing Derby to perform services to increase public awareness of fishing, to encourage youth to experience the sport first hand and to advocate an alternative activity to drugs and alcohol.

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

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, October 9, 2012.

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

Attest:

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

Approved as to Form	☐ _____
October 5, 2012	☐ City Attorney



# City of Grand Island

Tuesday, October 9, 2012

Council Session

## Item G12

### **#2012-287 - Approving Agreement for Funding with Hope Harbor**

*This item relates to Consent item G-8.*

**Staff Contact: Jaye Monter**

## AGREEMENT

THIS AGREEMENT is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2012, by and between the **CITY OF GRAND ISLAND, NEBRASKA**, a Municipal Corporation, hereinafter referred to as “City”, and **HOPE HARBOR**, a Nebraska non-profit corporation.

WHEREAS, the City is authorized pursuant to Neb. Rev. Stat. §16-246 to maintain the peace, good government, and welfare of the City, and for promoting the public health, safety, convenience, comfort, morals and the general interests and welfare of the inhabitants of the city; and

WHEREAS, Hope Harbor provides a variety of services to needy, homeless and near homeless families located in Grand Island; and

WHEREAS, the City desires to contract with Hope Harbor to assist in the costs of providing a transitional shelter for the needy, homeless and near homeless families of this community, and for providing emergency services to such individuals.

NOW, THEREFORE, in consideration of the mutual promises set forth herein, the City and Hope Harbor agree as follows:

1. **Responsibilities.** Hope Harbor agrees to provide and maintain a transitional shelter for the needy, homeless and near homeless families of the Grand Island community, and shall continue to provide emergency services and referrals to the needy and other service providers.

2. **Compensation.** In consideration of Hope Harbor performing the services provided for in this agreement, the City agrees to pay Hope Harbor Nine Hundred and No/100 Dollars (\$900.00). Such payment to be paid upon the execution of this agreement by all parties, and upon approval of this agreement by the Grand Island City Council.

3. **Term.** This agreement shall take effect upon its approval by the City Council and execution by the Mayor, and shall terminate on September 30, 2013.

4. **Limitation.** Hope Harbor hereby agrees that the money paid by the City hereunder shall be used solely and specifically for the purposes stated in their budget presentation for the 2012-2013 fiscal year.

5. **Entire Agreement.** This agreement constitutes the entire agreement between the City and Hope Harbor notwithstanding any other oral agreements or understandings to the contrary and may be amended only in writing, approved and executed as required by law.

IN WITNESS WHEREOF, this agreement is executed by the respective parties.

CITY OF GRAND ISLAND, NEBRASKA,  
A municipal corporation,

By: \_\_\_\_\_  
Jay Vavricek, Mayor

Attest: \_\_\_\_\_  
RaNae Edwards, City Clerk

HOPE HARBOR,  
A Nebraska non-profit corporation,

By: \_\_\_\_\_  
Melissa J. DeLaet, Executive Director

STATE OF NEBRASKA            )  
  ) ss  
COUNTY OF HALL            )

On \_\_\_\_\_, 2012, before me, the undersigned, a Notary Public in and for said County and State, personally appeared Melissa J. DeLaet, Executive Director of Hope Harbor, a Nebraska Non-Profit Corporation, known personally to me to be the identical person who signed the foregoing Agreement and acknowledged the execution thereof to be her voluntary act and deed for the purpose therein expressed.

WITNESS my hand and notarial seal the date above written.

\_\_\_\_\_  
Notary Public

RESOLUTION 2012-287

WHEREAS, the City is authorized by state law to contract with Hope Harbor, formerly known as Community Humanitarian Resource Center, a non-profit agency, to assist in the operation of a transitional homeless shelter, emergency services and referrals to the needy and other service providers in the Grand Island area; and

WHEREAS, the City desires to enter into a contract with Hope Harbor to provide such services; and

WHEREAS, the City shall provide funding to Hope Harbor in the amount of \$900 during fiscal year 2012-2013 for performing agreed upon services as outlined in the agreement; and

WHEREAS, such funding was approved by the Mayor and City Council pursuant to adopted budget statements and annual appropriation ordinance.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the Mayor is hereby authorized and directed to sign on behalf of the City of Grand Island, an agreement by and between the City and Hope Harbor to assist in the operation of the transitional homeless shelter in Grand Island and to offer emergency services and referrals to the needy and other service providers in the Grand Island area.

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

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, October 9, 2012.

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

Attest:

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

Approved as to Form	☐ _____
October 5, 2012	☐ City Attorney



# City of Grand Island

Tuesday, October 9, 2012

Council Session

## Item G13

### **#2012-288 - Approving Agreement for Funding with the Grand Island Multicultural Coalition**

*This item relates to Consent item G-8.*

Staff Contact: Jaye Monter

## AGREEMENT

THIS AGREEMENT is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2012, by and between the **CITY OF GRAND ISLAND, NEBRASKA**, a Municipal Corporation, hereinafter referred to as “City”, and **THE MULTICULTURAL COALITION**, a Nebraska non-profit corporation.

WHEREAS, the City is authorized pursuant to Neb. Rev. Stat. §16-246 to maintain the peace, good government, and welfare of the City, and for promoting the public health, safety, convenience, comfort, morals and the general interests and welfare of the inhabitants of the city; and

WHEREAS, The Multicultural Coalition was formed to respond to the needs of the increasingly culturally diverse city of Grand Island; and

WHEREAS, the City desires to contract with The Multicultural Coalition to provide a comprehensive service delivery center that serves new immigrants, reduces duplication of services, better utilizes the time of clients and service providers, eliminates barriers to services, and stretches limited financial resources of service providers.

NOW, THEREFORE, in consideration of the mutual promises set forth herein, the City and CHRC agree as follows:

1. **Responsibilities.** The Multicultural Coalition agrees to provide a comprehensive service delivery center that serves new immigrants, reduces duplication of services, better utilizes the time of clients and service providers, eliminates barriers to services, and stretches limited financial resources of service providers.

2. **Compensation.** In consideration of The Multicultural Coalition performing the services provided for in this agreement, the City agrees to pay The Multicultural Coalition Two Thousand and No/100 Dollars (\$2,000.00). Such payment to be paid upon the execution of this agreement by all parties, and upon approval of this agreement by the Grand Island City Council.

3. **Term.** This agreement shall take effect upon its approval by the City Council and execution by the Mayor, and shall terminate on September 30, 2013.

4. **Limitation.** The Multicultural Coalition hereby agrees that the money paid by the City hereunder shall be used solely and specifically for the purposes stated in their budget presentation for the 2012-2013 fiscal year.

5. **Entire Agreement.** This agreement constitutes the entire agreement between the City and The Multicultural Coalition notwithstanding any other oral agreements or

understandings to the contrary and may be amended only in writing, approved and executed as required by law.

IN WITNESS WHEREOF, this agreement is executed by the respective parties.

CITY OF GRAND ISLAND, NEBRASKA,  
A municipal corporation,

By: \_\_\_\_\_  
Jay Vavricek, Mayor

Attest: \_\_\_\_\_  
RaNae Edwards, City Clerk

THE MULTICULTURAL COALITION,  
a Nebraska non-profit corporation,

By: \_\_\_\_\_  
Carlos Barcenas, Director

STATE OF NEBRASKA            )  
  ) ss  
COUNTY OF HALL            )

On \_\_\_\_\_, 2012, before me, the undersigned, a Notary Public in and for said County and State, personally appeared Carlos Barcenas, Director of The Multicultural Coalition, a Nebraska Non-Profit Corporation, known personally to me to be the identical person who signed the foregoing Agreement and acknowledged the execution thereof to be her voluntary act and deed for the purpose therein expressed.

WITNESS my hand and notarial seal the date above written.

\_\_\_\_\_  
Notary Public

RESOLUTION 2012-288

WHEREAS, the City is authorized by state law to contract with The Multicultural Coalition, a non-profit agency, to provide for the needs of the increasingly culturally diverse city of Grand Island; and

WHEREAS, the City desires to enter into a contract with The Multicultural Coalition to provide a comprehensive service delivery center that serves new immigrants, reduces duplication of services, better utilizes the time of clients and service providers, eliminates barriers to services and stretches limited financial resources of service providers; and

WHEREAS, the City shall provide funding to The Multicultural Coalition in the amount of \$2,000 during fiscal year 2012-2013 for performing agreed upon services as outlined in the agreement; and

WHEREAS, such funding was approved by the Mayor and City Council pursuant to adopted budget statements and annual appropriation ordinance.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the Mayor is hereby authorized and directed to sign on behalf of the City of Grand Island, an agreement by and between the City and The Multicultural Coalition to provide services to the increasingly culturally diverse City of Grand Island.

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

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, October 9, 2012.

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

Attest:

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

Approved as to Form	☐ _____
October 5, 2012	☐ City Attorney



# City of Grand Island

Tuesday, October 9, 2012

Council Session

## Item G14

**#2012-289 - Approving Agreement for Funding with Senior Citizens Industries, Inc.**

*This item relates to Consent item G-8.*

Staff Contact: Jaye Monter

## AGREEMENT

THIS AGREEMENT is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2012, by and between the **CITY OF GRAND ISLAND, NEBRASKA**, a Municipal Corporation, hereinafter referred to as “City”, and **SENIOR CITIZENS INDUSTRIES, INC.**, a Nebraska non-profit corporation, hereinafter referred to as “SCI”.

WHEREAS, the City is authorized pursuant to Neb. Rev. Stat. §16-255 to contract with state agencies, political subdivisions, and private non-profit agencies to plan, initiate, operate, maintain, administer funding for, and evaluate facilities, programs and services designed to meet the needs of elderly persons; and

WHEREAS, SCI provides a variety of services to elderly and handicapped individuals; and

WHEREAS, the City desires to contract with SCI to provide the equipment, buildings, utilities and goods including food to provide services to elderly and handicapped individuals.

NOW, THEREFORE, in consideration of the mutual promises set forth herein, the City and SCI agree as follows:

1. **Responsibilities.** SCI agrees to provide the equipment, buildings, utilities and goods including food to provide services to elderly and handicapped individuals.

2. **Compensation.** In consideration of SCI performing the services provided for in this agreement, the City agrees to pay SCI Three Thousand and No/100 Dollars (\$3,000.00). Such payment to be paid upon the execution of this agreement by all parties, and upon approval of this agreement by the Grand Island City Council.

3. **Term.** This agreement shall take effect upon its approval by the City Council and execution by the Mayor, and shall terminate on September 30, 2013.

4. **Limitation.** SCI hereby agrees that the money paid by the City hereunder shall be used solely and specifically for the purposes stated in their budget presentation for the 2012-2013 fiscal year.

5. **Entire Agreement.** This agreement constitutes the entire agreement between the City and SCI notwithstanding any other oral agreements or understandings to the contrary and may be amended only in writing, approved and executed as required by law.

IN WITNESS WHEREOF, this agreement is executed by the respective parties.

CITY OF GRAND ISLAND, NEBRASKA,  
A municipal corporation,

By: \_\_\_\_\_  
Jay Vavricek, Mayor

Attest: \_\_\_\_\_  
RaNae Edwards, City Clerk

SENIOR CITIZENS INDUSTRIES, INC.,  
a Nebraska non-profit corporation,

By: \_\_\_\_\_  
Theresa Engelhardt, Executive Director

STATE OF NEBRASKA            )  
  ) ss  
COUNTY OF HALL            )

On \_\_\_\_\_, 2012, before me, the undersigned, a Notary Public in and for said County and State, personally appeared Theresa Engelhardt, Executive Director of the Senior Citizens Industries, Inc., a Nebraska Non-Profit Corporation, known personally to me to be the identical person who signed the foregoing Agreement and acknowledged the execution thereof to be his/her voluntary act and deed for the purpose therein expressed.

WITNESS my hand and notarial seal the date above written.

\_\_\_\_\_  
Notary Public

RESOLUTION 2012-289

WHEREAS, the City is authorized by state law to contract with Senior Citizens Industries, Inc., a Nebraska non-profit corporation, to provide the equipment, buildings, utilities and goods including food to provide services to elderly and handicapped individuals; and

WHEREAS, the City desires to enter into a contract with Senior Citizens Industries, Inc. to provide such services; and

WHEREAS, the City shall provide funding to Senior Citizens Industries in the amount of \$3,000 during fiscal year 2012-2013 for performing agreed upon services as outlined in the agreement; and

WHEREAS, such funding was approved by the Mayor and City Council pursuant to adopted budget statements and annual appropriation ordinance.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the Mayor is hereby authorized and directed to sign on behalf of the City of Grand Island, an agreement by and between the City and Senior Citizen Industries, Inc. to provide the equipment, buildings, utilities and goods including food to provide services to elderly and physically challenged individuals.

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

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, October 9, 2012.

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

Attest:

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

Approved as to Form	☐ _____
October 5, 2012	☐ City Attorney



# City of Grand Island

Tuesday, October 9, 2012

Council Session

## Item G15

### **#2012-290 - Approving Agreement for Funding with Clean Community System**

*This item relates to Consent item G-8.*

Staff Contact: Jaye Monter

## AGREEMENT

THIS AGREEMENT is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2012, by and between the **CITY OF GRAND ISLAND, NEBRASKA**, a Municipal Corporation, hereinafter referred to as “City”, and **GRAND ISLAND AREA - CLEAN COMMUNITY SYSTEM**, hereinafter referred to as “CCS”.

WHEREAS, the City is authorized to establish and provide for the support of any service, facility, or system required by the Integrated Solid Waste Management Act pursuant to the authority of Section 13-2021 of the Nebraska Revised Statutes, as amended; and

WHEREAS, the Integrated Solid Waste Management Act requires the implementation of a solid waste management plan to provide for a local waste reduction and recycling program; and

WHEREAS, the CCS actively educates the public on recycling and solid waste and other environmental issues, and provides an educational resource center on such issues; and

WHEREAS, the City desires to and the City Council has approved such expenses within the 2012-2013 fiscal year's budget adopted by City Council on September 11, 2012 to contract with CCS to perform certain services associated with environmental, solid waste and recycling matters.

NOW, THEREFORE, in consideration of the mutual promises set forth herein, the City and the CCS agree as follows:

1. **RESPONSIBILITIES.** The CCS agrees to perform the following services pursuant to this agreement:

(A) Develop and print 20,000 utility bill inserts three to four times per year on environmental issues.

(B) Develop and print 20,500 recycling brochures annually, updating recycling opportunities in Grand Island.

(C) Work with local recyclers to identify public misunderstanding of existing recycling programs. Assist in providing public education to maximize recycling program use and minimize problems.

(D) Foster and support corridor litter controls and beautification groups and organizations.

(E) Provide and maintain information on environmental/recycling issues and concerns.

(F) Provide consulting services to implement integrated solid waste plans.

(G) Endorse and encourage recycling through educational presentations.

(H) Conduct presentations on environmental issues and concerns to school groups, civic organizations and governmental agencies.

(I) Coordinate community clean-ups with Grand Island Solid Waste Superintendent.

(J) Work with the Solid Waste Superintendent to collect and evaluate recycling/diversion data from local recyclers.

2. COMPENSATION. In consideration of the CCS performing the services provided for in this agreement, the City agrees to pay the CCS Twenty Thousand and No/100 Dollars (\$20,000.00). Payment shall be made upon execution of this agreement by all parties, and upon approval of this agreement by the Grand Island City Council.

3. TERM. This agreement shall take effect upon its approval by the City Council and execution by the Mayor, and shall terminate on September 30, 2013.

4. LIMITATION. CCS hereby agrees that the money paid by the City hereunder shall be used solely and specifically for the purposes stated herein.

5. ENTIRE AGREEMENT. This agreement constitutes the entire agreement between the City and CCS notwithstanding any other oral agreements or understandings to the contrary and may be amended only in writing, approved and executed as required by law.

IN WITNESS WHEREOF, this agreement is executed by the respective parties.

CITY OF GRAND ISLAND, NEBRASKA,  
A Municipal Corporation,

By: \_\_\_\_\_  
Jay Vavricek, Mayor

Attest: \_\_\_\_\_  
RaNae Edwards, City Clerk

GRAND ISLAND AREA - CLEAN  
COMMUNITY SYSTEM

By: \_\_\_\_\_  
\_\_\_\_\_, Executive Coordinator

STATE OF NEBRASKA                    )  
  ) ss  
COUNTY OF HALL                    )

On \_\_\_\_\_, 2012, before me, the undersigned, a Notary Public in and for said County and State, personally appeared \_\_\_\_\_, Executive Coordinator for the Grand Island Area - Clean Community System, known personally to me to be the identical person who signed the foregoing Agreement and acknowledged the execution thereof to be her voluntary act and deed for the purpose therein expressed.

WITNESS my hand and notarial seal the date above written.

\_\_\_\_\_  
Notary Public

RESOLUTION 2012-290

WHEREAS, the City is authorized to establish and provide for the support of any service, facility or system required by the Integrated Solid Waste Management Act; and

WHEREAS, the City desires to contract with Grand Island Area – Clean Community System to perform certain services associated with environmental education which are required by the Integrated Solid Waste Management Act; and

WHEREAS, the City agrees to pay Grand Island Area – Clean Community System \$20,000 for performing agreed upon services during the 2012-2013 fiscal year as outlined in the agreement; and

WHEREAS, such funding was approved by the Mayor and City Council pursuant to adopted budget statements and annual appropriation ordinance.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the Mayor is hereby authorized and directed to sign on behalf of the City of Grand Island, an agreement by and between the City and Grand Island Area – Clean Community System to perform services associated with environmental education.

BE IT FURTHER RESOLVED, that the Mayor is hereby authorized and directed to execute such contract with Grand Island Area – Clean Community System on behalf of the City of Grand Island.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, October 9, 2012.

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

Attest:

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

Approved as to Form	☐ _____
October 5, 2012	☐ City Attorney



# City of Grand Island

Tuesday, October 9, 2012

Council Session

## Item G16

### **#2012-291 - Approving Acquisition of Utility Easement - GI Area Economic Development Corp. - Millard Warehouse**

*This item relates to the aforementioned Public Hearing item E-1.*

Staff Contact: Tim Luchsinger, Utilities Director

## RESOLUTION 2012-291

WHEREAS, a public utility easement is required by the City of Grand Island, from Grand Island Area Economic Development Corporation, to survey, construct, inspect, maintain, repair, replace, relocate, extend, remove, and operate thereon, public utilities and appurtenances, including lines and transformers; and;

WHEREAS, a public hearing was held on October 9, 2012, for the purpose of discussing the proposed acquisition of an easement twenty feet in width, the centerline of which is located in the City of Grand Island, Hall County, Nebraska; and more particularly described as follows:

Commencing at the northeast corner of the West Half of the East Half of the Southwest Quarter (W1/2, E1/2, SW1/4), Section Four (4), Township Eleven (11) North, Range Nine (9) West; thence southerly along the easterly line of the West Half of the East Half of the Southwest Quarter (W1/2, E1/2, SW1/4) said Section Four (4), a distance of one thousand nine hundred twenty eight and seventy nine hundredths (1,928.79) feet; thence westerly and perpendicular to the easterly line of the West Half of the East Half of the Southwest Quarter (W1/2, E1/2, SW1/4) said Section Four (4), a distance of ten (10.0) feet to the ACTUAL Point of Beginning; thence southerly and ten (10.0) feet parallel with the easterly line of the West Half of the East Half of the Southwest Quarter (W1/2, E1/2, SW1/4), said Section Four (4), a distance of ninety two and five hundredths (92.05) feet; thence deflecting left 26°23'51" and running in a southeasterly direction, a distance of two hundred eighty five and sixty six hundredths (285.66) feet a point on the northerly right-of-way line of the Burlington Northern Santa Fe Railway. The side lines of the above described tract shall be prolonged or shortened as required to terminate on the northern boundary of said Rail Road Right-of-Way.

The above-described easement and right-of-way containing 0.16 acres, more or less, as shown on the plat dated 9/20/2012, marked Exhibit "A" attached hereto and incorporated herein by reference.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the City of Grand Island be, and hereby is, authorized to acquire a public utility easement from the Grand Island Area Economic Development Corporation, on the above-described tract of land.

- - -

Approved as to Form	by _____
October 5, 2012	City Attorney

Adopted by the City Council of the City of Grand Island, Nebraska, October 9, 2012.

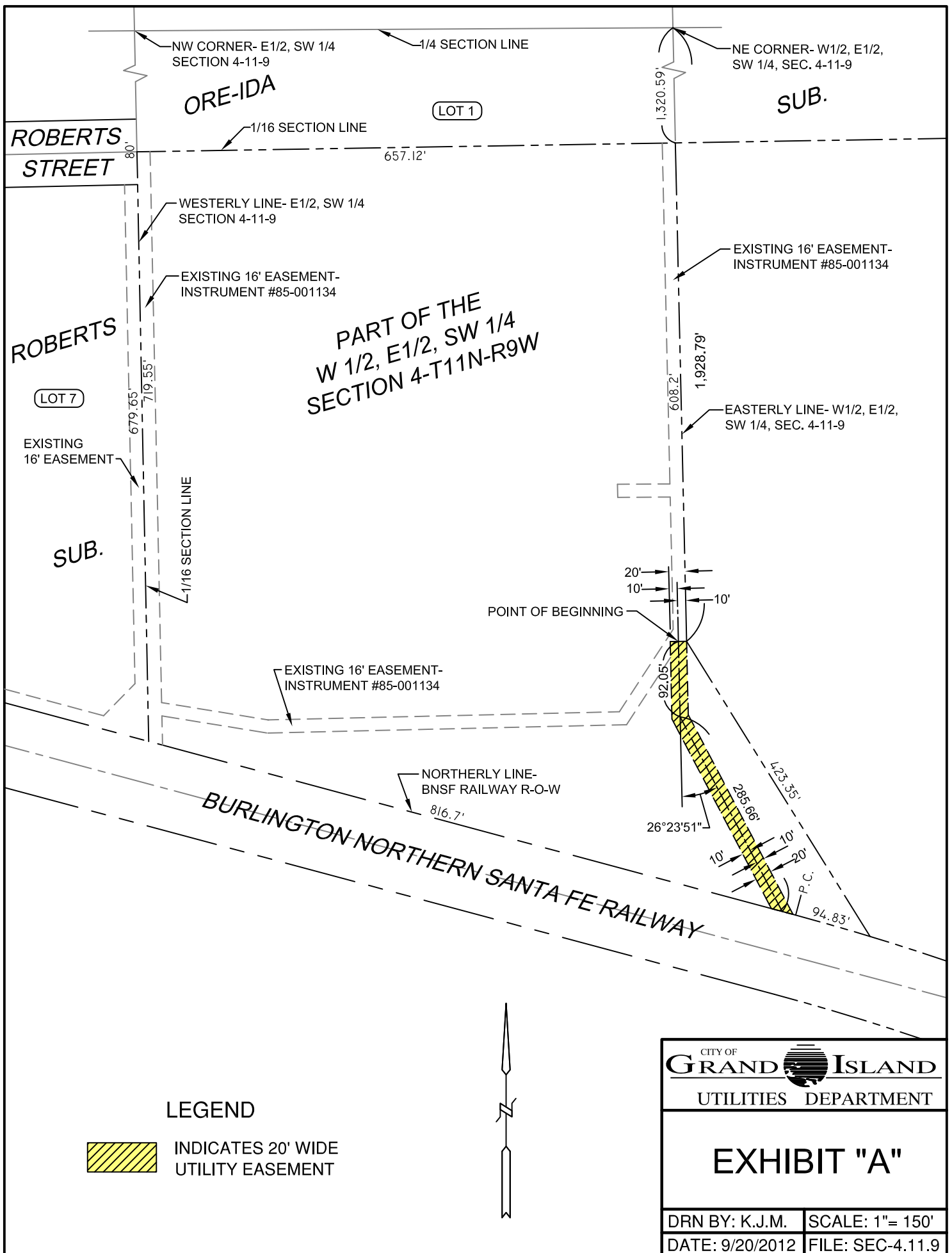
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Jay Vavricek, Mayor

Attest:

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RaNae Edwards, City Clerk





# City of Grand Island

Tuesday, October 9, 2012

Council Session

## Item G17

**#2012-292 - Approving Agreement for Temporary Construction Easements for the Southwest Outfall Drainage Project No. 2011-D-1**

Staff Contact: Terry Brown, Interim Public Works Director

# **Council Agenda Memo**

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

**Meeting:** October 9, 2012

**Subject:** Approving Agreement for Temporary Construction Easements for the Southwest Outfall Drainage Project No. 2011-D-1

**Item #'s:** G-17

**Presenter(s):** Terry Brown, Interim Public Works Director

## **Background**

The Southwest Outfall Drainage project will intercept drainage from the US Highway 281 area southwest of the Brentwood area and take the storm water east towards the Wood River in accordance with the drainage plan prepared for this area in 1978.

Temporary Construction easements are necessary for this project to be completed, which must be approved by City Council.

## **Discussion**

The planned work, as stated in the background will aid in alleviating flooding that occurs in the Brentwood area during high rainfall events. A temporary construction easement will be needed from 3 property owners in this drainage project area. All easement documents have been signed and returned by the property owners. Authorization of the easement documents is contingent upon City Council approval.

## **Alternatives**

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

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

## **Recommendation**

City Administration recommends that the Council approve the Agreement for Temporary Construction Easements between the City of Grand Island, Public Works Department and the affected property owners in the Southwest Outfall Drainage Project No. 2011-D-1 area.

## **Sample Motion**

Move to approve the Temporary Construction Easements.

## RESOLUTION 2012-292

WHEREAS, temporary easements are required by the City of Grand Island, from the affected property owners in the Southwest Outfall Drainage Project No. 2011-D-1 area, as follows:

Clark Gauthier –

### Easement No. 1 Description

Consisting of part of Lot 5 of Riverside Farm Fourth Subdivision, Located in the Southeast Quarter (SE1/4) of Section 29, Township 11 North, Range 9 west of the 6<sup>th</sup> P.M., City of Grand Island, Hall County, Nebraska and more particularly described as follows:

Commencing at the south corner of said Lot 5, said point being on the north right-of-way (R.O.W.) line of Highway 34; thence on an assumed bearing of N03°09'15"W along a westerly line of said Lot 5 a distance of 12.17 feet to the point of beginning; thence continuing along said westerly line N03°09'15"W a distance of 11.69 feet to the southwest corner of City of Grand Island Drainage Project 2011-D-1 permanent drainage easement; thence S89°57'04"E along the south line of said permanent drainage easement a distance of 33.29 feet to the southeast corner of said permanent drainage easement, said point also being on a easterly line of said Lot 5; thence S53°20'59"W along said easterly line a distance of 19.69 feet; thence N89°37'13"W a distance of 16.85 feet to the pint of beginning. Said temporary construction easement contains 294.24 square feet or 0.01 acres more or less.

### Easement No. 2 Description

Consisting of part of Lot 5 of Riverside Farm Fourth Subdivision, located in the Southeast Quarter (SE ¼) of Section 29, Township 11 North, Range 9 West of the 6<sup>th</sup> P.M., City of Grand Island, Hall County, Nebraska and more particularly described as follows:

Commencing at the south corner of said Lot 5, said point also being on the north right-of-way (R.O.W.) line of Highway 34; thence on an assumed bearing of N03°09'15"W along a westerly line of said Lot 5 a distance of 63.92 feet to the northwest corner of City of Grand Island Drainage Project 2011-D-1 permanent drainage easement, said point also being the point of beginning; thence continuing along said westerly line N03°09'15"W a distance of 17.60 feet; thence S88°36'46"E a distance of 110.34 feet to a point on a easterly line of said Lot 5; thence S53°20'59"W along said easterly line a distance of 25.10 feet to the northeast corner of said City of Grand island permanent drainage easement; thence N89°57'04"W along the north line of said permanent drainage easement a distance of 89.20 feet to the point of beginning. Said temporary construction easement contains 1637.16 square feet or 0.04 acres more or less.

Carl & Lori Armstrong –

### Easement No. 1 Description

Consisting of a part of Lot 1 of Riverside Farm Fourth Subdivision, Located in the Southeast Quarter (SE1/4) of Section 29, Township 11 North, Range 9 west of the 6<sup>th</sup> P.M., City of Grand Island, Hall County, Nebraska and more particularly described as follows:

Approved as to Form	▣ _____
October 5, 2012	▣ City Attorney

Commencing at the southwest corner of said Lot 1, said point also being on the north right-of-way (R.O.W.) line of Highway 34; thence on an assumed bearing of N03°09'15"W along a westerly line of said Lot 1 a distance of 10.00 feet to the point of beginning; thence continuing along said westerly line N03°09'15"W a distance of 11.22 feet to the southwest corner of City of Grand Island Drainage Project 2011-D-1 permanent drainage easement; thence S89°57'04"E along the south line of said permanent drainage easement a distance of 80.74 feet to the southeast corner of said permanent drainage easement, said point also being on an easterly line of said Lot 1; thence S03°09'15"E along said easterly line a distance of 11.69 feet; thence N89°37'13"W a distance of 80.77 feet to the point of beginning. Said temporary construction easement contains 923.54 square feet or 0.02 acres more or less.

#### Easement No. 2 Description

Consisting of part of Lot 1 of Riverside Farm Fourth Subdivision, located in the Southeast Quarter (SE ¼) of Section 29, Township 11 North, Range 9 West of the 6<sup>th</sup> P.M., City of Grand Island, Hall County, Nebraska and more particularly described as follows:

Commencing at the southwest corner of said Lot 1, said point also being on the north right-of-way (R.O.W.) line of Highway 34; thence on an assumed bearing of N03°09'15"W along a westerly line of said Lot 1 a distance of 61.28 feet to the northwest corner of City of Grand Island Drainage Project 2011-D-1 permanent drainage easement, said point also being the point of beginning; thence continuing along said westerly line N03°09'15"W a distance of 19.50 feet; thence S88°36'46"E a distance of 80.87 feet to a point on an easterly line of said Lot 1; thence S03°09'15"E along said easterly line a distance of 17.60 feet to the northeast corner of said City of Grand Island permanent drainage easement; thence N89°57'04"W along the north line of said permanent drainage easement a distance of 80.74 feet to the point of beginning. Said temporary construction easement contains 1495.41 square feet or 0.03 acres more or less.

Kevin & Karen Houtwed - Consisting of part of Lot 8 of Riverside Farm Subdivision, Located in the Southeast Quarter (SE1/4) of Section 29, Township 11 North, Range 9 west of the 6<sup>th</sup> P.M., City of Grand Island, Hall County, Nebraska and more particularly described as follows:

Commencing at the point of intersection of the north right-of-way (R.O.W.) line of Highway 34 and a westerly line of said Lot 8, said point also being the south corner of Lot 5 of Riverside Farm Subdivision in the City of Grand Island, Hall County, Nebraska; thence on an assumed bearing of N53°20'59"E along said westerly line of said Lot 8 a distance of 20.17 feet to the point of beginning; thence continuing along said westerly line N53°20'59"E a distance of 19.69 feet to the southwest corner of City of Grand Island Drainage Project 2011-D-1 permanent drainage easement; thence S89°57'04"E along the south line of said permanent drainage easement a distance of 385.02 feet to the southeast corner of said permanent drainage easement; thence N00°02'56"E along the east line of said permanent drainage easement a distance of 40.00 feet to the northeast corner of said permanent drainage easement; thence N89°57'04" W along the north line of said permanent drainage easement a distance of 331.36 feet to the northwest corner of said permanent drainage easement, said point also being on the westerly line of said Lot 8; thence N53°20'59"E along said easterly line a distance of 25.10 feet; thence S89°57'04"E a distance of 321.23 feet; thence S00°02'56"W a distance of 60.00 feet; thence N89°57'04"W a

distance of 111.97 feet; thence S29°44'44"W a distance of 32.85 feet to a point on the north R.O.W. line of highway 34; thence N88°05'20"W along said north R.O.W. line a distance of 25.20 feet; thence N70°12'19"W a distance of 48.85 feet; thence N88°44'48"W a distance of 211.45 feet to the point of beginning. Said temporary easement contains 11066.99 square feet or 0.25 acres more or less.

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

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

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

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, October 9, 2012.

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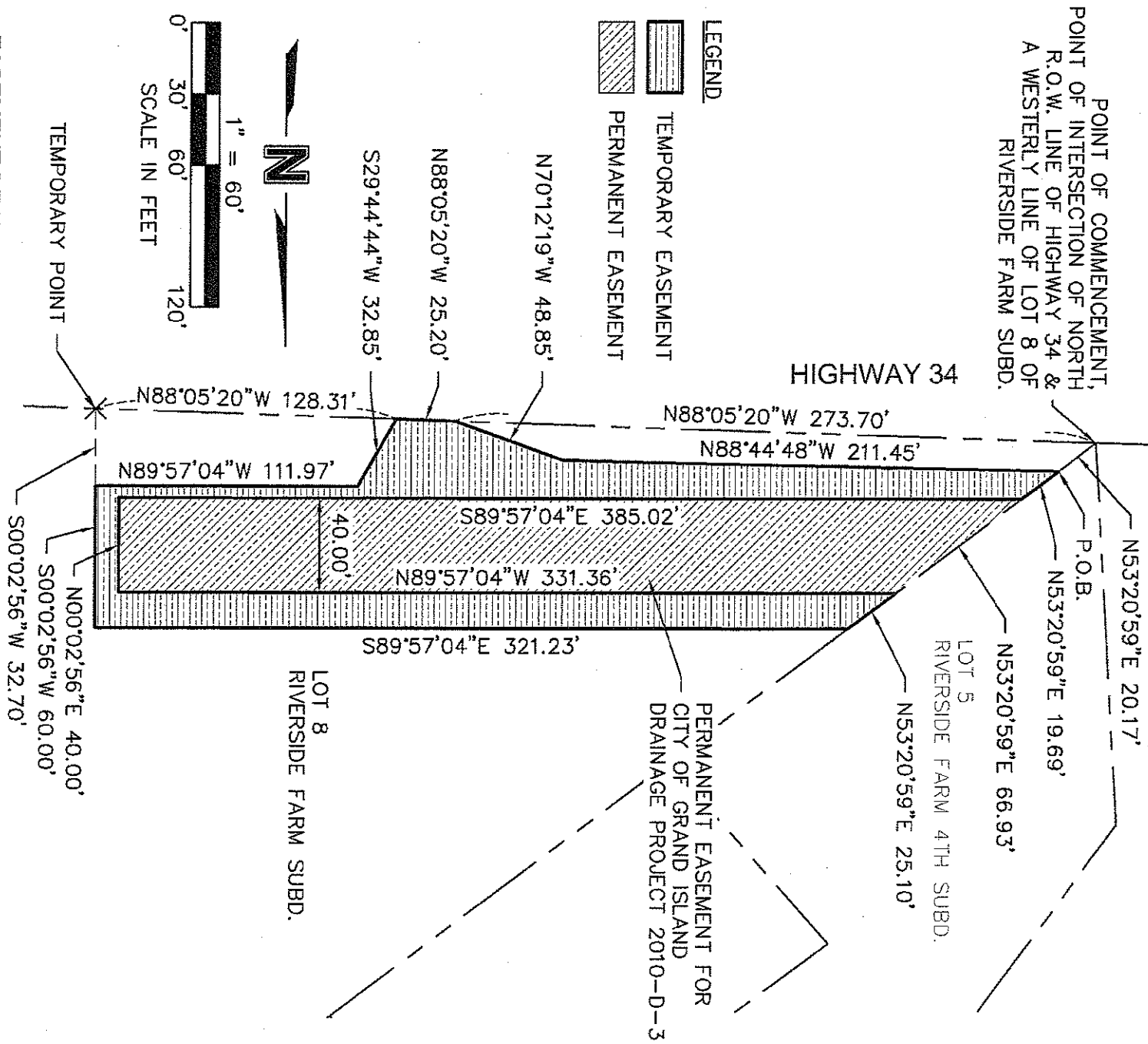
Jay Vavricek, Mayor

Attest:

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RaNae Edwards, City Clerk

**TEMPORARY EASEMENT**  
CITY OF GRAND ISLAND, HALL COUNTY, NEBRASKA  
DRAINAGE PROJECT 2010-D-3



**EASEMENT DESCRIPTION**

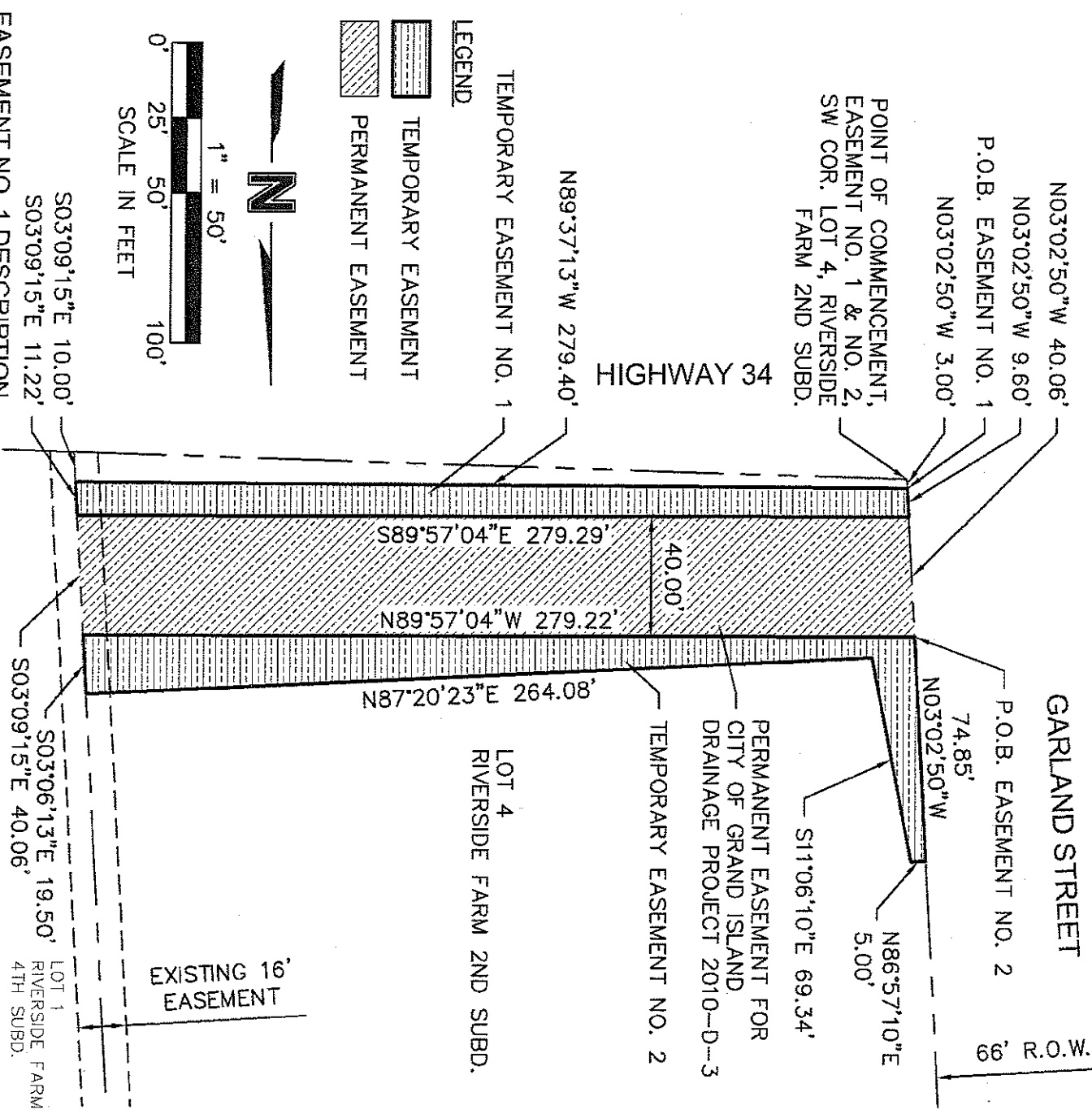
A TEMPORARY CONSTRUCTION EASEMENT CONSISTING OF PART OF LOT 8 OF RIVERSIDE FARM SUBDIVISION, LOCATED IN THE SOUTHEAST QUARTER (SE1/4) OF SECTION 29, TOWNSHIP 11 NORTH, RANGE 9 WEST OF THE 6TH P.M., CITY OF GRAND ISLAND, HALL COUNTY, NEBRASKA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE POINT OF INTERSECTION OF THE NORTH RIGHT-OF-WAY (R.O.W.) LINE OF HIGHWAY 34 AND A WESTERLY LINE OF SAID LOT 8, SAID POINT ALSO BEING THE SOUTH CORNER OF LOT 5 OF RIVERSIDE FARM SUBDIVISION IN THE CITY OF GRAND ISLAND, HALL COUNTY, NEBRASKA; THENCE ON AN ASSUMED BEARING OF N53°20'59"E ALONG SAID WESTERLY LINE OF SAID LOT 8 A DISTANCE OF 20.17 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID WESTERLY LINE N53°20'59"E A DISTANCE OF 19.69 FEET TO THE SOUTHWEST CORNER OF CITY OF GRAND ISLAND DRAINAGE PROJECT 2010-D-3 PERMANENT DRAINAGE EASEMENT; THENCE S89°57'04"E ALONG THE SOUTH LINE OF SAID PERMANENT DRAINAGE EASEMENT A DISTANCE OF 385.02 FEET TO THE SOUTHEAST CORNER OF SAID PERMANENT DRAINAGE EASEMENT; THENCE N00°02'56"E ALONG THE EAST LINE OF SAID PERMANENT DRAINAGE EASEMENT A DISTANCE OF 40.00 FEET TO THE NORTHEAST CORNER OF SAID PERMANENT DRAINAGE EASEMENT; THENCE N89°57'04"W ALONG THE NORTH LINE OF SAID PERMANENT DRAINAGE EASEMENT A DISTANCE OF 331.36 TO THE NORTHWEST CORNER OF SAID PERMANENT DRAINAGE EASEMENT, SAID POINT ALSO BEING ON THE WESTERLY LINE OF SAID LOT 8; THENCE N53°20'59"E ALONG SAID EASTERLY LINE A DISTANCE OF 25.10 FEET; THENCE S89°57'04"E A DISTANCE OF 111.97 FEET; THENCE S29°44'44"W A DISTANCE OF 32.85 FEET TO A POINT ON THE NORTH R.O.W. LINE OF HIGHWAY 34; THENCE N88°05'20"W ALONG SAID NORTH R.O.W. LINE A DISTANCE OF 25.20 FEET; THENCE N70°12'19"W A DISTANCE OF 48.85 FEET; THENCE N88°44'48"W A DISTANCE OF 211.45 FEET TO THE POINT OF BEGINNING. SAID TEMPORARY EASEMENT CONTAINS 11066.99 SQUARE FEET OR 0.25 ACRES MORE OR LESS.

**OLSSON**  
ASSOCIATES

201 East 2nd Street  
P.O. Box 1072  
Grand Island, NE 68802-1072  
TEL 308.384.8750  
FAX 308.384.8752

# TEMPORARY EASEMENT CITY OF GRAND ISLAND, HALL COUNTY, NEBRASKA DRAINAGE PROJECT 2010-D-3



## EASEMENT NO. 1 DESCRIPTION

A TEMPORARY CONSTRUCTION EASEMENT CONSISTING OF PART OF LOT 4 OF RIVERSIDE FARM SECOND SUBDIVISION, LOCATED IN THE SOUTHEAST QUARTER (SE1/4) OF SECTION 29, TOWNSHIP 11 NORTH, RANGE 9 WEST OF THE 6TH P.M., CITY OF GRAND ISLAND, HALL COUNTY, NEBRASKA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

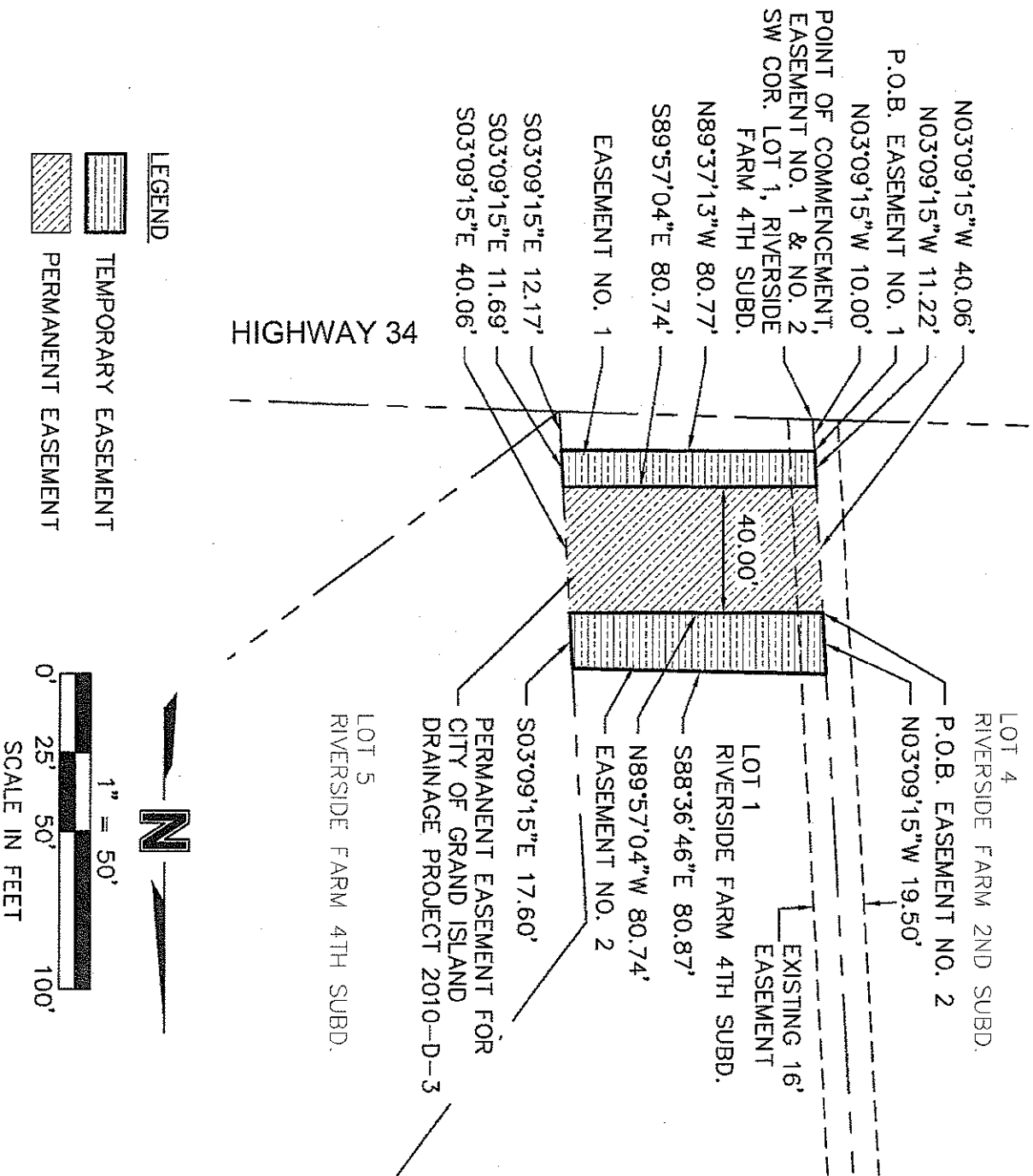
COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 4, SAID POINT ALSO BEING THE POINT OF INTERSECTION OF THE NORTH RIGHT-OF-WAY (R.O.W.) LINE OF HIGHWAY 34 AND THE EAST R.O.W. LINE OF GARLAND STREET; THENCE ON AN ASSUMED BEARING OF N03°02'50"W ALONG SAID EAST R.O.W. LINE A DISTANCE OF 3.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID EAST R.O.W. LINE N03°02'50"W A DISTANCE OF 9.60 FEET TO THE SOUTHWEST CORNER OF CITY OF GRAND ISLAND DRAINAGE PROJECT 2010-D-3 PERMANENT DRAINAGE EASEMENT; THENCE S89°57'04"E ALONG THE SOUTH LINE OF SAID PERMANENT DRAINAGE EASEMENT A DISTANCE OF 279.29 FEET TO THE SOUTHEAST CORNER OF SAID PERMANENT DRAINAGE EASEMENT, SAID POINT ALSO BEING ON THE EAST LINE OF SAID LOT 4; THENCE S03°09'15"E ALONG SAID EAST LINE A DISTANCE OF 11.22 FEET; THENCE N89°37'13"W A DISTANCE OF 279.40 FEET TO THE POINT OF BEGINNING. SAID TEMPORARY CONSTRUCTION EASEMENT CONTAINS 2904.31 SQUARE FEET OR 0.07 ACRES MORE OR LESS.

## EASEMENT NO. 2 DESCRIPTION

A TEMPORARY CONSTRUCTION EASEMENT CONSISTING OF PART OF LOT 4 OF RIVERSIDE FARM SECOND SUBDIVISION, LOCATED IN THE SOUTHEAST QUARTER (SE1/4) OF SECTION 29, TOWNSHIP 11 NORTH, RANGE 9 WEST OF THE 6TH P.M., CITY OF GRAND ISLAND, HALL COUNTY, NEBRASKA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 4, SAID POINT ALSO BEING THE POINT OF INTERSECTION OF THE NORTH RIGHT-OF-WAY (R.O.W.) LINE OF HIGHWAY 34 AND THE EAST R.O.W. LINE OF GARLAND STREET; THENCE ON AN ASSUMED BEARING OF N03°02'50"W ALONG SAID EAST R.O.W. LINE A DISTANCE OF 52.66 FEET TO THE NORTHWEST CORNER OF CITY OF GRAND ISLAND DRAINAGE PROJECT 2010-D-3 PERMANENT DRAINAGE EASEMENT, SAID POINT ALSO BEING THE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID EAST R.O.W. LINE N03°02'50"W A DISTANCE OF 74.85 FEET; THENCE N86°57'10"E A DISTANCE OF 5.00 FEET; THENCE S11°06'10"E A DISTANCE OF 69.34'; THENCE N87°20'23"E A DISTANCE OF 264.08 FEET TO A POINT ON THE EAST LINE OF SAID LOT 4; THENCE S03°06'13"E ALONG SAID EAST LINE A DISTANCE OF 19.50 FEET TO THE NORTHEAST CORNER OF SAID CITY OF GRAND ISLAND PERMANENT DRAINAGE EASEMENT; THENCE N89°57'04"W ALONG THE NORTH LINE OF SAID PERMANENT DRAINAGE EASEMENT A DISTANCE OF 279.22 FEET TO THE POINT OF BEGINNING. SAID TEMPORARY CONSTRUCTION EASEMENT CONTAINS 4271.40 SQUARE FEET OR 0.10 ACRES MORE OR LESS.

TEMPORARY EASEMENT  
CITY OF GRAND ISLAND, HALL COUNTY, NEBRASKA  
DRAINAGE PROJECT 2010-D-3



EASEMENT NO.1 DESCRIPTION

A TEMPORARY CONSTRUCTION EASEMENT CONSISTING OF PART OF LOT 1 OF RIVERSIDE FARM FOURTH SUBDIVISION, LOCATED IN THE SOUTHEAST QUARTER (SE1/4) OF SECTION 29, TOWNSHIP 11 NORTH, RANGE 9 WEST OF THE 6TH P.M., CITY OF GRAND ISLAND, HALL COUNTY, NEBRASKA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

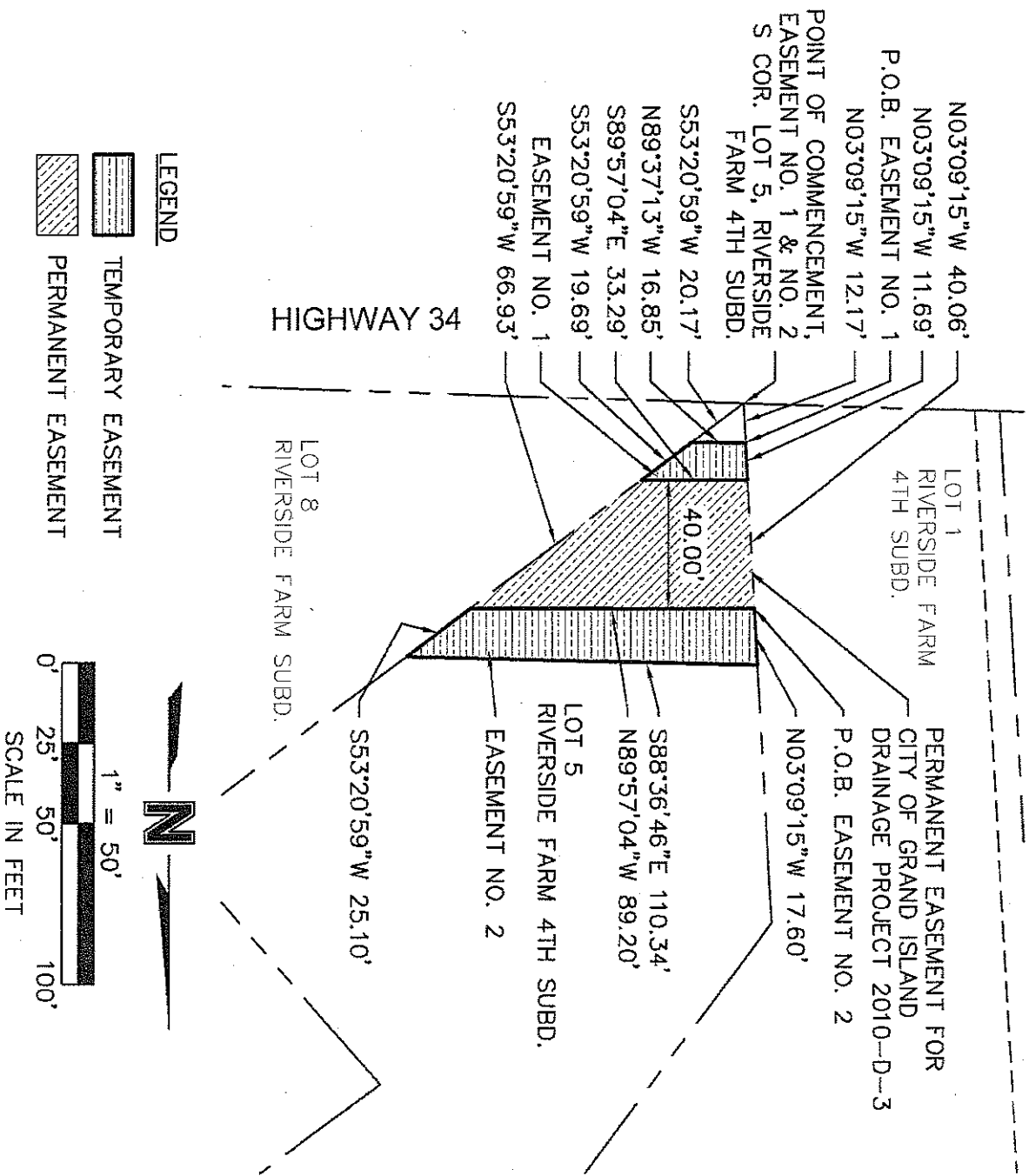
COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 1, SAID POINT ALSO BEING ON THE NORTH RIGHT-OF-WAY (R.O.W.) LINE OF HIGHWAY 34; THENCE ON AN ASSUMED BEARING OF N03°09'15"W ALONG A WESTERLY LINE OF SAID LOT 1 A DISTANCE OF 10.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID WESTERLY LINE N03°09'15"W A DISTANCE OF 11.22 FEET TO THE SOUTHWEST CORNER OF CITY OF GRAND ISLAND DRAINAGE PROJECT 2010-D-3 PERMANENT DRAINAGE EASEMENT; THENCE S89°57'04"E ALONG THE SOUTH LINE OF SAID PERMANENT DRAINAGE EASEMENT A DISTANCE OF 80.74 FEET TO THE SOUTHEAST CORNER OF SAID PERMANENT DRAINAGE EASEMENT, SAID POINT ALSO BEING ON A EASTERLY LINE OF SAID LOT 1; THENCE S03°09'15"E ALONG SAID EASTERLY LINE A DISTANCE OF 11.69 FEET; THENCE N89°37'13"W A DISTANCE OF 80.77 FEET TO THE POINT OF BEGINNING. SAID TEMPORARY CONSTRUCTION EASEMENT CONTAINS 923.54 SQUARE FEET OR 0.02 ACRES MORE OR LESS.

EASEMENT NO.2 DESCRIPTION

A TEMPORARY CONSTRUCTION EASEMENT CONSISTING OF PART OF LOT 1 OF RIVERSIDE FARM FOURTH SUBDIVISION, LOCATED IN THE SOUTHEAST QUARTER (SE1/4) OF SECTION 29, TOWNSHIP 11 NORTH, RANGE 9 WEST OF THE 6TH P.M., CITY OF GRAND ISLAND, HALL COUNTY, NEBRASKA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 1, SAID POINT ALSO BEING ON THE NORTH RIGHT-OF-WAY (R.O.W.) LINE OF HIGHWAY 34; THENCE ON AN ASSUMED BEARING OF N03°09'15"W ALONG A WESTERLY LINE OF SAID LOT 1 A DISTANCE OF 61.28 FEET TO THE NORTHWEST CORNER OF CITY OF GRAND ISLAND DRAINAGE PROJECT 2010-D-3 PERMANENT DRAINAGE EASEMENT, SAID POINT ALSO BEING THE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID WESTERLY LINE N03°09'15"W A DISTANCE OF 19.50 FEET; THENCE S88°36'46"E A DISTANCE OF 80.87 FEET TO A POINT ON A EASTERLY LINE OF SAID LOT 1; THENCE S03°09'15"E ALONG SAID EASTERLY LINE A DISTANCE OF 17.60 FEET TO THE NORTHEAST CORNER OF SAID CITY OF GRAND ISLAND PERMANENT DRAINAGE EASEMENT; THENCE N89°57'04"W ALONG THE NORTH LINE OF SAID PERMANENT DRAINAGE EASEMENT A DISTANCE OF 80.74 FEET TO THE POINT OF BEGINNING. SAID TEMPORARY CONSTRUCTION EASEMENT CONTAINS 1495.41 SQUARE FEET OR 0.03 ACRES MORE OR LESS.

# TEMPORARY EASEMENT CITY OF GRAND ISLAND, HALL COUNTY, NEBRASKA DRAINAGE PROJECT 2010-D-3



## EASEMENT NO. 1 DESCRIPTION

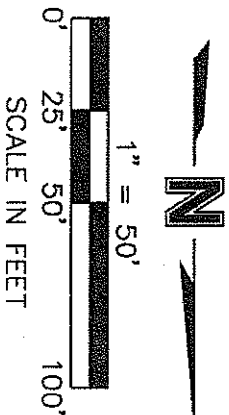
A TEMPORARY CONSTRUCTION EASEMENT CONSISTING OF PART OF LOT 5 OF RIVERSIDE FARM FOURTH SUBDIVISION, LOCATED IN THE SOUTHEAST QUARTER (SE1/4) OF SECTION 29, TOWNSHIP 11 NORTH, RANGE 9 WEST OF THE 6TH P.M., CITY OF GRAND ISLAND, HALL COUNTY, NEBRASKA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTH CORNER OF SAID LOT 5, SAID POINT ALSO BEING ON THE NORTH RIGHT-OF-WAY (R.O.W.) LINE OF HIGHWAY 34; THENCE ON AN ASSUMED BEARING OF N03°09'15"W ALONG A WESTERLY LINE OF SAID LOT 5 A DISTANCE OF 12.17 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID WESTERLY LINE N03°09'15"W A DISTANCE OF 11.69 FEET TO THE SOUTHWEST CORNER OF CITY OF GRAND ISLAND DRAINAGE PROJECT 2010-D-3 PERMANENT DRAINAGE EASEMENT; THENCE S89°57'04"E ALONG THE SOUTH LINE OF SAID PERMANENT DRAINAGE EASEMENT A DISTANCE OF 33.29 FEET TO THE SOUTHEAST CORNER OF SAID PERMANENT DRAINAGE EASEMENT; SAID POINT ALSO BEING ON A EASTERLY LINE OF SAID LOT 5; THENCE S53°20'59"W ALONG SAID EASTERLY LINE A DISTANCE OF 19.69 FEET; THENCE N89°37'13"W A DISTANCE OF 16.85 FEET TO THE POINT OF BEGINNING, SAID TEMPORARY CONSTRUCTION EASEMENT CONTAINS 294.24 SQUARE FEET OR 0.01 ACRES MORE OR LESS.

## EASEMENT NO. 2 DESCRIPTION

A TEMPORARY CONSTRUCTION EASEMENT CONSISTING OF PART OF LOT 5 OF RIVERSIDE FARM FOURTH SUBDIVISION, LOCATED IN THE SOUTHEAST QUARTER (SE1/4) OF SECTION 29, TOWNSHIP 11 NORTH, RANGE 9 WEST OF THE 6TH P.M., CITY OF GRAND ISLAND, HALL COUNTY, NEBRASKA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTH CORNER OF SAID LOT 5, SAID POINT ALSO BEING ON THE NORTH RIGHT-OF-WAY (R.O.W.) LINE OF HIGHWAY 34; THENCE ON AN ASSUMED BEARING OF N03°09'15"W ALONG A WESTERLY LINE OF SAID LOT 5 A DISTANCE OF 63.92 FEET TO THE NORTHWEST CORNER OF CITY OF GRAND ISLAND DRAINAGE PROJECT 2010-D-3 PERMANENT DRAINAGE EASEMENT, SAID POINT ALSO BEING THE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID WESTERLY LINE N03°09'15"W A DISTANCE OF 17.60 FEET; THENCE S88°36'46"E A DISTANCE OF 110.34 FEET TO A POINT ON A EASTERLY LINE OF SAID LOT 5; THENCE S53°20'59"W ALONG SAID EASTERLY LINE A DISTANCE OF 25.10 FEET TO THE NORTHEAST CORNER OF SAID CITY OF GRAND ISLAND PERMANENT DRAINAGE EASEMENT; THENCE N89°57'04"W ALONG THE NORTH LINE OF SAID PERMANENT DRAINAGE EASEMENT A DISTANCE OF 89.20 FEET TO THE POINT OF BEGINNING, SAID TEMPORARY CONSTRUCTION EASEMENT CONTAINS 1637.16 SQUARE FEET OR 0.04 ACRES MORE OR LESS.





# City of Grand Island

Tuesday, October 9, 2012

Council Session

## Item G18

**#2012-293 - Approving Bid Award for Three (3) Multi-Directional Folding Vee Plows for the Solid Waste Division and Streets Division**

Staff Contact: Terry Brown, Interim Public Works Director

# **Council Agenda Memo**

**From:** Jeff Wattier, Solid Waste Superintendent  
Shannon Callahan, Street Superintendent

**Meeting:** October 9, 2012

**Subject:** Approving Bid Award for Three (3) Multi-Directional Folding Vee Plows for the Solid Waste Division and Streets Division

**Item #'s:** G-18

**Presenter(s):** Terry Brown, P.E., Interim Public Works Director

## **Background**

On September 7, 2012 the Solid Waste and Streets Divisions of the Public Works Department advertised the request for bids for Three (3) Multi-Directional Folding Vee Plows. Funds for the vee plows are in the approved 2012/2013 budget.

## **Discussion**

Three (3) bids were received and opened on September 25, 2012. The Solid Waste Division & Streets Division of the Public Works Department, as well as the Purchasing Division reviewed the bids that were received. The bid by Murphy Tractor & Equipment Co. of Grand Island, NE meets all of the specifications. The Solid Waste Division is purchasing one (1) 14' vee plow and the Streets Division is purchasing two (2) 12' vee plows. These vee plows will mount on existing City wheel loaders and will play an integral role in snow clearing and snow removal operations for the City.

<b>Bidder</b>	<b>Price For (1) 14' Vee Plow For Solid Waste Division</b>	<b>Price for (2) 12' Vee Plows For Streets Division</b>	<b>Total</b>
Roadbuilders Machinery & Supply	\$26,207.85	\$50,994.98	\$77,202.83
Murphy Tractor & Equipment	\$23,526.00	\$42,895.00	\$66,421.00
NMC, Inc.	\$23,586.00	\$44,952.00	\$68,538.00

## **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 purchase of the three (3) vee plows from Murphy Tractor & Equipment of Grand Island, NE in the amount of \$66,421.00.

## **Sample Motion**

Move to approve the purchase of the three (3) vee plows from Murphy Tractor & Equipment of Grand Island, NE in the amount of \$66,421.00.



Jason Eley, Purchasing Agent

*Working Together for a  
Better Tomorrow, Today*

**BID OPENING**

**BID OPENING DATE:** September 25, 2012 at 2:00 p.m.  
**FOR:** (3) Multi-Directional Folding Vee Plows  
**DEPARTMENT:** Public Works  
**ESTIMATE:** \$25,000.00 & \$36,000.00  
**FUND/ACCOUNT:** 50530040-85615 & 10033501-85615  
**PUBLICATION DATE:** September 7, 2012  
**NO. POTENTIAL BIDDERS:** 4

**SUMMARY**

<b>Bidder:</b>	<b><u>RoadBuilders Machinery &amp; Supply</u></b> Grand Island, NE	<b><u>Murphy Tractor &amp; Equipment Co.</u></b> Grand Island, NE
<b>Bid Security:</b>	<b>Fidelity &amp; Deposit Co.</b>	<b>Sentry Insurance</b>
<b>Exceptions:</b>	<b>None</b>	<b>None</b>
<b>Bid Price:</b>		
<b>(1) 14' Plow:</b>	<b>\$26,207.85</b>	<b>\$23,526.00</b>
<b>Delivery Date:</b>	<b>90 Days</b>	<b>90 Days</b>
<b>Option 11/1/12:</b>	<b>N/A</b>	<b>N/A</b>
<b>(2) 12' Plows:</b>	<b>\$48,794.98</b>	<b>\$42,895.00</b>
<b>Delivery Date:</b>	<b>90 days</b>	<b>30 days after order received or Nov. 1</b>
<b>Option 11/1/12:</b>	<b>\$2,200.00 3-4 weeks</b>	<b>Included</b>
<b>Total Price:</b>	<b>\$77,202.83</b>	<b>\$66,421.00</b>

**Bidder:** NMC, Inc.  
**Bid Security:** Doniphan, NE  
**Exceptions:** Travelers Casualty & Surety Co.  
None

**Bid Price:**  
**(1) 14' Plow:** \$23,586.00  
**Delivery Date:** 90 days  
**Option 11/1/12:** N/A

**(2) 12' Plows:** \$42,446.00  
**Delivery Date:** 90 days  
**Option 11/1/12:** \$2,506.00

**Total Price:** \$68,538.00

cc: Terry Brown, Interim Public Works Director  
Jason Eley, Purchasing Agent  
Mary Lou Brown, City Administrator

Catrina DeLosh, PW Admin. Assist.  
Jeff Wattier, Solid Waste Supt.

**P1589**

RESOLUTION 2012-293

WHEREAS, the City of Grand Island invited sealed bids for three (3) multi-directional folding vee plows for the Solid Waste and Streets Divisions of the Public Works Department, according to specifications on file with the Public Works Department; and

WHEREAS, on September 25, 2012 bids were received, opened and reviewed; and

WHEREAS, Murphy Tractor & Equipment of Grand Island, Nebraska submitted a bid in accordance with the terms of the advertisement of bids and specifications and all other statutory requirements contained therein, such bid being in the amount of \$66,421.00; and

WHEREAS, the bid from Murphy Tractor & Equipment is considered fair and reasonable for such item.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the bid of Murphy Tractor & Equipment of Grand Island, Nebraska in the amount of \$66,421.00 for three (3) multi-directional folding vee plows is hereby approved as the lowest responsive and responsible bid.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, October 9, 2012.

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

Attest:

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

Approved as to Form	☐ _____
October 5, 2012	☐ City Attorney



# City of Grand Island

Tuesday, October 9, 2012

Council Session

## Item G19

**#2012-294 - Approving Bid Award for One (1) 81,000 Pound  
Landfill Compactor for the Solid Waste Division of the Public  
Works Department**

Staff Contact: Terry Brown, Interim Public Works Director

# **Council Agenda Memo**

**From:** Jeff Wattier, Solid Waste Superintendent

**Meeting:** October 9, 2012

**Subject:** Approving Bid Award for One (1) 81,000 Pound Landfill Compactor for the Solid Waste Division of the Public Works Department

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

**Presenter(s):** Terry Brown, P.E., Interim Public Works Director

## **Background**

On September 8, 2012 the Solid Waste Division of the Public Works Department advertised for bids for one (1) 81,000 pound landfill compactor.

## **Discussion**

Two (2) bids were received and opened on September 25, 2012. The Solid Waste Division of the Public Works Department and the Purchasing Division of the City Attorney's Office have reviewed the bids that were received. The compactor bid by NMC of Doniphan, NE meets all of the specifications and based on an anticipated 4-year ownership, is the machine with the lowest net cost of ownership. A summary of the bids is shown below.

<b><i>Bidder</i></b>	<b><i>Base Price</i></b>	<b><i>Trade-In Price</i></b>	<b><i>Repurchase Price</i></b>	<b><i>Net Cost of Ownership</i></b>
Al-Jon Manufacturing LLC of Ottumwa, IA	\$720,762.00	N/A	4 Years/9250 hours = \$159,200.00	\$561,562.00
NMC of Doniphan, NE	\$724,833.00	N/A	4 Years/9250 hours = \$256,000.00	\$468,833.00

Funds were budgeted for Fiscal Year 2013 and are available in Account No. 50530043-85615.

## **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 Landfill Compactor from NMC of Doniphan, NE.

## **Sample Motion**

Move to approve the purchase of the Lanfill Compactor from NMC of Doniphan, NE.



Jason Eley, Purchasing Agent

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Better Tomorrow, Today*

**BID OPENING**

**BID OPENING DATE:** September 25, 2012 at 2:15 p.m.  
**FOR:** (1) 81,000 Pound Landfill Compactor  
**DEPARTMENT:** Public Works  
**ESTIMATE:** \$790,000.00  
**FUND/ACCOUNT:** 50530043-85615  
**PUBLICATION DATE:** September 8, 2012  
**NO. POTENTIAL BIDDERS:** 3

**SUMMARY**

<b>Bidder:</b>	<u>Aljon Mfg.</u> Ottumwa, IA	<u>NMC, Inc.</u> Doniphan, NE
<b>Bid Security:</b>	Lexon Insurance Co.	Travelers Casualty & Surety Co.
<b>Exceptions:</b>	None	None
<b>Bid Price:</b>	\$720,762.00	724,833.00
<b>Trade-In:</b>	\$119,600.00	No Bid
<b>Repurchasing Agreement:</b>		
<b>1 year/2250 hrs.:</b>	\$288,600.00	\$351,400.00
<b>2 years/4500 hrs.:</b>	\$248,800.00	\$316,250.00
<b>3 years/6750 hrs.:</b>	\$208,950.00	\$384,500.00
<b>4 years/9250 hrs.:</b>	\$159,200.00	\$256,000.00
<b>Delivery Date:</b>	60 120 Days	December 15, 2012

cc: Terry Brown, Interim Public Works Director  
Jason Eley, Purchasing Agent  
Mary Lou Brown, City Administrator

Catrina DeLosh, PW Admin. Assist.  
Jeff Wattier, Solid Waste Supt.

**P1590**

RESOLUTION 2012-294

WHEREAS, the City of Grand Island invited sealed bids for one (1) 81,000 Pound Landfill Compactor for the Solid Waste Division of the Public Works Department, according to specifications on file with the Public Works Department; and

WHEREAS, on September 25, 2012 bids were received, opened and reviewed; and

WHEREAS, NMC of Doniphan, Nebraska submitted a bid in accordance with the terms of the advertisement of bids and specifications and all other statutory requirements contained therein, such bid being in the amount of \$724,833.00; and

WHEREAS, the bid from NMC is considered fair and reasonable for such item.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the bid of NMC of Doniphan, Nebraska in the amount of \$724,833.00 for one (1) 81,000 Pound Landfill Compactor is hereby approved as the lowest responsive and responsible bid.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, October 9, 2012.

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

Attest:

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

Approved as to Form	☐ _____
October 5, 2012	☐ City Attorney



# City of Grand Island

Tuesday, October 9, 2012

Council Session

## Item G20

**#2012-295 - Approving Bid Award for One (1) Snow Blower,  
Front-End Loader Mounted for the Streets Division of the Public  
Works Department**

Staff Contact: Terry Brown, Interim Public Works Director

# **Council Agenda Memo**

**From:** Shannon Callahan, Street Superintendent

**Meeting:** October 9, 2012

**Subject:** Approving Bid Award for One (1) Snow Blower, Front-End Loader Mounted for the Streets Division of the Public Works Department

**Item #'s:** G-20

**Presenter(s):** Terry Brown, P.E., Interim Public Works Director

## **Background**

On September 18, 2012 the Streets Division of the Public Works Department advertised for bids for one (1) snow blower, front-end loader mounted.

## **Discussion**

Three (3) capital lease purchase bids were received and opened on September 26, 2012. The Streets Division of Public Works Department and the Purchasing Division of the City Attorney's Office have reviewed the bids that were received. The bid by Nebraska Environmental Products of Lincoln, Ne meets all of the specifications. A summary of the bids is shown below.

<b>Company Name</b>	Nebraska Environmental Products	Rose Equipment	Mid-Iowa Solid Waste Equipment
<b>Base Price</b>	\$97,543.00	\$112,300.00	\$145,710.59
<b>Trade-In Value</b>	\$8,000.00	\$17,000.00	\$10,250.00
<b>Amount to be Financed</b>	\$89,543.00	\$95,300.00	\$135,460.59
<b>Fixed Annual Interest Rate</b>	2.80%	3.49%	3.11%
<b>Annual Payment Amount</b>	\$15,972.77	\$17,878.91	\$24,365.00
<b>Payment Period</b>	Annual	Annual	Annual

<b>Number of Terms</b>	6	6	6
<b>Total Purchase Price at End of Lease</b>	\$95,836.62	\$107,273.46	\$146,191.00

Funds were budgeted for Fiscal Year 2013 and are available in Account No. 10033501-85615.

### **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 capital lease purchase of One (1) Snow Blower, Front-End Loader Mounted from Nebraska Environmental Products of Lincoln, NE.

### **Sample Motion**

Move to approve the capital lease purchase of One (1) Snow Blower, Front-End Loader Mounted from Nebraska Environmental Products of Lincoln, NE.



Jason Eley, Purchasing Agent

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Better Tomorrow, Today*

**BID OPENING**

**BID OPENING DATE:** September 26, 2012 at 2:00 p.m.  
**FOR:** (1) Snow Blower, Front-End Loader Mounted  
**DEPARTMENT:** Public Works  
**ESTIMATE:** \$100,000.00  
**FUND/ACCOUNT:** 10033501-85615  
**PUBLICATION DATE:** September 18, 2012  
**NO. POTENTIAL BIDDERS:** 6

**SUMMARY**

<b>Bidder:</b>	<b><u>Nebraska Environmental Products</u></b> Lincoln, NE	<b><u>Mid-Iowa Companies</u></b> Johnston, IA
<b>Bid Security:</b>	Washington International Ins. Co.	Cashier's Check
<b>Exceptions:</b>	Noted	Noted
<b>Make:</b>	Snogo	Larue
<b>Bid Price:</b>	\$97,543.00	\$145,710.59
<b>Trade-In:</b>	\$ 8,000.00	\$ 10,250.00
<b>Delivery Date:</b>	Before 11/20/12	11/20/12

<b>Bidder:</b>	<b><u>Rose Equipment, Inc.</u></b> Lincoln, NE
<b>Bid Security:</b>	Granite Re, Inc.
<b>Exceptions:</b>	Noted
<b>Make:</b>	Tenco
<b>Bid Price:</b>	\$112,300.00
<b>Trade-In:</b>	\$ 17,000.00
<b>Delivery Date:</b>	4 – 6 weeks

cc: Terry Brown, Interim Public Works Director  
Jason Eley, Purchasing Agent  
Mary Lou Brown, City Administrator

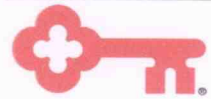
Catrina DeLosh, PW Admin. Assist.  
Shannon Callahan, Streets Supt.

**P1594**

September 20, 2012

To: Greg Oliverius

Key Government Finance, Inc.  
1000 South McCaslin Blvd.  
Superior, CO 80027  
216-370-6277 (FAX)



Key Government Finance is pleased to present the following proposal for the transaction described below:

**LESSOR:** Key Government Finance, Inc.  
**LESSEE:** City of Grand Island  
**PROPERTY:** 2012 SnoGo WK-800 loader mount snowblower  
**EXPIRATION:** 10/20/2012

**LEASE QUOTE:**

Amount	Rate	Payments	Factor	Pmts / Year	Term	Adv. / Arr.
\$89,543.00	2.80%	\$15,972.77	.17838103	1	6 years	Advance

**LEASE:** This is a tax-exempt, municipal government lease with the title to the property passing to Lessee. This is a net lease under which, all costs, including insurance, maintenance and taxes, are paid by Lessee for the term of the lease.

**NOTES:** Transaction must fund/fund to escrow by lease proposal expiration date.

**APPROVAL:** This proposal, until credit approved, serves as a quotation, not a commitment by Lessor to provide credit or property. Lessor acceptance of this Proposal is subject to credit; collateral and essential use review and approval by Lessor.

The interest rate quoted herein assumes that the interest component of the Payments is exempt from federal income tax. Lessor will provide a taxable financing proposal if it is determined that the financing will not qualify for tax-exempt interest rates.

The financing contemplated by this proposal is subject to the execution and delivery of all appropriate documents (in form and substance satisfactory to Lessor), including without limitation, to the extent applicable, the Master Lease Agreement, any Schedule, financing statements, legal opinion or other documents or agreements reasonably required by Lessor.

The quoted interest rate assumes the Lessee designates the Lease as "bank-qualified" pursuant to Section 265(b) of the Code.

Thank you for the opportunity to present this proposal. If you have any questions, please contact me at my number or e-mail address below. If you wish to accept this proposal, please do so by signing below and returning this proposal to me via FAX or e-mail. Upon receipt of this proposal, Lessor will promptly begin its credit, collateral and essential use review process.

Sincerely

Rich Meyer  
Phone – 952-465-3956  
FAX – 216-370-6277  
Richard\_a\_meyer@key.com

Proposal Accepted by Lessee:

By:

Title:

Date:

RESOLUTION 2012-295

WHEREAS, the City of Grand Island invited sealed bids for one (1) Snow Blower, Front-End Loader Mounted for the Streets Division of the Public Works Department, according to specifications on file with the Public Works Department; and

WHEREAS, on September 26, 2012 bids were received, opened and reviewed; and

WHEREAS, Nebraska Environmental Products of Lincoln, Nebraska submitted a capital lease purchase bid in accordance with the terms of the advertisement of bids and specifications and all other statutory requirements contained therein, such bid being in the total amount of \$95,836.62; and

WHEREAS, annual payments of \$15,972.22 will be made for a period of six (6) years.

WHEREAS, the capital lease purchase bid from Nebraska Environmental Products of Lincoln, NE is considered fair and reasonable for such item.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the capital lease purchase bid of Nebraska Environmental Products of Lincoln, Nebraska in the total amount of \$95,836.62 for one (1) Snow Blower, Front-End Loader Mounted is hereby approved as the lowest responsive and responsible bid.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, October 9, 2012.

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

Attest:

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

Approved as to Form	☐ _____
October 5, 2012	☐ City Attorney



# City of Grand Island

Tuesday, October 9, 2012

Council Session

## Item G21

**#2012-296 - Approving Supplemental No. 1 for Engineering Consulting Services Related to State Street and Capital Avenue Connector Trail Project**

Staff Contact: Terry Brown, Interim Public Works Director

# **Council Agenda Memo**

**From:** Scott Griepenstroh, PW Project Manager

**Meeting:** October 9, 2012

**Subject:** Approving Supplemental No. 1 for Engineering Consulting Services Related to the State Street and Capital Avenue Connector Trail

**Item #'s:** G-21

**Presenter(s):** Terry Brown, Interim Public Works Director

## **Background**

Any amendments to an agreement must be approved by the City Council. On August 9, 2011 the City Council approved a resolution to enter into an agreement with The Schemmer Associates, Inc. for engineering consulting services related to the State Street and Capital Avenue Connector Trail. The agreement provided for work to be completed at actual costs with a maximum amount of \$87,043.56.

## **Discussion**

The Supplemental No. 1 for the above referenced agreement provides for an extension to the completion deadline for this project.

The Consultant shall complete all work required under the Original Agreement in a satisfactory manner by August 31, 2013. Any costs incurred by Consultant after the completion deadline is not eligible for federal funding reimbursement unless the Consultant has received an extension of time in writing from the Local Public Agency (LPA).

## **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 Supplemental No. to the agreement with The Schemmer Associates, Inc.

## **Sample Motion**

Move to approve the resolution.

**SUPPLEMENTAL AGREEMENT #1**  
PRELIMINARY ENGINEERING AND  
ENVIRONMENTAL DOCUMENTATION SERVICES

CITY OF GRAND ISLAND, NEBRASKA  
THE SCHEMMER ASSOCIATES, INC.  
PROJECT NO. ENH-40(59)  
CONTROL NO. 42650  
GRAND ISLAND CONNECTOR TRAIL  
STATE STREET AND CAPITAL AVENUE

THIS SUPPLEMENTAL AGREEMENT, made and entered into by and between the city of Grand Island, Nebraska, hereinafter referred to as the Local Public Agency or "LPA," and The Schemmer Associates, Inc., hereinafter referred to as the "Consultant."

WHEREAS, the Consultant and the LPA entered into Engineering Agreement BK1167 executed by the Consultant on July 29, 2011 and executed by the LPA on August 9, 2011, hereinafter referred to as the "Original Agreement", providing for preliminary engineering and environmental documentation services for Project No. ENH-40(59), and

WHEREAS, it is necessary to extend the completion deadline under this supplemental agreement, and

WHEREAS, it is the desire of the LPA that the project be constructed under the designation of Project No. ENH-40(59), as evidenced by the Resolution of the LPA dated the 14th day of October, 2012, attached and identified as EXHIBIT "A" and made a part of this agreement, and

NOW THEREFORE, in consideration of these facts, the Consultant and LPA agree as follows:

SECTION 1. The Consultant shall complete all work required under the Original Agreement in a satisfactory manner by August 31, 2013. Any costs incurred by Consultant after the completion deadline are not eligible for federal funding reimbursement unless the Consultant has received an extension of time in writing from the LPA.

SECTION 2. Except as specifically amended by this supplemental agreement, all terms and conditions of the Original Agreement, BK1167, on Project No. ENH-40(59), executed by the Consultant on July 29, 2011 and executed by the LPA on August 9, 2011 shall remain in full force and effect.

After being duly sworn on oath, I do hereby acknowledge the foregoing certification and

EXECUTED by the Consultant this 25 day of September, 2012.

Principal

Subscribed and sworn to before me this 25 day of September, 2012.

*James H. Haddad*  
Notary Public

CITY OF GRAND ISLAND  
Jay Vavricek

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

STATE OF NEBRASKA  
DEPARTMENT OF ROADS  
Form of Agreement Approved for  
Federal Funding Eligibility:

Project No. ENH-40(59)  
Control No. 42650  
Grand Island Connector Trail  
State Street and Capital Avenue

RESOLUTION 2011-296

WHEREAS, on August 9, 2011 the City Council of the City of Grand Island approved entering into an agreement with The Schemmer Associates, Inc. for engineering consulting services related to the State Street and Capital Avenue Connector Trail; and

WHEREAS, the original agreement is being supplemented to allow for an extension to the completion deadline for this project; and

WHEREAS, the Consultant shall complete all work required under the Original Agreement in a satisfactory manner by August 31, 2013; and

WHEREAS, any costs incurred by Consultant after the completion deadline are not eligible for federal funding reimbursement unless the Consultant has received an extension of time in writing from the Local Public Agency (LPA).

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that Supplemental Agreement No. 1 with The Schemmer Associates, Inc. for engineering consulting services related to the State Street and Capital Avenue Connector Trail 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, October 9, 2012.

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

Attest:

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

Approved as to Form	☐ _____
October 5, 2012	☐ City Attorney



# City of Grand Island

Tuesday, October 9, 2012

Council Session

## Item G22

**#2012-297 - Approving Acquisition of Drainage Easements for the Southwest Outfall Drainage Project No. 2011-D-1 (The Diamond Engineering Co., Clark Gauthier, Carl & Lois Armstrong, and Kevin & Karen Houtwed)**

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

Staff Contact: Terry Brown, Interim Public Works Director

## RESOLUTION 2012-297

WHEREAS, drainage easements are required by the City of Grand Island for the Southwest Outfall Drainage Project No. 2011-D-1, to construct and maintain such project from Central Community College to the Wood River; and

WHEREAS, a public hearing was held on October 9, 2012, for the purpose of discussing the proposed acquisition of the drainage easements, as follows:

The Diamond Engineering Co. - a tract of land consisting of part of an unplatted tract as described in executors deed filed September 20, 1971 in Book 165, Pages 404 through 407, Hall County Register of Deeds, located in the Southeast Quarter (SE ¼) of Section 29, Township 11 North, Range Nine (9) West of the 6<sup>th</sup> P.M., Hall County, Nebraska and more particularly described as follows:

COMMENCING AT THE POINT OF INTERSECTION OF THE NORTH RIGHT-OF-WAY (R.O.W.) LINE OF HIGHWAY 34 AND THE WEST R.O.W. LINE OF GARLAND STREET; THENCE ON AN ASSUMED BEARING OF N03°02'50"W ALONG SAID WEST R.O.W. LINE A DISTANCE OF 20.42 FEET TO THE POINT OF BEGINNING; THENCE N89°57'04"W A DISTANCE OF 15.83 FEET; THENCE N83°35'21"W A DISTANCE OF 243.11 FEET; THENCE N02°04'46"W A DISTANCE OF 30.09 FEET; THENCE S83°35'21"E A DISTANCE OF 243.71 FEET; THENCE S89°57'04"E A DISTANCE OF 12.54 FEET TO A POINT ON SAID WEST R.O.W. LINE OF GARLAND STREET; THENCE S03°02'50"E ALONG SAID WEST R.O.W. LINE A DISTANCE OF 30.04 FEET TO THE POINT OF BEGINNING. SAID PERMANENT DRAINAGE EASEMENT CONTAINS 7,727.91 SQUARE FEET OR 0.18 ACRES MORE OR LESS.

The Diamond Engineering Co. - a tract of land consisting of part of an unplatted tract as described in executors deed filed September 20, 1971 in Book 165, Pages 404 through 407, Hall County Register of Deeds, located in the Southeast Quarter (SE ¼) of Section 29, Township 11 North, Range Nine (9) West of the 6<sup>th</sup> P.M., Hall County, Nebraska and more particularly described as follows:

COMMENCING AT THE POINT OF INTERSECTION OF THE NORTH RIGHT-OF-WAY (R.O.W.) LINE OF HIGHWAY 34 AND THE EAST LINE OF UNION PACIFIC RAILROAD R.O.W., SAID POINT ALSO BEING THE POINT OF BEGINNING; THENCE ON AN ASSUMED BEARING OF N01°02'20"W ALONG SAID EAST LINE A DISTANCE OF 350.00 FEET; THENCE N89°52'07"E PARALLEL TO SAID NORTH R.O.W. LINE OF HIGHWAY 34 A DISTANCE OF 74.96 FEET; THENCE S01°02'20"E PARALLEL TO SAID EAST LINE OF UNION PACIFIC RAILROAD R.O.W. A DISTANCE OF 100.00 FEET; THENCE S89°52'07"W PARALLEL TO SAID NORTH R.O.W. LINE A DISTANCE OF 54.96 FEET; THENCE S01°02'20"E PARALLEL TO SAID EAST LINE A DISTANCE OF 250.00 FEET TO A POINT ON THE NORTH R.O.W. LINE OF HIGHWAY 34; THENCE S89°52'07"W ALONG SAID NORTH R.O.W. LINE A DISTANCE OF 20.00 FEET TO THE POINT OF BEGINNING. SAID PERMANENT DRAINAGE EASEMENT CONTAINS 12,495.06 SQUARE FEET OR 0.29 ACRES MORE OR LESS.

Approved as to Form	☐ _____
October 5, 2012	☐ City Attorney

Clark Gauthier - a tract of land consisting of part of Lot Five (5) of Riverside Farm Fourth Subdivision, located in the Southeast Quarter (SE1/4) of Section Twenty-Nine (29), Township Eleven (11) North, Range Nine (9) west of the 6<sup>th</sup> P.M., City of Grand Island, Hall County, Nebraska and more particularly described as follows:

COMMENCING AT THE SOUTH CORNER OF SAID LOT 5, SAID POINT ALSO BEING ON THE NORTH RIGHT-OF-WAY (R.O.W.) LINE OF HIGHWAY 34; THENCE ON AN ASSUMED BEARING OF N03°09'15"W ALONG A WESTERLY LINE OF SAID LOT 5 A DISTANCE OF 23.86 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID WESTERLY LINE N03°09'15"W A DISTANCE OF 40.06 FEET; THENCE S89°57'04"E A DISTANCE OF 89.20 FEET TO A POINT ON A EASTERLY LINE OF SAID LOT 5; THENCE S53°20'59"W ALONG SAID EASTERLY LINE A DISTANCE OF 66.93 FEET; THENCE N89°57'04"W A DISTANCE OF 33.29 FEET TO THE POINT OF BEGINNING. SAID PERMANENT DRAINAGE EASEMENT CONTAINS 2449.87 SQUARE FEET OR 0.06 ACRES MORE OR LESS.

Carl & Lori Armstrong - a tract of land consisting of part of Lot One (1) of Riverside Farm Fourth Subdivision, located in the Southeast Quarter (SE1/4) of Section Twenty-Nine (29), Township Eleven (11) North, Range Nine (9) west of the 6<sup>th</sup> P.M., City of Grand Island, Hall County, Nebraska and more particularly described as follows:

COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 1, SAID POINT ALSO BEING ON THE NORTH RIGHT-OF-WAY (R.O.W.) LINE OF HIGHWAY 34; THENCE ON AN ASSUMED BEARING OF N03°09'15"W ALONG A WESTERLY LINE OF SAID LOT 1 A DISTANCE OF 21.22 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID WESTERLY LINE N03°09'15"W A DISTANCE OF 40.06 FEET; THENCE S89°57'04"E A DISTANCE OF 80.74 FEET TO A POINT ON A EASTERLY LINE OF SAID LOT 1; THENCE S03°09'15"E ALONG SAID EASTERLY LINE A DISTANCE OF 40.06 FEET; THENCE N89°57'04"W A DISTANCE OF 80.74 FEET TO THE POINT OF BEGINNING. SAID PERMANENT DRAINAGE EASEMENT CONTAINS 3229.59 SQUARE FEET OR 0.07 ACRES MORE OR LESS.

Kevin & Karen Houtwed - a tract of land consisting of part of Lot Eight (8) of Riverside Farm Subdivision, located in the Southeast Quarter (SE1/4) of Section Twenty-Nine (29), Township Eleven (11) North, Range Nine (9) west of the 6<sup>th</sup> P.M., City of Grand Island, Hall County, Nebraska and more particularly described as follows:

COMMENCING AT THE POINT OF INTERSECTION OF THE NORTH RIGHT-OF-WAY (R.O.W.) LINE OF HIGHWAY 34 AND A WESTERLY LINE OF SAID LOT 8, SAID POINT ALSO BEING THE SOUTH CORNER OF LOT 5 OF RIVERSIDE FARM SUBDIVISION IN THE CITY OF GRAND ISLAND, HALL COUNTY, NEBRASKA; THENCE ON AN ASSUMED BEARING OF N53°20'59"E ALONG SAID WESTERLY LINE OF SAID LOT 8 A DISTANCE OF 39.86 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID WESTERLY LINE N53°20'59"E A DISTANCE OF 66.93 FEET; THENCE S89°57'04"E A DISTANCE OF 331.36 FEET; THENCE S00°02'56"W A DISTANCE OF 40.00 FEET; THENCE N89°57'04"W A DISTANCE OF 385.02 FEET TO THE POINT OF BEGINNING. SAID PERMANENT DRAINAGE EASEMENT CONTAINS 14327.68 SQUARE FEET OR 0.33 ACRES MORE OR LESS.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the City of Grand Island be, and hereby is, authorized to acquire such drainage easements from The Diamond Engineering Co., Clark Gauthier, Carl & Lori Armstrong, and Kevin & Karen Houtwed, on the above-described tracts of land.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, October 9, 2012.

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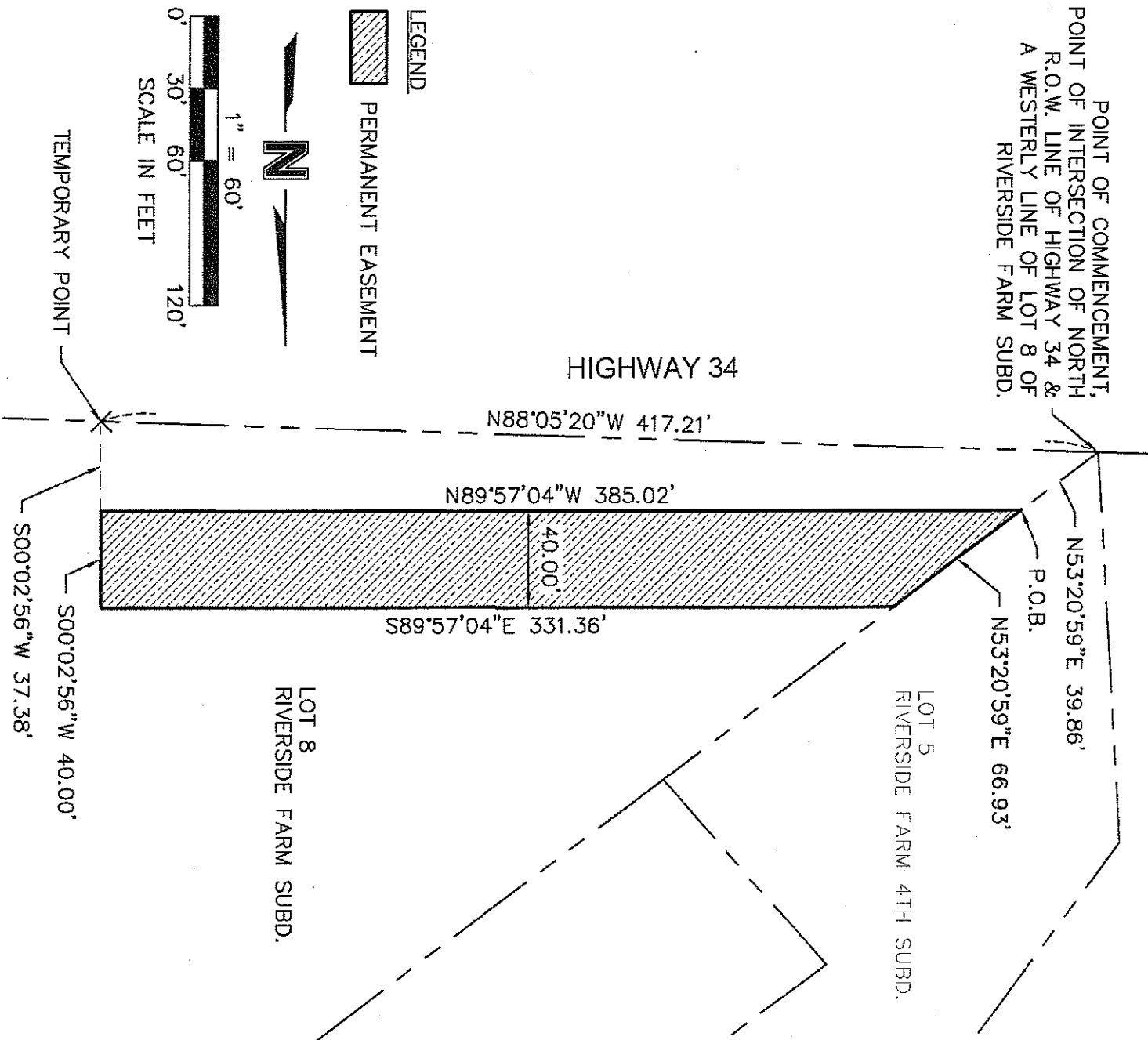
Jay Vavricek, Mayor

Attest:

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RaNae Edwards, City Clerk

# PERMANENT EASEMENT CITY OF GRAND ISLAND, HALL COUNTY, NEBRASKA DRAINAGE PROJECT 2010-D-3

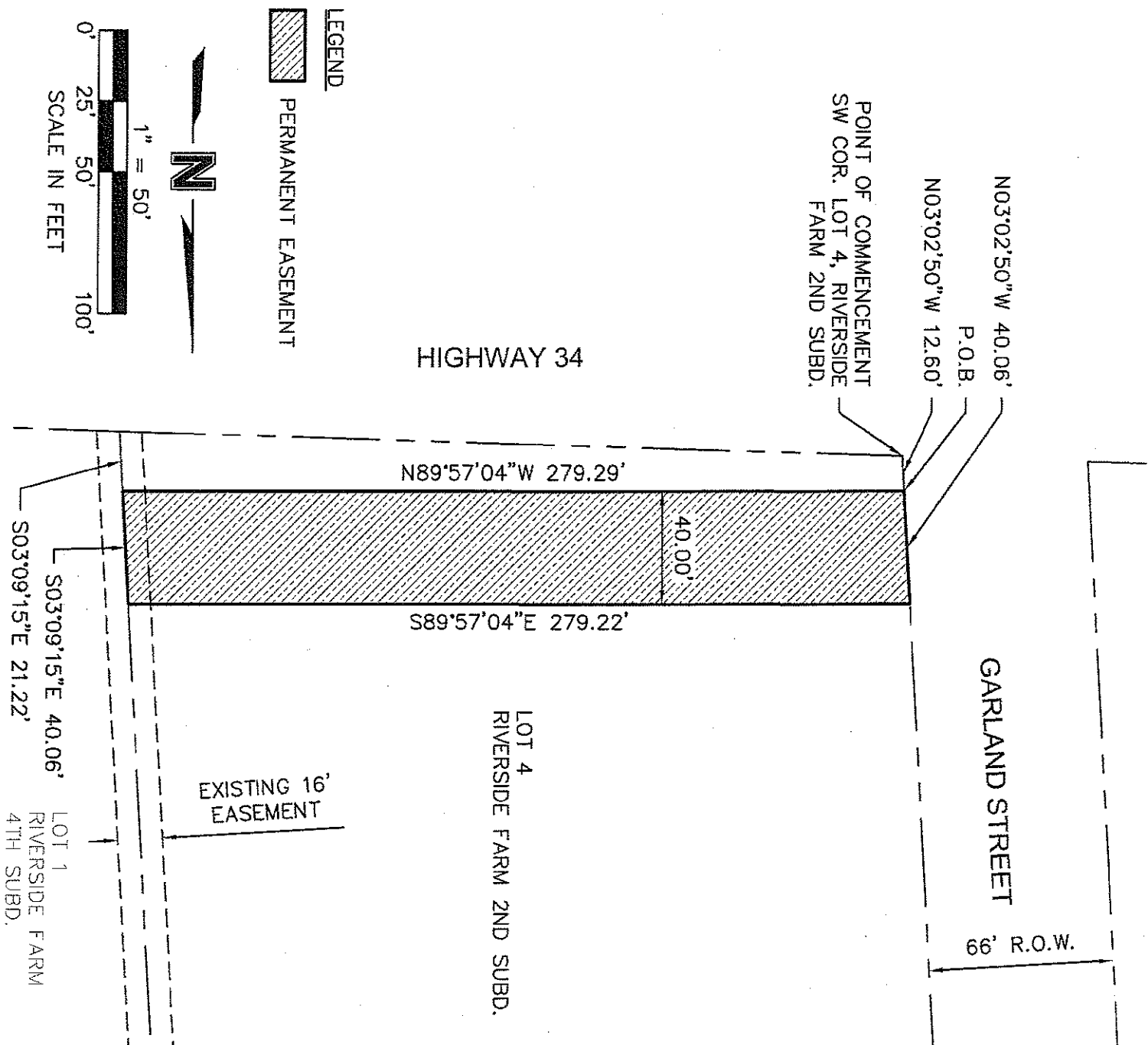


## EASEMENT DESCRIPTION

A PERMANENT DRAINAGE EASEMENT CONSISTING OF PART OF LOT 8 OF RIVERSIDE FARM SUBDIVISION, LOCATED IN THE SOUTHEAST QUARTER (SE1/4) OF SECTION 29, TOWNSHIP 11 NORTH, RANGE 9 WEST OF THE 6TH P.M., CITY OF GRAND ISLAND, HALL COUNTY, NEBRASKA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE POINT OF INTERSECTION OF THE NORTH RIGHT-OF-WAY (R.O.W.) LINE OF HIGHWAY 34 AND A WESTERLY LINE OF SAID LOT 8, SAID POINT ALSO BEING THE SOUTH CORNER OF LOT 5 OF RIVERSIDE FARM SUBDIVISION IN THE CITY OF GRAND ISLAND, HALL COUNTY, NEBRASKA; THENCE ON AN ASSUMED BEARING OF N53°20'59"E ALONG SAID WESTERLY LINE OF SAID LOT 8 A DISTANCE OF 39.86 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID WESTERLY LINE N53°20'59"E A DISTANCE OF 66.93 FEET; THENCE S89°57'04"E A DISTANCE OF 331.36 FEET; THENCE S00°02'56"W A DISTANCE OF 40.00 FEET; THENCE N89°57'04"W A DISTANCE OF 385.02 FEET TO THE POINT OF BEGINNING. SAID PERMANENT DRAINAGE EASEMENT CONTAINS 14327.68 SQUARE FEET OR 0.33 ACRES MORE OR LESS.

# PERMANENT EASEMENT CITY OF GRAND ISLAND, HALL COUNTY, NEBRASKA DRAINAGE PROJECT 2010-D-3

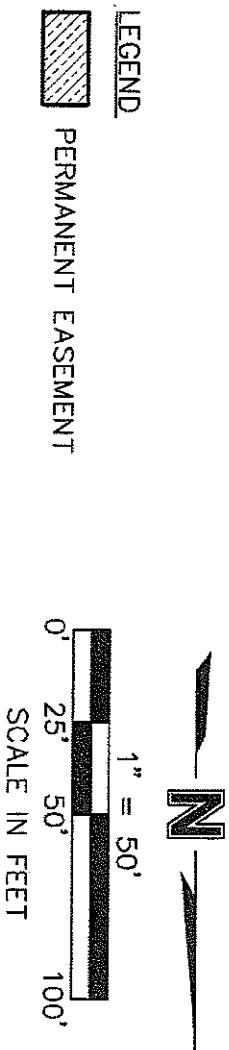
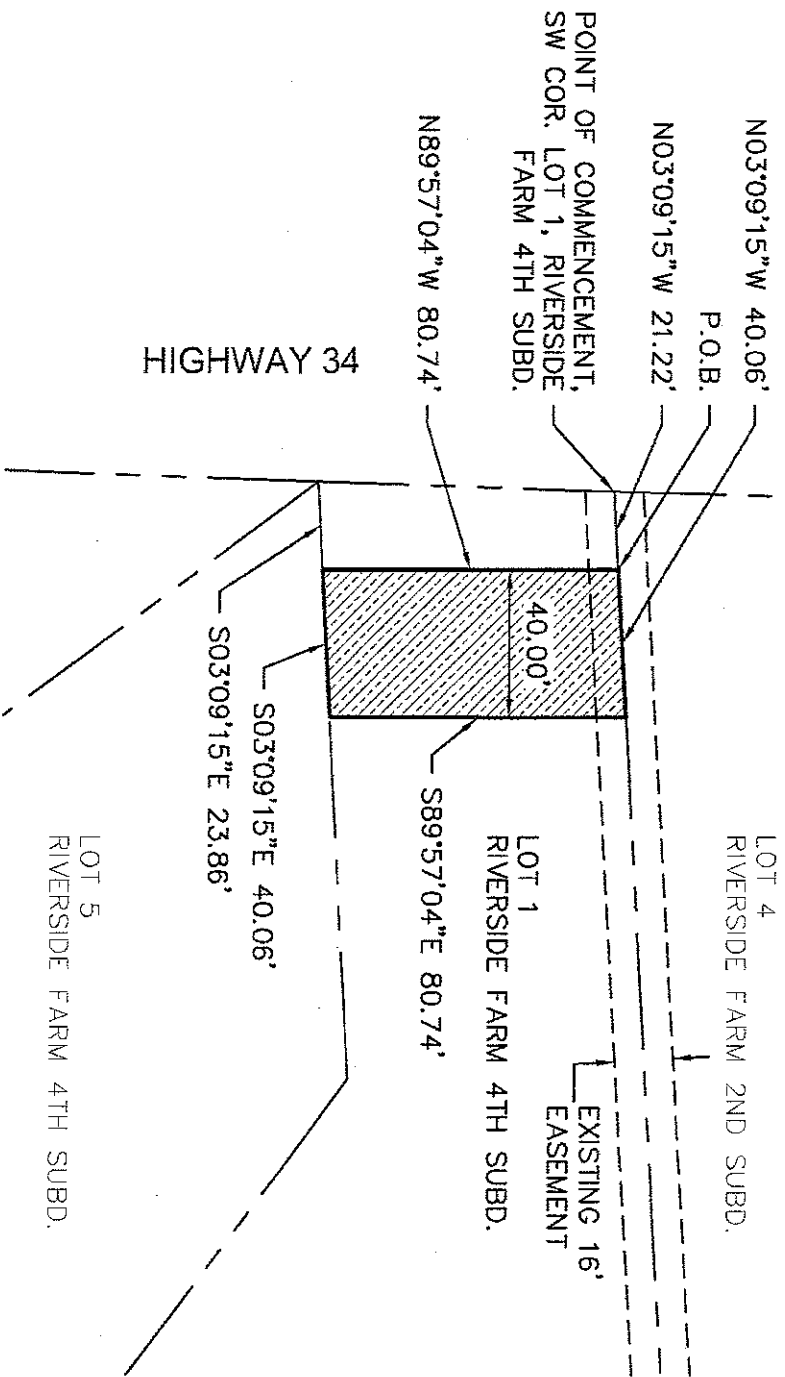


## EASEMENT DESCRIPTION

A PERMANENT DRAINAGE EASEMENT CONSISTING OF PART OF LOT 4 OF RIVERSIDE FARM SECOND SUBDIVISION, LOCATED IN THE SOUTHEAST QUARTER (SE1/4) OF SECTION 29, TOWNSHIP 11 NORTH, RANGE 9 WEST OF THE 6TH P.M., CITY OF GRAND ISLAND, HALL COUNTY, NEBRASKA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 4, SAID POINT ALSO BEING THE POINT OF INTERSECTION OF THE NORTH RIGHT-OF-WAY (R.O.W.) LINE OF HIGHWAY 34 AND THE EAST R.O.W. LINE OF GARLAND STREET; THENCE ON AN ASSUMED BEARING OF N03°02'50"W ALONG SAID EAST R.O.W. LINE A DISTANCE OF 12.60 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID EAST R.O.W. LINE N03°02'50"W A DISTANCE OF 40.06 FEET; THENCE S89°57'04"E A DISTANCE OF 279.22 FEET TO A POINT ON THE EAST LINE OF SAID LOT 4; THENCE S03°09'15"E ALONG SAID EAST LINE A DISTANCE OF 40.06 FEET; THENCE N89°57'04"W A DISTANCE OF 279.29 FEET TO THE POINT OF BEGINNING. SAID PERMANENT DRAINAGE EASEMENT CONTAINS 11170.17 SQUARE FEET OR 0.26 ACRES MORE OR LESS.

# PERMANENT EASEMENT CITY OF GRAND ISLAND, HALL COUNTY, NEBRASKA DRAINAGE PROJECT 2010-D-3

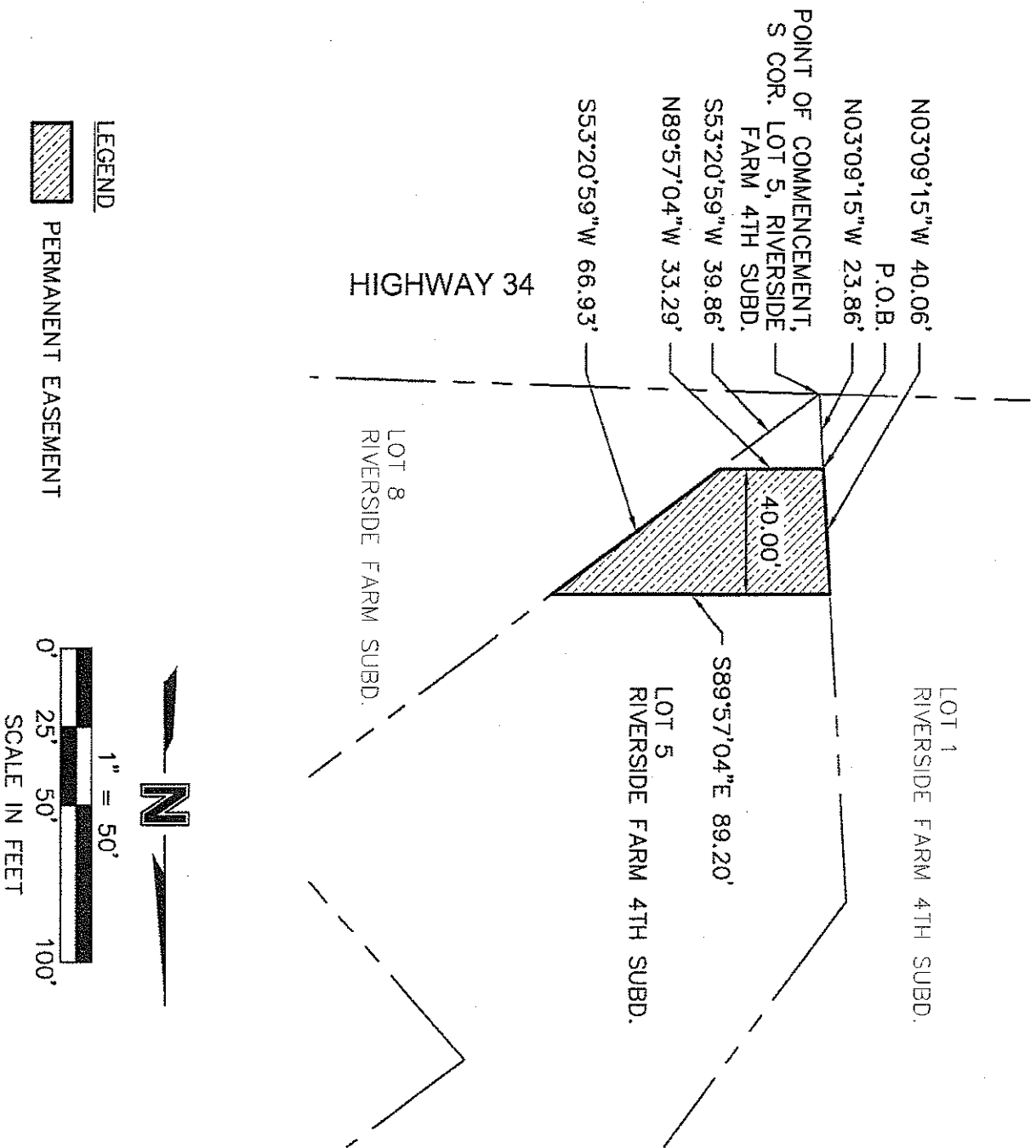


## EASEMENT DESCRIPTION

A PERMANENT DRAINAGE EASEMENT CONSISTING OF PART OF LOT 1 OF RIVERSIDE FARM FOURTH SUBDIVISION, LOCATED IN THE SOUTHEAST QUARTER (SE1/4) OF SECTION 29, TOWNSHIP 11 NORTH, RANGE 9 WEST OF THE 6TH P.M., CITY OF GRAND ISLAND, HALL COUNTY, NEBRASKA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 1, SAID POINT ALSO BEING ON THE NORTH RIGHT-OF-WAY (R.O.W.) LINE OF HIGHWAY 34; THENCE ON AN ASSUMED BEARING OF N03°09'15"W ALONG A WESTERLY LINE OF SAID LOT 1 A DISTANCE OF 21.22 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID WESTERLY LINE N03°09'15"W A DISTANCE OF 40.06 FEET; THENCE S89°57'04"E A DISTANCE OF 80.74 FEET TO A POINT ON A EASTERLY LINE OF SAID LOT 1; THENCE S03°09'15"E ALONG SAID EASTERLY LINE A DISTANCE OF 40.06 FEET; THENCE N89°57'04"W A DISTANCE OF 80.74 FEET TO THE POINT OF BEGINNING. SAID PERMANENT DRAINAGE EASEMENT CONTAINS 3229.59 SQUARE FEET OR 0.07 ACRES MORE OR LESS.

# PERMANENT EASEMENT CITY OF GRAND ISLAND, HALL COUNTY, NEBRASKA DRAINAGE PROJECT 2010-D-3



## EASEMENT DESCRIPTION

A PERMANENT DRAINAGE EASEMENT CONSISTING OF PART OF LOT 5 OF RIVERSIDE FARM FOURTH SUBDIVISION, LOCATED IN THE SOUTHEAST QUARTER (SE1/4) OF SECTION 29, TOWNSHIP 11 NORTH, RANGE 9 WEST OF THE 6TH P.M., CITY OF GRAND ISLAND, HALL COUNTY, NEBRASKA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTH CORNER OF SAID LOT 5, SAID POINT ALSO BEING ON THE NORTH RIGHT-OF-WAY (R.O.W.) LINE OF HIGHWAY 34; THENCE ON AN ASSUMED BEARING OF N03°09'15"W ALONG A WESTERLY LINE OF SAID LOT 5 A DISTANCE OF 23.86 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID WESTERLY LINE N03°09'15"W A DISTANCE OF 40.06 FEET; THENCE S89°57'04"E A DISTANCE OF 89.20 FEET TO A POINT ON A EASTERLY LINE OF SAID LOT 5; THENCE S53°20'59"W ALONG SAID EASTERLY LINE A DISTANCE OF 66.93 FEET; THENCE N89°57'04"W A DISTANCE OF 33.29 FEET TO THE POINT OF BEGINNING. SAID PERMANENT DRAINAGE EASEMENT CONTAINS 2449.87 SQUARE FEET OR 0.06 ACRES MORE OR LESS.



# City of Grand Island

Tuesday, October 9, 2012

Council Session

## Item G23

**#2012-298 - Approving Payment to Families and Schools Together for NE Children and Families Foundation and NE Dept of Health and Human Services Grants**

Staff Contact: Jaye Monter

# **Council Agenda Memo**

**From:** Jaye Monter, Finance Director

**Meeting:** October 9, 2013

**Subject:** Approving Payment to Families and Schools Together for Nebraska Children and Families Foundation and Nebraska Department of Health and Human Services Grants

**Item #'s:** G-23

**Presenter(s):** Jaye Monter, Finance Director

## **Background**

In 2010 and 2011, the City of Grand Island was awarded a total of \$80,000 in grants from the Nebraska Children and Families Foundation (NCFF) and the Nebraska Department of Health and Human Services. The grant funds were awarded to the City to work with the Coalition for Children now called the Child Well Being Collaboration to build collaboration and implement a community Strategic Plan for a Child Well-being Initiative. At the end of the first grant year, the unspent grant funds were \$58,177.31. An additional \$30,000 was received on August 9, 2011 from the Nebraska Department of Health and Human Services. The Child Well Being Collaborative is an inclusive group of individuals and agencies interested in improving the lives of children, youth and their families in Grand island. On January 12, 2012 the Child Well Being Collaboration met to approve the spending categories of the \$58,177.31 carry over balance of grant funds and the new \$30,000.

## **Discussion**

The Central District Health Department is one of the agencies in the Child Well Being Collaboration. Central District Health Department (The Agency) representing the Child Well Being Collaboration has entered into a contract with Families and Schools Together Inc. to provide coordination training and evaluation services to collaborative teams that serve children and familings using the Families and Schools Together program (FAST). FAST will provide services for three kid FAST cycles at schools to be determined. City of Grand Island Procurement Code requires Council approval for payment of services not going through the bid process exceeding \$7,500. The grant monies have already been received by the City of Grand Island as described above. There will be no cost to City.

## **Alternatives**

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

1. Approve the payment of \$18,135.00 to Families and Schools Together, Inc.
2. Disapprove or deny the contract payment.
3. Take no action on the contract payment.

## **Recommendation**

City Administration recommends that the Council approve the payment from grant funds to Families and Schools Together, Inc. of \$18,135.00.

## **Sample Motion**

Move to approve the payment of grant funds in the amount of \$18,135.00 to Families and Schools Together, Inc.

**Contract #: 1208241**

**FAMILIES AND SCHOOLS TOGETHER  
SERVICE CONTRACT**

THIS CONTRACT will be in effect from August 24<sup>th</sup>, 2012 to August 24<sup>th</sup>, 2013 by and between Central District Health Department hereinafter called "AGENCY" and Families And Schools Together Inc., hereinafter called "FST."

Central District Health Department  
Federal ID No. 470544/25  
Teresa Anderson  
Health Director  
1137 S Locust Street  
Grand Island, NE 68801  
  
Phone: 308-385-5175  
Cell:  
Fax: 308-385-5181  
Email: tanderson@cdhd.ne.gov  
Website

and Families And Schools Together, Inc.

Carol Goedken  
Chief Executive Officer

2801 International Lane, Suite 212  
Madison, Wisconsin 53704  
Phone: (608) 663-2382  
Fax: (608) 663-2336

FAST Program Contact Person

Thor Larsen  
Executive Director  
221 East South Front Street  
Grand Island, NE 68801  
Phone: 308-395-9662  
Cell: 308-227-2209  
Fax:  
Email:

**WITNESSETH:**

WHEREAS AGENCY desires FST to provide coordinated training and evaluation services to a collaborative team(s) that serves children and families using the FAST Families and Schools Together program model. FST, the contractor, agrees to provide the following services for three (3) Kids FAST cycles at Schools to be determined under this contract. The contractor further agrees to provide Technical Assistance from a designated FST staff person, who will work with the appropriate representatives of AGENCY. These services shall be based on the terms and conditions set forth herein.

NOW THEREFORE, in consideration of the premises contained herein and the promises each to the other made, the parties do agree as follows:

## **ARTICLE I – CATEGORY OF WORK AND SERVICES**

The work and services to be performed by FST shall be as follows:

### **A. CONSULTATION**

Provide consultation and technical assistance for coordinating the start-up team, implementing and evaluating the program, and planning for local sustainability of the FAST initiative.

### **B. TRAINING**

Delivery of the Plan, Do, and Review FAST Team Training (McDonald, 1990), which includes three 3 site visits to observe implementation locally; a certified FAST trainer will be assigned to your training upon receipt of payment:

1. Certified Trainers consult with team members at their site/school prior to Phase I to give support and overview of responsibilities. Certified Trainers consult with AGENCY intern, if applicable.
2. **PLAN:** Two (2) full days of informational and experiential training with collaborative team members who are required for each type of FAST program:
  - a. Four-member Kids FAST collaborative, parent-professional partnership team; four-member Pre-K FAST collaborative, parent-professional team; six-member Middle School collaborative, parent-youth-professional partnership team; or six-member Baby FAST collaborative, teen parent-grandparent-professional partnership team.
  - b. The professional members must consist of parent, school, two community-based partners e.g., mental health and substance abuse partners for Kids FAST and Pre-K FAST teams and additional youth advocate and youth partner members for Middle School teams. Baby FAST team members must include a teen mother, teen father, grandparent, visiting nurse, occupational therapist, and mental health representative. Teams may consist of up to 10 members.
  - c. **The four or six core team members must be present or the training will not proceed. AGENCY must pay for all expenses incurred as a result of such cancellation.**
  - d. One (1) set of ten (10) manuals will be provided through FST to the team for the two-day training.

- e. FASTWORKS training will be provided during the two day training.
- 3. **DO:** Three (3) site visits by a Certified FAST Trainer to observe the 8 week Kids FAST/Baby FAST, 14 week Middle School FAST, which has a 4 week youth group prior to ten weeks of multi-family meetings, 10 week Pre-K multi-family program implementation, followed by a two hour discussion about program integrity and local adaptation with the full team. FASTWORKS training and support is reviewed at the second site visit.
- 4. **REVIEW:** One (1) day review of the following: all evaluation results from trainer, team, parent-consumer panel, and quantitative instruments and data analysis. Also, facilitate parents' development of two year **FASTWORKS**.
- 5. **Internship supervision:** ☐ yes ☒ NO please check one  
Certified trainer consults with trainer intern throughout the FAST cycle to give support and gain a better understanding of trainer responsibilities.

#### C. EVALUATION

- 1. Provide evaluation tools to be used to determine outcomes with the children and families in each site before (pre) and after (post) the FAST curriculum.
- 2. Provide general information and instructions for implementing evaluation procedures (i.e., Evaluation Administration Guidebook).
- 3. Score and process evaluation tools and conduct data analysis to compare with program outcome data of existing data held by the FAST curriculum.
- 4. Provide a final Evaluation Report for each site based upon the data submitted to FST by that site.
- 5. If evaluation is being done through an alternate source (e.g., accredited university the Lead Agency must provide FST a detailed summary of the measures to be used, the evaluation process, and a full copy of the final evaluation report when the FAST cycle is complete). The summary must be provided to FST for approval prior to the first FAST family session being held. Without this prior approval, the site may not call its program "FAST." FST reserves the right to refuse certification to any site and its team that does not provide adequate evidence of evaluation of program goals.

#### D. CERTIFICATION

Site Certification: The **FAST** Program must be recommended for certification. Recommendation for the sites and its teams will be made upon meeting all certification criteria as follows. A full collaborative, parent-professional **FAST** team attends the one day Review training, with attendance by two (2) **FAST** parent graduates. The site(s) graduates a minimum of five (5) families, who attend at least 6 FAST family sessions; the site(s) submits

completed pre- and post-tests from program participants and other raters such as teachers; a complete team present for the sites at the start of the FAST cycle; team member retention of 75% during the cycle, and close team representation of ethnic background for the population being served through FAST. If a team member leaves the FAST team during a cycle, the team vacancy must be filled immediately. Teams are recommended to have “back up” team members for such cases.

A new contract will be completed for subsequent evaluations, which will reflect appropriate certification information when the sites complete the cycles.

1. Give permission to the sites to use the name FAST to describe the program. This permission is only granted when the site(s) completes program evaluation for each and every subsequent FAST cycle for quality assurance purposes and maintains and meets certification criteria as described above.
  - a. FST retains the right to refuse certification to any site for which it deems alternate program evaluation to be unsatisfactory.

**E. IN RETURN FOR THESE SERVICES, AGENCY and the sites agree as follows:**

Work in cooperation with FST to facilitate the training goals of the FAST program at program site.

1. **Manage the following aspects of the FAST program:**
  - a. Create collaborative, parent-professional partnership team for each cycle.
  - b. Develop funding structure for FAST pilot and training team.
  - c. Recruit and do outreach with families to invite voluntary participation.
  - d. Offer appropriate space and solve transportation issues.
  - e. Offer eight (8) multi-family weekly sessions for Baby, Teen and Kids FAST and ten (10) multi-family weekly sessions for Pre-K and Middle School FAST with food cooked by parents, music, and FAST activities as specified in the respective FAST Training Manual.
  - f. Offer 14 weekly youth group sessions corresponding to the ten multi-family weekly sessions for Middle School FAST as specified in the FAST Training Manual.
  - g. Provide formalized home visits to families for recruitment, outreach, and/or further assessment and referral to services.

- h. Manage project in general, which includes meeting all reporting requirements as indicated by the trainer as well as in the Evaluation Guidebook.
2. Sites will gather pretest data prior to the first FAST family session.
3. Sites will gather post-test data within two weeks following the final FAST family session (i.e., graduation).
4. All pre- and post-test data shall not be reproduced or copied in any manner by the sites. Therefore, it is recommended that all relevant evaluation information be shipped via traceable method e.g., certified mail, UPS, etc.
5. All team members of the FAST program for the sites shall honor FAST participant confidentiality as described in the Parent Consent Form in Appendix A which is incorporated herein by reference. The Parent Consent Form is subject to revision or change without notice.
6. Team members, the sites and the Lead Agency must comply with the specifics described in the parent consent form included in the evaluation package for the parents.
7. FASTWORKS must be offered to the parent graduates of each FAST cycle for the program to be called FAST.
8. Team members will offer support and technical assistance to the FASTWORKS parent group in the spirit of training received on FASTWORKS (i.e., more support at the beginning but a gradual backing away as parents take over).

## **ARTICLE II – GENERAL**

1. FST will not be held responsible for improper administration of tools, incomplete data, overall outcomes, or misunderstandings by **AGENCY personnel, Site personnel, program participants &/or any person associated with the evaluation of the FAST program at said sites.**
2. FST will provide the final Evaluation Report to **AGENCY** within approximately eight (8) weeks **after** all necessary evaluation materials are submitted to FST.
3. FST will not be held responsible for program evaluation outcomes, errors in data analysis, or errors in the final Evaluation Report that may or may not result from faulty data collection.
4. FST will not be held responsible for evaluation materials that are lost, destroyed, or damaged (e.g., during shipping).
5. All evaluation tools, complete, partially complete, or unused, must be returned to FST via traceable method.

### **ARTICLE III – BASIS OF PAYMENT**

1. **AGENCY shall compensate the contractor the full amount upon receipt of invoice. A trainer will not be assigned until payment is received. Any new orders submitted by AGENCY to FST will not be processed if any portion of the outstanding balance on your account is 60 days or more past due.**
2. Reimbursement for travel and related expenses, such as, but not limited to, airline or other travel tickets, lodging, meals, local transportation and any applicable per diem expenses, for the trainer or other personnel requested by **AGENCY &/or Site** are separate and are the responsibility of **AGENCY**. Once this contract is fully executed and payment has been received in full by FST, **AGENCY** will work directly with the assigned FAST Certified Trainer to coordinate all travel arrangements. **AGENCY** must make travel, lodging and other arrangements for the FAST Certified Trainer prior to any applicable training dates. All issues concerning travel and related expenses are to be directed to the FAST Certified Trainer. Reimbursement for travel and related expenses is due to the trainer upon receipt of invoice for those expenses. FST will pay trainer for consulting fees only & is in no way responsible for making travel arrangements or incurring any travel or related expenses directly.
3. The portion of the fee for evaluation shall include use of evaluation tools supplied by FST, technical assistance via telephone upon request of or by FST, statistical and demographic data entry and analysis, and qualitative analysis.
4. Shipping costs of materials will be incurred by **AGENCY** in addition to the cost of the materials.
5. FAST requires a minimum of 10 working days to process an order from the date FAST receives the order. Rush fees will apply when a requested delivery date does not allow 10 working days for order processing time. Rush fees are in addition to the cost of materials and regular shipping fees. FST will invoice AGENCY accordingly for EACH item/set as follows and payment is due to FST upon receipt of invoice:

The following Rush Fees will apply when a requested delivery date does not allow for 10 day order processing time:

- 1-2 working days processing time -\$50.00 per item/set
- 3-5 working days processing time - \$35.00 per item/set
- 6-9 working days processing time - \$20.00 per item/set

**Rush fees are subject to change without notice.**

6. **AGENCY** shall pay a \$500 fee for each site that begins evaluation of FAST for obtaining or maintaining certification, but is unable to complete evaluation, when all evaluation tools are returned to FST, completed, partially completed, or unused. If \$1,000 for evaluation has been paid a \$500 refund will be made when the above criteria are met.
7. **AGENCY** shall pay a fee of \$100 per site for certification of that site. Certification criteria as indicated in section I.D. must be met for all subsequent cycles at the sites. Should certification criteria fail to be met, certification will be suspended. The sites must then meet certification criteria again and pay the certification fee of \$100 in order for certification of the sites to be re-instituted.
8. **AGENCY** shall pay a registration fee in the amount of \$25.00 for each FAST cycle it runs. All registered sites that become certified will be published in a registry of certified FAST sites. Registration fees are subject to change without notice.

#### **ARTICLE IV – PAYMENTS**

Costs payable to FST:

Quantity	Cost	Total	
3	\$4,295	\$12,885	Training costs - 1 site/1 cycle/1 team*
3	\$1,000	\$ 3,000	Evaluation package for 1 site/1 cycle/1 team
3	\$ 550	\$ 1,650	Licensing Fees for 1 site/1 cycle/1 team
3	\$ 200	\$ 600	Technical Assistance for 1 site/1 cycle/1 team
	\$	\$	Intern Supervision for
		<b>\$ 18,135</b>	<b>If any one site will run a second FAST cycle of 8/10 weeks and loses 50% of its team members, re-training of the entire team will be necessary for \$3,900 per site</b>

**\*Figure listed above does not include travel and related expenses, shipping charges or any applicable rush fees. As described above, travel and related expenses are payable directly to the trainer by AGENCY. Shipping charges and rush fees are payable to FAST.**

FST RECOMMENDS TO AGENCY TO HAVE A TEAM MEMBER BECOME A TRAINER AND ATTEND THE INTERNATIONAL FAST CONFERENCE, a prerequisite to becoming a certified FAST trainer.

Payment for training fees, manuals, evaluation, materials, etc. are payable to:  
 Families and Schools Together Inc.  
 2801 International Lane  
 Suite 212  
 Madison, Wisconsin 53704

Training materials will be shipped to the **FAST PROGRAM CONTACT PERSON** specified on page 1 of this agreement unless otherwise specified below:

#### **ARTICLE V – TERM OF AGREEMENT**

This contract shall be in force until August 24<sup>th</sup>, 2013. It may be renewed or modified by mutual consent of the parties. **A \$4,145.00 cancellation fee per cycle, per site will be charged for any cancellation of training dates.** The undersigned agree to the terms and conditions outlined above.

#### **ARTICLE VI – COPYRIGHT**

1. FST shall retain Copyright of all materials, handouts, manuals and final Evaluation Reports and all other tools and instruments developed by FST for the purpose of collecting data, training, or disseminating FAST. AGENCY may make five (5) copies or reproductions of the final Evaluation Report or portions thereof for each site for the sole purpose of educating, informing or disseminating the FAST program within AGENCY'S organization without obtaining written permission from FST. Under no other conditions may the final Evaluation Report or any other tool or instrument developed by FST be copied or sold without express consent of FST.
2. FST shall retain possession and ownership of all original raw data submitted by AGENCY/Site and to all electronic data derived from the original hard data.

#### **ARTICLE VII – RELEASE OF INFORMATION**

It is considered possible that during the course of and subsequent to the termination of engagement under the Agreement, FST may need to publish certain results of scientific, technical, or general interest originating under or existing by virtue of this Agreement in, or by means of, journals, magazines, newspapers, radio broadcasts, or other media of communication. FST shall not, without the written approval of AGENCY disclose to others, publish or authorize anyone to publish any confidential information in the course of doing work or rendering services under this Agreement, but such approval of AGENCY shall not be unreasonably withheld by AGENCY as to information originating with FST, particularly after the termination of the Agreement, if the divulging of such information will not be detrimental to AGENCY and will not be contrary to any law.

#### **ARTICLE VIII – LIMITATIONS**

1. FST owns the intellectual property rights, including the copyrights and trademarks, in and relating to the FAST programs and related materials. Use of these rights by a third party (e.g. providing FAST program training or services) without proper authorization may be deemed infringement of these rights.
  - a. At least one month prior to the start of each FAST cycle, AGENCY must complete and return to FST, the "Application for Registration", in order that FST may review information from previous cycles in order to determine AGENCY's compliance with core components of the FAST program, as well as the site's readiness to begin a new cycle. AGENCY shall pay a registration fee in the amount of \$25.00 for each FAST

cycle it runs. All registered sites that become certified will be published in a registry of certified FAST sites. Registration fees are subject to change without notice.

- b. FST is the only party that may enter into a training or service contract with a new or continuing FAST program, with the exception of a lead agency that sponsors new and continuing FAST programs in a community, region, or state, and employs their own local ("in-house") trainer(s), who is certified by FST. "In-house" trainers are allowed to conduct trainings only at sites in which their employer is the lead agency. FAST sites are strictly prohibited from contracting directly with FAST Trainers. The cost of evaluation, registration and certification would still apply in the case of an in-house trainer conducting trainings at sites in which their employer is the lead agency. Evaluation must be done for all FAST cycles.

#### ARTICLE IX – RESERVED RIGHTS

All rights not specifically granted AGENCY are reserved by FST.

<u>Teresa Anderson Health Director</u> Name & Title (Printed or Typed)	<u>Carol Goedken, CEO</u> Name & Title (Printed or Typed)
<u>[Signature]</u> Signature	<u>[Signature]</u> Signature
<u>Central District Health Dept.</u> Agency	<u>Families And Schools Together Inc.</u>
<u>8/26/12</u> Date	<u>                    </u> Date

\* This contract should be signed before training dates are set and costs are incurred by the lead agency and/or site.

Type of Training:

<u>                    </u>	Baby FAST
<u>                    </u>	Pre-K FAST
<u>                    </u>	Kids FAST
<u>                    </u>	Middle School FAST
<u>                    </u>	Teen FAST

Proposed dates of training:

<u>                    </u>
<u>                    </u>
<u>                    </u>
<u>                    </u>

RESOLUTION 2012-298

WHEREAS, in 2010 and 2011 the Nebraska Children and Families Foundation awarded \$80,000 to the City of Grand Island to work with the Coalition for Children now known as the Child Well Being Coalition to implement a community Strategic Plan for Child Well-being; and

WHEREAS, at the end of the first grant year unspent grant funds were \$58,177.31 and an additional \$30,000 was received on August 9, 2011 from the Nebraska Department of Health and Human Services; and

WHEREAS, the Central Nebraska Health Department, an agency with the Child Well Being Coalition entered into a collaborative relationship with the Families and Schools Together, Inc. to provide coordinated training and evaluation services that serve children and families using the FAST Families and Schools Together program model for \$18,135.00; and

WHEREAS, the grant monies have already been received by the City of Grand Island therefore there is no cost to the City; and

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, the payment from grant funds to Families and Schools Together, Inc. is hereby approved; and the Mayor is hereby authorized and directed to execute such agreements on behalf of the City of Grand Island.

BE IT FURTHER RESOLVED, that the mayor is hereby authorized and directed to execute such agreements on behalf of the City Of Grand Island.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, October 9, 2012.

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

Attest:

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

Approved as to Form	☐ _____
October 5, 2012	☐ City Attorney



# City of Grand Island

Tuesday, October 9, 2012

Council Session

## Item G24

**#2012-299 - Approving Payment to Grand Island YMCA for NE Children and Families Foundation and NE Dept of Health and Human Services Grants**

Staff Contact: Jaye Monter

# **Council Agenda Memo**

**From:** Jaye Monter, Finance Director

**Meeting:** October 9, 2013

**Subject:** Approving Payment to Grand Island YMCA for Nebraska Children and Families Foundation and Nebraska Department of Health and Human Services Grants

**Item #'s:** G-24

**Presenter(s):** Jaye Monter, Finance Director

## **Background**

In 2010 and 2011, the City of Grand Island was awarded a total of \$80,000 in grants from the Nebraska Children and Families Foundation (NCFF) and the Nebraska Department of Health and Human Services. The grant funds were awarded to the City to work with the Coalition for Children now called the Child Well Being Collaboration to build collaboration and implement a community Strategic Plan for a Child Well-being Initiative. At the end of the first grant year, the unspent grant funds were \$58,177.31. An additional \$30,000 was received on August 9, 2011 from the Nebraska Department of Health and Human Services. The Child Well Being Collaborative is an inclusive group of individuals and agencies interested in improving the lives of children, youth and their families in Grand island. On January 12, 2012 the Child Well Being Collaboration met to approve the spending categories of the \$58,177.31 carry over balance of grant funds and the new \$30,000.

## **Discussion**

The Central District Health Department is one of the agencies in the Child Well Being Collaboration. Central District Health Department representing the Child Well Being Collaboration has entered into a letter of agreement with the Grand Island YMCA to provide project management services for the start-up and effective implementation of the Grand Island Families and Schools Together (FAST) collaborative project. Start up funds for the Grand Island YMCA referenced in the letter of agreement will come from the remaining balances of grant monies described above. The remaining balance to use towards this letter of agreement is \$14,070.27. City of Grand Island Procurement Code requires Council approval for payment of services not going through the bid process exceeding \$7,500. The grant monies have already been received by the City of Grand Island as described above. There will be no cost to City. Future payments to the Grand Island YMCA to satisfy this letter of agreement will come from new grant monies received directly to the Central District Health Department.

## **Alternatives**

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

1. Approve the payment of \$14,070.27 to the Grand Island YMCA.
2. Disapprove or deny the contract payment.
3. Take no action on the contract payment.

## **Recommendation**

City Administration recommends that the Council approve the payment from grant funds to the Grand Island YMCA of \$14,070.27.

## **Sample Motion**

Move to approve the payment of grant funds to the Grand Island YMCA of \$14,070.27.

## LETTER OF AGREEMENT

Between

Grand Island Child Well Being (Central District Health Department)

And

Grand Island YMCA

This Agreement is entered into by and between Central District Health Department on behalf of the Grand Island Child Well Being Collaboration (hereafter CDHC), and Grand Island YMCA (hereafter Project Manager) located at 221 E. South Front Street, Grand Island NE.

### I. TERM

The term of this Agreement shall begin July 30, 2012 and end on June 30, 2013 or when this Agreement is either terminated or amended by either party as provided herein below.

### II. PURPOSE

To provide Project Management services for the start-up and effective implementation of the Grand Island Families and Schools Together (FAST) collaborative project from July 30, 2012 to June 30, 2013.

### III. SCOPE OF SERVICES

The Project Manager will provide the following services to include, but not limited to, at the request of the PPHHS:

1. Assure the timely and effective start-up of the FAST program, with training completed by January 1, 2013 and first round of FAST classes to be implemented prior to March 1, 2013 in accordance with the collaborative plan and budget outlined hereafter.
2. Administer the FAST project funds in accordance with the budget attached in Appendix A and inform the CDHD and the collaboration of any potential budget shortfalls.
3. Provide Leadership and assist in the development and leveraging of additional resources, donations of goods and braiding of funding, to support the FAST program.
4. Assure the implementation of the FAST program in three elementary schools in Grand Island with fidelity.
5. Administer program funding for three classes of FAST, one in each of three schools.

6. Provide regular written and verbal progress updates for information and evaluation.

#### IV DELIVERABLES

In implementing the FAST program the Project Manager will:

##### Project / Action Deliverables: Start-Up

1. Meet with Grand Island Public Schools to identify three elementary schools that will be FAST schools.
2. Meet with the administrators of each school to determine two key staff to be involved in FAST, take the training, and be part of the FAST Team.
3. With the three school administrators identify possible dates for the two day training in the fall based on the school schedule to occur prior to January 1, 2013.
4. Contact FAST to book training for available school dates.
5. Schedule location and needed resources for training.
6. With the school administrators and two key staff to develop a list of potential parent leaders to be trained. Determine who (school or Project Manager) will contact potential parent leaders to ascertain commitment to FAST.
7. Identify two key partner agencies for each school that will have one staff trained.
8. Enter into contractual agreement with school staff, parents and agencies for the provision of FAST, including training
9. Work with partners, community organizations and businesses to obtain donations (in-kind, goods, resources and cash) to reduce the implementation budget for FAST and promote sustainability.
10. Assure FAST Works is started in each school.
11. Maintain and submit financial records to the collaborative for the FAST budget including cash and in-kind contributions and resources.
12. Provide monthly verbal updates at the collaboration meeting.
13. Receive training on and implement use of the Online Documentation and Support System (ODSS) for evaluation of time and effort in implementation and set up.
14. Provide written quarterly reports and financial updates (November 15, 2012 and (February 15, 2013) reflecting start up project deliverables.

##### Project /Action Deliverables: Implementation

1. Work with FAST teams to coordinate start dates of FAST classes in each of three schools to reduce travel costs and times for FAST trainer to return to Grand Island.
2. Assure that all three FAST programs complete one FAST class before March 30, 2013.
3. Receive all FAST program evaluations and forward to the collaboration.

4. Coordinate process and training evaluations with the collaboration for the Child Well Being Evaluation.
5. Maintain and submit financial records for the FAST Start up Budget including cash donations. Document non- monetary contributions (in-kind, goods, resources).
6. Work with collaboration partners to identify and access funding for project enhancement and sustainability.

Administrative Deliverables:

1. Retain and supervise a lead person to oversee the Project Management.
2. Establish grant management financial records and provide monthly financial updates to the CDHD and collaboration.
3. Submit reports and invoices for funding to the Collaborative.
4. Establish a system for reimbursing leader stipends.
5. Maintain accurate files of all FAST activities.
6. Inform partners of budgetary concerns in advance of any approving any actions which would result in short falls.
7. Promote and maintain positive working relationships with Grand Island Public Schools and community partners.

## V. CONSIDERATION

As the Project Manager, Grand Island YMCA will receive \$10,000 deliverables and above scope of services. This will include all costs incurred by the YMCA in the management of the project.

Payment shall be made as follows:

1. \$3500 on or about August 30, 2012 for Start Up.
2. \$3000 on or about November 30, 2012.
3. \$3000 on or about February 28, 2013
4. \$500.00 upon completion of the final report for Year I implementation.

Payment will be issued within 20 days of the receipt of an invoice from the Project Manager

The Project Manager will also administer the FAST Project Funds totaling \$43,830.27 as described and outlined in the approved FAST Budget attached as Appendix A.

Payment shall be made as follows:

1. \$10,570.27 on or about August 30, 2012 for Start Up to be expended as approved in the attached Appendix A.
2. The balance of \$33,260 in funds will be available for monthly expenditures on a draw down basis upon receipt of an itemized monthly expense request.

## V. REPORTING REQUIREMENTS

The Project Manager agrees to provide reports as described in the Scope of Work and Deliverables.

## VI. TERMS AND CONDITIONS

### 6.1 MODIFICATION

Either party hereto may request a modification of this Agreement upon submission of written notice to the other party at least ten (10) days prior to the effective date of change. Both parties must agree to the modification.

### 6.2 TERMINATION

Either party hereto may cancel this Agreement for any reason upon submission of written notice to the other party at least ten (10) days prior to the effective date of cancellation. Central District Health Department, as fiscal agent for the Grand Island Child Well Being Collaborative, may, at its discretion, terminate the Agreement immediately upon written notice, should the Project Manager breach this Agreement.

### 6.3 NON-DISCRIMINATION

The Project Manager agrees to comply fully with Title VI of the Civil Rights Act of 1964, as amended; the Rehabilitation Act of 1973, Public Law 93-112, as amended; the Americans with Disabilities Act of 1990, Public Law 101-336; and the Nebraska Fair Employment Practice Act, as amended, in that there shall be no discrimination against any employee who is employed in the performance of this Agreement, or against any applicant for such employment, because of age, color, national origin, ancestry, race, religion, creed, disability, sex or marital status. This provision shall include, but not be limited to the following: employment, promotion, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensations, and selection for training including apprenticeship. The Project Manager agrees that no qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity of the Project Manager. The Project Manager further agrees to insert similar provisions in all sub-contracts for services allowed under this Agreement under any program or activity.

**6.4 ASSIGNABILITY**

The Project Manager agrees not to assign or transfer any interest, rights, or duties in this Agreement to any person, firm, or corporation without prior written consent of the PPHHS.

**I 6.5 SUBCONTRACTORS**

The Project Manager agrees that no subcontractors shall be utilized in the performance of this Agreement without the prior authorization of the CDHD on behalf Child Well Being Collaboration. .

**6.6 CONFIDENTIALITY**

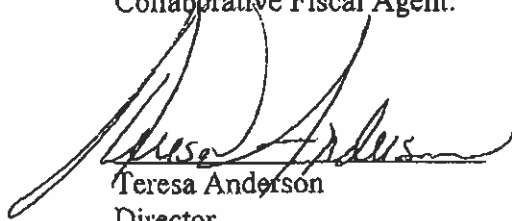
The Project Manager agrees that any and all information regarding individual consumers of services gathered in the performance of this Agreement, either independently or through the FAST Program, shall be held in the strictest confidence and shall be released to no one other than the Child Well Being Collaborative Steering Committee, without the prior written authorization of the Child Well Being Collaborative Steering Committee, provided, that contrary Agreement provisions set forth hereinabove shall be deemed to be authorized specific exceptions to this general confidentiality provision.

**6.7 BREACH OF CONTRACT**

Should the Project Manger breach this Agreement, CDHD on behalf of the Child Well Being Collaborative may, at its discretion, terminate the Agreement immediately upon written notice to the Project Manager. The CDHD on behalf of the Child Well Being Collaborative may authorize payment to the Project Manager only for such performance as has been properly completed and is of use to Child Well Being Collaborative. CDHD on behalf of the Child Well Being collaborative may, at its discretion, contract for provision of the services required to complete this Agreement and hold the Project Manager liable for all expenses incurred in such additional contract over and above the total cost of performance set forth herein in Section IV. CONSIDERATION. This provision shall not preclude the pursuit of other remedies for breach of contract as allowed by law.

Executed by the parties or their duly authorized representatives on the dates indicated below.


FOR THE Child Well Being  
Collaborative Fiscal Agent:



Teresa Anderson  
Director  
Central District Health  
Department

FOR GRAND ISLAND YMCA:

8/30/12  
Date



Thor Larsen  
Executive Director  
Grand Island YMCA

8/30/12  
Date

Tax ID # 47-0425015

RESOLUTION 2012-299

WHEREAS, in 2010 and 2011 the Nebraska Children and Families Foundation awarded \$80,000 to the City of Grand Island to work with the Coalition for Children now known as the Child Well Being Coalition to implement a community Strategic Plan for Child Well-being; and

WHEREAS, at the end of the first grant year unspent grant funds were \$58,177.31 and an additional \$30,000 was received on August 9, 2011 from the Nebraska Department of Health and Human Services; and

WHEREAS, the Central Nebraska Health Department, an agency of the Child Well Being Coalition entered into a letter of agreement with the Grand Island YMCA to provide project management services for the start-up and effective implementation of the Grand Island Families and Schools Together (FAST) collaborative project; and

WHEREAS, the grant monies have already been received by the City of Grand Island therefore there is no cost to the City; and

WHEREAS, the payment of \$14,070.27 to the Grand Island YMCA represents the remaining balance of grant funds received in 2010 and 2011 and additional payments referenced in the letter of agreement will come from future grant funds received by the Central Nebraska Health Department.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that payment to the Grand Island YMCA from grand funds is hereby approved; and the Mayor is hereby authorized and directed to execute such agreements on behalf of the City of Grand Island.

BE IT FURTHER RESOLVED, that the mayor is hereby authorized and directed to execute such agreements on behalf of the City Of Grand Island.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, October 9, 2012.

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

Attest:

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

Approved as to Form	☐ _____
October 5, 2012	☐ City Attorney



# City of Grand Island

Tuesday, October 9, 2012

Council Session

## Item I1

**#2012-300 - Approval of Revised MOU with UPRR Regarding a Fence along Railroad Right of Way**

Staff Contact: Robert J. Sivick, City Attorney

# **Council Agenda Memo**

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

**Meeting:** October 9, 2012

**Subject:** Approval of Revised MOU with UPRR Regarding a Fence along Railroad Right of Way

**Item #'s:** I-1

**Presenter(s):** Robert J. Sivick, City Attorney

## **Background**

Trespassing on the Union Pacific Railroad (UPRR) right of way running along its tracks in downtown Grand Island has been an ongoing problem. This trespassing results in potential and actual damage to property, injuries to persons, and sadly fatalities on occasion. The Grand Island Police Department (GIPD) has worked closely with UPRR officials to reduce the frequency of trespassing on UPRR property. In recognition of its efforts the UPRR recently presented the GIPD with its Safety Spike Award.

Despite the efforts of UPRR and City of Grand Island (City) officials, additional measures to reduce trespassing are needed. On July 30, 2012 UPRR officials met with the Mayor, Administrator, and representatives from the City Public Works, Police, and Legal Departments to discuss this issue. The agreements reached during that meeting were memorialized in a Memorandum of Understanding (MOU) presented to the Grand Island City Council at its August 28, 2012 meeting.

Since that time, City staff has maintained communications with UPRR officials and a new MOU has been drafted with terms more favorable to the City.

## **Discussion**

Essentially UPRR has agreed to erect a fence constructed of aesthetically pleasing ornamental black steel along its tracks in downtown Grand Island similar to what exists along the UPRR tracks in Kearney. The installation of the fence will extend from the Burlington Northern tracks West to Broadwell Avenue and installation will begin later this year. The main change in the previous MOU is fencing along the entire length of the project will be ornamental black steel and no portion will be chain link. As stated in the previous MOU, the City will agree to maintain the fence.

Resolution 2012-300 authorizes the Mayor to sign the MOU on behalf of the City so construction of the fence may begin.

### **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**

The City Administration recommends the Council approve Resolution 2012-300 authorizing the Mayor to sign the MOU with UPRR on behalf of the City.

### **Sample Motion**

Move to approve Resolution 2012-300 to authorize the Mayor to sign the Memorandum of Understanding with the Union Pacific Railroad for the construction of a fence along the railroad's right of way from the Burlington Northern tracks West to Broadwell Avenue.

## MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding ("MOU") is entered into on \_\_\_\_\_, 2012, between UNION PACIFIC RAILROAD COMPANY, a Delaware corporation ("UPRR") and the CITY OF GRAND ISLAND, Hall County, Nebraska, a political subdivision duly organized and existing under the Constitution and Laws of the State of Nebraska (the "City").

WHEREAS, the City and UPRR desire to provide for the installation and maintenance of a fence on portions of the UPRR right of way generally from the BNSF overhead (where it passes over the UPRR tracks) to Eddy Street, Eddy Street to Lincoln Avenue and Lincoln Avenue to Broadwell Avenue, which locations are depicted on **Exhibit A**, attached hereto and incorporated herein by reference; and

WHEREAS, the City and UPRR desire to establish between them their respective rights and obligations with respect to installation and maintenance of the fence.

In consideration of the mutual promises and covenants set forth in this MOU and for other good valuable consideration, the parties hereby agree as follows:

### **Section 1. UPRR Responsibilities.**

Within \_\_\_\_\_ (\_\_\_) days after execution of this MOU, UPRR, at UPRR's sole cost and expense, shall install the fence. UPRR shall select the final location for the fence on the UPRR right of way, provided the fence shall be at least thirty (30) feet from the centerline of UPRR's nearest railroad tracks. The design of the fence shall be as follows:

- (a) on portions of the right of way from the BNSF overhead to Pine Street -- Ameristar ornamental black steel fencing (approximately 1,400 feet);
- (b) on portions of the right of way from Pine Street to Eddy Street -- Ameristar ornamental black steel fencing (approximately 500 feet);
- (c) on portions of the right of way from Eddy Street to Lincoln Avenue -- Ameristar ornamental black steel fencing (approximately 1,928 feet); and
- (d) on portions of the right of way from Lincoln Avenue to Broadwell Avenue -- Ameristar ornamental black steel fencing (approximately 1,872 feet).

Notwithstanding any other provision in this MOU to the contrary, however, in the event that UPRR determines it needs to install a gate in the fence, relocate the fence, or otherwise remove the fence completely for UPRR's operating or other purposes, then UPRR may do so upon thirty (30) days written notice to the City.

**Section 2. City Responsibilities.**

After UPRR's completion of the fence, the City, at its sole cost and expense, shall periodically inspect the fence and when necessary shall repair the fence to keep the fence in good and safe condition. Any repairs and maintenance on the fence and any labor performed or materials furnished in connection therewith shall be performed and furnished in compliance with all applicable laws, regulations, ordinances and requirements of all duly constituted municipal authorities or other governmental bodies having jurisdiction over the fencing. The City shall not modify the design of the fence without the consent of UPRR. Prior to any entry by the City or any employees, contractors or agents of the City onto UPRR's right of way for any purpose, the City and any of its contractors and agents shall each enter into UPRR's then-current form of Right of Entry Agreement.

**Section 3. Term.**

The term of this MOU shall commence as of the date first above written and shall continue in effect as long as the fence remains on the UPRR right of way.

**Section 4. Entire Memorandum of Understanding.**

This MOU and all exhibits attached hereto constitute the entire MOU between the parties, superseding any other written and oral MOUs between the parties. If any section of this MOU is held to be invalid by a court of competent jurisdiction, such section shall be reformed to the extent necessary to be held valid, and the parties agree that the remainder of this MOU shall not be affected thereby.

IN WITNESS WHEREOF, the parties hereto have executed this MOU the day and year first above written.

**UNION PACIFIC RAILROAD COMPANY**

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Printed Name: \_\_\_\_\_

**CITY OF GRAND ISLAND, NEBRASKA**

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Printed Name: \_\_\_\_\_



RESOLUTION 2012-300

WHEREAS, trespassing on the Union Pacific Railroad (UPRR) right of way is a problem that endangers life and property; and

WHEREAS, City of Grand Island (City) officials, particularly members of the Grand Island Police Department, have worked closely with UPRR officials to reduce trespassing along the railroad right of way; and

WHEREAS, both City and UPRR officials agree a fence is needed along the railroad right of way in downtown Grand Island to further reduce incidents of trespassing; and

WHEREAS, a Memorandum of Understanding has been drafted memorializing the agreement between the City and UPRR;

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the Memorandum of Understanding between the City of Grand Island and the Union Pacific Railroad is hereby approved and the Mayor is authorized to execute said Memorandum on behalf of the City.

Adopted by the City Council of the City of Grand Island, Nebraska, October 9, 2012.

---

Jay Vavricek, Mayor

Attest:

---

RaNae Edwards, City Clerk

Approved as to Form	☐ _____
October 5, 2012	☐ City Attorney



# City of Grand Island

Tuesday, October 9, 2012

Council Session

## Item I2

**#2012-301 - Approving Amending Resolution No. 2012-225 -  
Project Management Fees Only for the State Street and Capital  
Avenue Connector Trail Project with Midwest Right of Way  
Services**

Staff Contact: Terry Brown, Interim Public Works Director

# **Council Agenda Memo**

**From:** Scott Griepenstroh, PW Project Manager

**Meeting:** October 9, 2012

**Subject:** Approving Amending Resolution No. 2012-225 -  
Agreement with Midwest Right of Way Services for the  
State Street and Capital Avenue Connector Trail Project

**Item #'s:** I-2

**Presenter(s):** Terry Brown, P.E., Interim Public Works Director

## **Background**

On August 28, 2012 the Grand Island City Council approved Resolution No. 2012-225 to provide for appraisal and project management services from Midwest Right of Way Services for the State Street and Capital Avenue Connector Trail Project. Such services included Compensation Estimates of \$2,700.00 and Project Management Fees of \$680.00, for a total agreement of \$3,380.00.

## **Discussion**

At this time it is appropriate to amend the original agreement with Midwest Right of Way Services, as the appraisal services are being handled by a separate firm (Capital Appraisal Services, through approved Resolution No. 2012-250). Midwest Right of Way Services will only be responsible for the Project Management of the State Street and Capital Avenue Connector Trail Project, for an amended cost of \$1,020.00.

## **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 amendment to Resolution No. 2012-225 to allow for Midwest Right of Way Services to provide Project Management services only, in the amount of \$1,020.00 for the State Street and Capital Avenue Connector Trail Project.

## **Sample Motion**

Move to approve the amendment to Resolution No. 2012-225.

RESOLUTION 2012-301

WHEREAS, the City of Grand Island City Council approved Resolution No. 2012-225 to provide for appraisal and project management services from Midwest Right of Way Services for the State Street and Capital Avenue Connector Trail Project; and

WHEREAS, such services included Compensation Estimates of \$2,700.00 and Project Management Fees of \$680.00, for a total agreement of \$3,380.00; and

WHEREAS, at this time it is appropriate to amend the original agreement with Midwest Right of Way Services, as the appraisal services are being handled by a separate firm (Capital Appraisal Services, through approved Resolution No. 2012-250); and

WHEREAS, Midwest Right of Way Services will only be responsible for the Project Management of the State Street and Capital Avenue Connector Trail Project, for an amended cost of \$1,020.00.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the amendment of Resolution No. 2012-225 is hereby amended that Midwest Right of Way Services will only be responsible for the Project Management of the State Street and Capital Avenue Connector Trail Project, for an amended cost of \$1,120.00.

BE IT FURTHER RESOLVED, that the Mayor is hereby authorized and directed to sign such updated agreement with Midwest Right of Services for such Project Management services.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, October 9, 2012.

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

Attest:

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

Approved as to Form	☐ _____
October 5, 2012	☐ City Attorney



# City of Grand Island

Tuesday, October 9, 2012

Council Session

## Item I3

**#2012-302 - Approving Relocation of Memorial Marker and  
Flagpole to Hall County Veteran's Park**

Staff Contact: Todd McCoy, Interim Parks & Recreation Director

# **Council Agenda Memo**

**From:** Todd McCoy, Interim Parks and Recreation Director

**Meeting:** October 9, 2012

**Subject:** Consider Request to Move a World War I Memorial Marker and Flagpole from Memorial Park to Hall County Veterans Memorial Park

**Item #'s:** I-3

**Presenter(s):** Todd McCoy, Interim Parks and Recreation Director

## **Background**

In the early 1930's the American Legion Post #53 donated a World War I memorial marker and flagpole to the City of Grand Island. The memorial marker and flagpole is currently located at Memorial Park just west of Ace Hardware.

## **Discussion**

A veteran's citizen group and the American Legion Post #53 have made a request to the City to remove the memorial marker and flagpole from Memorial Park. They would like to refurbish and relocate the memorial marker to the Hall County Veterans Memorial Park next to the VFW at no cost to the City.

The group's goal is to locate memorials from each war to the Hall County Veterans Memorial Park so that all veterans can be honored in one convenient place. On September 25 the group received permission from the Hall County Board to relocate the Korean War Memorial currently located at the Hall County Administration Building.

## **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 City Council approve the relocation of the World War I Memorial Marker and Flagpole from Memorial Park to the Hall County Veterans Memorial Park.

## **Sample Motion**

Move to approve the relocation of the World War I Memorial Marker and Flagpole from Memorial Park to the Hall County Veterans Memorial Park.

To Whom It May Concern:

The Monument and Flag Pole located at Memorial Park on 3<sup>rd</sup> Street by Ace Hardware is in need of repair. It has been there since around the 1930's.

A group of us would like to move them up to the Hall County Veterans Memorial Park by the United Veterans Club located on 1914 W. Capital Ave.

We contacted Desch-Paine memorial--they said it had too many cracks to be moved. Desch-Paine offered to take the plaques off the old monuments, refurbish them and place them on a new monument with the American Legion emblem under the big plaque. We will pay for the removing of the plaques, refurbishment and the installation on the new monument.

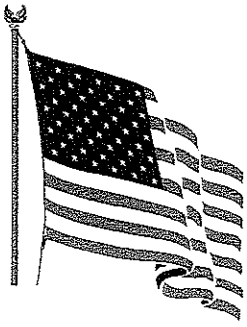
We have contacted the United Veterans Club and Post 53 American Legion---They both agreed it would be ok to place a monument in the Hall County Veterans Memorial Park. We still need to contact the county board for their consent. Once we get the consent of the County Board and your approval, we will begin.

I, Dave Detweiler, the spokesman of the group—can be reached on my cell 308-380-2824 or on my home phone 308-384-2454, for any questions you may have

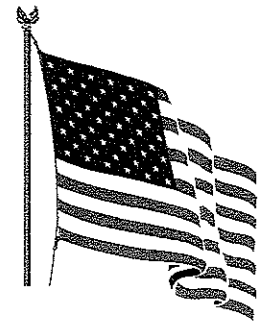
Thank you for your time

Dave Detweiler  
2219 North Sherman  
Grand Island, NE 68803

A handwritten signature in cursive script, appearing to read "Dave Detweiler".



**AMERICAN LEGION**  
**Post # 53**  
1914 West Capital Avenue  
Grand Island, Nebraska 68803  
(308) 381-1555



August 22, 2012

City of Grand Island  
Parks and Recreation Department  
PO Box 1968  
Grand Island, NE 68802


Dear Sirs:

It has come to our attention that there is conversation concerning placing all war memorials at the Hall County Veterans Memorial Park. This would seem to be a very fine move as all veterans would then be honored in one place.

Relevant to that thought, we are requesting permission to move the plaque honoring Grand Island's World War I veterans located at the Memorial Park on West Third Street to the Hall County Veterans Memorial Park. This plaque was originally donated by American Legion Post #53 of Grand Island. The removal and reinstallation of this plaque would be at no cost to the City of Grand Island. The work would be undertaken by our Post members and the Sons of the American Legion.

Thank you for your attention to this request.

Sincerely yours,

  
Richard L. Simpson  
Adjutant



RESOLUTION 2012-302

WHEREAS, in the early 1930's the American Legion Post #53 donated a World War I memorial marker and flagpole to the City of Grand Island; and

WHEREAS, a veteran's citizen group and American Legion Post #53 have made a request to relocate the memorial marker and flagpole to the Hall County Veterans Memorial Park.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the Mayor be, and hereby is, authorized and directed to approve the relocation of the World War I memorial marker and flagpole to the Hall County Veterans Memorial Park.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, October 9, 2012.

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

Attest:

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

Approved as to Form	☐ _____
October 5, 2012	☐ City Attorney



# City of Grand Island

Tuesday, October 9, 2012

Council Session

## Item I4

### **#2012-303 – Consideration of Approving Cable Franchise Agreement with Charter Communications**

Staff Contact: Robert J. Sivick, City Attorney

# **Council Agenda Memo**

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

**Meeting:** October 9, 2012

**Subject:** Consideration of the Renewal of the City's Cable Franchise Agreement with Charter Cable

**Item #'s:** I-4

**Presenter(s):** Robert J. Sivick, City Attorney

## **Background**

On March 7, 1966 the Grand Island City Council (Council) approved Ordinance 4238 which set forth the City of Grand Island's (City) laws and procedures for awarding cable television franchise agreements. On April 11, 1966 a twenty-five year franchise was awarded to TCI Cablevision of Nebraska, Inc. (TCI). This franchise agreement was renewed on February 10, 1992 for a fifteen year period. TCI's cable television assets were later acquired by CCVI Operating, LLC d/b/a Charter Communications (Charter).

March 7, 2006 the Council approved Resolution 2006-78 which approved a contract with the law firm of Moss & Barnett of Minneapolis for legal and consulting service related to negotiations with Charter for the renewal of its cable franchise agreement with the City.

In August, 2011, at the request of the Administration, the City Attorney began reviewing the status of negotiations between the City and Charter. Progress had been slow due in part to Charter's Chapter 11 bankruptcy filing in 2009.

The City Attorney made contact with representatives of Moss & Barnett and Charter to express the City's disappointment in the slow progress of negotiations and its desire for completion. The City Attorney also began personally participating in negotiations on behalf of the City. An agreement between the City and Charter has been reached and is presented to the Council for its review. The Administration plans to bring the cable franchise agreement before the Council at its meeting on October 9, 2012 for consideration and possible approval.

## **Discussion**

Representatives of the City and Charter negotiated vigorously but professionally on behalf of their respective clients. The City sought to improve its position under the terms of the agreement. Charter sought to maintain control over its operations and costs as a result of the increased competition faced by the cable television industry from satellite and internet content providers.

In broad terms, the proposed agreement to be reviewed by the Council is for a period of fifteen years. It will increase the number of Public, Educational, and Government (PEG) channels from two to three. It sets the PEG fee at forty cents per subscriber, per month. It increases the number of governmental facilities and schools receiving free cable television service. It sets the franchise fee for the City at 5%. Finally, it addresses and strengthens customer service standards for Grand Island citizen subscribers.

## **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**

The City Administration recommends the Council approve Resolution 2012-303 which authorizes the Mayor to sign on behalf of the City the fifteen year cable franchise agreement with Charter Communications.

## **Sample Motion**

Move to approve Resolution 2012-303 which authorizes the Mayor to sign on behalf of the City the fifteen year cable franchise agreement with Charter Communications.

CABLE TELEVISION FRANCHISE AGREEMENT

FOR THE

CITY OF GRAND ISLAND, NEBRASKA

AND

CCVI OPERATING LLC,  
D/B/A CHARTER COMMUNICATIONS

August 8, 2012

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## AGREEMENT

THIS AGREEMENT ("Agreement") is made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 2012, by and between the City of Grand Island, Nebraska, (hereinafter referred to as the "City") and CCVI Operating LLC, d/b/a Charter Communications (hereinafter referred to as the "Cable Operator").

WHEREAS, the City, pursuant to Chapter 9 of the Grand Island City Code, is authorized to grant one (1) or more nonexclusive, revocable, agreements to construct, reconstruct, operate, and maintain a cable communication system within the City; and

WHEREAS, pursuant to Chapter 9 of the Grand Island City Code and in accordance with Section 626 of the Cable Communications Policy Act of 1984, the Cable Operator is agreeable to providing such services to the City and has made application to the City for renewal of its existing agreement; and

WHEREAS, the City finds that the Cable Operator has substantially complied with the material terms of the existing agreement under applicable laws, and that the financial, legal and technical ability of the Cable Operator is sufficient to provide services, facilities and equipment necessary to meet the future cable-related needs of the community, and

WHEREAS, the City Council wishes to grant to the Cable Operator and the Cable Operator wishes to accept the terms and conditions herein set forth for the use of City owned rights-of-way, of City owned easements, and of rights-of-way and access easements dedicated and accepted for public use by the City in installing and operating a Cable System in the City.

WHEREAS, the City, after public proceedings and due evaluation, has determined that it is in the best interest of the City and its residents to grant a new franchise agreement to the Cable Operator for the term herein provided.

WHEREAS, the City and Cable Operator have complied with all federal and State-mandated procedural and substantive requirements pertinent to this franchise renewal;

NOW, THEREFORE, IN CONSIDERATION of the renewal of the franchise pursuant to this Agreement, the Cable Operator hereby agrees to comply with the provisions of this Agreement and Chapter 9 of the Grand Island City Code. The City hereby grants a franchise as hereinafter set forth:

### I. DEFINITIONS

The following terms, phrases, words, and abbreviations shall have the meanings ascribed to them below. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number:

A. "Agreement" shall mean the initial authorization or renewal thereof, issued by the

City, whether such authorization is designated as an agreement, permit, license, resolution, contract, certificate, or otherwise, which authorizes the construction or operation of the Cable System.

B. “Applicable Law” means any law, statute, charter, ordinance, rule, regulation, code, license, certificate, franchise, permit, writ, ruling, award, executive order, directive, requirement, injunction (whether temporary, preliminary or permanent), judgment, decree or other order issued, executed, entered or deemed applicable by any governmental authority.

C. “Basic Cable Service” means any service tier which includes the lawful retransmission of local television broadcast signals and any public, educational, and governmental access programming required by the Agreement to be carried on the basic tier in analog and/or digital format. Basic Cable Service as defined herein shall be consistent with 47 U.S.C. § 543(b)(7).

D. “Cable Act” mean the Cable Communications Policy Act of 1984, as amended, the Cable Television Consumer Protection and Competition Act of 1992, the Telecommunications Act of 1996 and any amendments thereto and any future cable television legislation.

E. “Cable Service” or “Service” means (A) the one-way transmission to Subscribers of (i) Video Programming or (ii) Other Programming Service, and (B) Subscriber interaction, if any, which is required for the selection or use of such Video Programming or Other Programming Service. Cable Service as defined herein shall be consistent with the definition set forth in 47 U.S.C. § 522(6).

F. “Cable System” or “System” means a facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide Cable Service which includes Video Programming and which is provided to multiple Subscribers within a community, but such term does not include:

- (1) a facility that serves only to retransmit the television signals of one or more television broadcast stations;
- (2) a facility that serves Subscribers without using any public Right-of-Way;
- (3) a facility of common carrier which is subject, in whole or in part, to the provisions of 47 U.S.C. § 201 et seq., except that such facility shall be considered a Cable System (other than for purposes of 47 U.S.C. § 541(c)) to the extent such facility is used in the transmission of Video Programming directly to Subscribers, unless the extent of such use is solely to provide interactive on-demand services;
- (4) an open video system that complies with 47 U.S.C. § 573; or
- (5) any facilities of any electric utility used solely for operating its electric utility systems.

Cable System as defined herein shall be consistent with the definition set forth in 47 U.S.C. § 522(7).

G. “Channel” or “Cable Channel” means a portion of the electromagnetic frequency spectrum which is used in a Cable System and which is capable of delivering a television Channel as defined by the FCC. Cable Channel as defined herein shall be consistent with the definition set forth in 47 U.S.C. § 522(4).

H. “City” means the City of Grand Island, Nebraska or the lawful successor, transferee, or assignee thereof.

I. “Converter” means an electronic device which converts signals to a frequency acceptable to a television receiver of a Subscriber.

J. “Downstream” shall mean signals originating at the Headend or hubs and transmitted to Subscribers.

K. “Drop” means the cable that connects the ground block on the Subscriber’s residence to the nearest feeder cable of the System.

L. “FCC” shall mean the Federal Communications Commission or successor governmental entity thereto.

M. “Franchise Fee” includes any tax, fee, or assessment of any kind imposed by the City or other governmental entity on Cable Operator or Subscriber, or both, solely because of their status as such. It does not include any tax, fee, or assessment of general applicability (including any such tax, fee, or assessment imposed on both utilities and cable operators or their services but not including a tax, fee, or assessment which is unduly discriminatory against cable operators or cable Subscribers); capital costs which are required by the Agreement to be incurred by Cable Operator for public, educational, or governmental access facilities; requirements or charges incidental to the awarding or enforcing of the Agreement, including payments for bonds, security funds, letters of credit, insurance, indemnification, penalties, or liquidated damages; or any fee imposed under Title 17 of the United States Code. Franchise Fee defined herein shall be consistent with the definition set forth in 47 U.S.C. § 542(g).

N. “Gross Revenues” means any and all revenue derived by Cable Operator from the operation of its Cable System to provide Cable Service within the City including, but not limited to, 1) all Cable Service fees, 2) Franchise Fees, 3) late fees and returned check fees, 4) Installation and reconnection fees, 5) upgrade and downgrade fees, 6) local, state and national advertising revenue, 7) home shopping commissions, 8) equipment rental fees, and 9) guide revenue. The term “Gross Revenue” shall not include bad debts or any taxes or fees on Services furnished by Cable Operator imposed upon Subscribers by any municipality, state or other governmental unit, including the FCC regulatory fee, credits, refunds and any amounts collected from Subscribers for deposits, PEG fees or PEG support consistent with Applicable Law. City and Cable Operator acknowledge and agree that Cable Operator will maintain its books and

records in accordance with generally accepted accounting principles (GAAP).

O. “Headend” shall mean the facility, including antennas and associated electronics which receives, controls, and switches the electronic information transmitted over the Cable System.

P. “Installation” means any connection of the System from feeder cable to the point of connection including Standard Installations and custom Installations with the Subscriber Converter or other terminal equipment.

Q. “Normal Business Hours” means those hours during which most similar businesses in City are open to serve Subscribers. In all cases, “Normal Business Hours” must include some evening hours, at least one (1) night per week and/or some weekend hours.

R. “Normal Operating Conditions” means those Service conditions which are within the control of Cable Operator. Those conditions which are not within the control of Cable Operator include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions which are ordinarily within the control of Cable Operator include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the Cable System. Normal Operating Conditions as defined herein shall be consistent with the definition set forth in 47 C.F.R. § 76.309.

S. “Other Programming Service” means information that a cable operator makes available to all Subscribers generally. Other Programming Services as defined herein shall be consistent with the definition set forth in 47 U.S.C. § 522 (14).

T. “PEG” means public, educational and governmental.

U. “Person” is any Person, firm, partnership, association, corporation, company, limited liability entity, excluding the City, or other legal entity.

V. “Service Area” means the present boundaries of the City, and shall include any additions thereto by annexation or other legal means so that it covers both current and future areas.

W. “Service Interruption” means the loss of picture or sound on one (1) or more Cable Channels. Service Interruption as defined herein shall be consistent with the definition set forth in 47 C.F.R. § 76.309.

X. “Standard Installation” means any residential or commercial Installation which can be completed using a Drop of one hundred twenty-five (125) feet or less.

Y. “Street” means the surface of and the space above and below any public Street, road, highway, lane, path, alley, court, sidewalk, boulevard, parkway, drive or other easement now or hereafter held by the City. No reference in this Agreement to a “Street” shall be deemed

to be a representation or guarantee by the City that its interests or other rights in such property are sufficient to permit its use for the installation and maintenance of a Cable System, and the Cable Operator shall be deemed to gain only those rights which the City has the undisputed right and power to give.

Z. “Subscriber” means any Person who receives broadcast programming distributed by a Cable System and does not further distribute it. Subscriber as defined herein shall be consistent with the definition set forth in 47 C.F.R. § 76.5(ee).

AA. “Upstream” shall mean the transmission of signals through a Cable System from Subscribers to the Headend or hubs.

BB. “Video Programming” means programming provided by, or generally considered comparable to programming provided by, a television broadcast station.

## II GRANT OF AGREEMENT

A. The City hereby grants to the Cable Operator, subject to the terms and conditions of this Agreement, a nonexclusive agreement which authorizes the Cable Operator to construct, operate and maintain a Cable System and offer Cable Service in, along, among, upon, across, above, over, under, or in any manner connected with Streets within the Service Area and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain, or retain in, on, over, under, upon, across, or along any Street and all extensions thereof and additions thereto, such wires, cables, conductors, ducts, conduits, vaults, manholes, pedestals, amplifiers, appliances, attachments, and other related property or equipment as may be necessary or appurtenant to the Cable System. Provided, this grant does not authorize the provision of non-Cable Services without requisite City approval if an ordinance or local law permits or requires same unless City authority is pre-empted by federal or state law or regulation. In the event that at any time pre-emption of City authority ceases, or if City approval is otherwise permitted or required, then City approval will be required if local law permits or requires same.

B. This Agreement is a contract negotiated in good faith by the parties and intended by both parties to govern the relationship between the parties; neither party may take any unilateral action that materially changes the explicit mutual promises and covenants contained herein. Any changes, modifications or amendments to this Agreement must be made in writing, signed by the Cable Operator and the City. To the extent consistent with the foregoing, this Agreement is subject to and the Cable Operator agrees to comply with the lawful and non-discriminatory provisions of Grand Island City Code and other ordinances, statutes and regulations now in effect or hereafter made effective. Any conflict between this Agreement and the Multi-Channel Service Providers Regulatory Ordinance codified at Chapter 9 of the City Code as may be amended, shall be resolved in favor of this Agreement. Moreover, the specific terms of this Agreement will govern the parties in all cases where parallel regulation may also exist in Chapter 9 of the City Code. Subject to the foregoing, the Cable Operator acknowledges that its rights hereunder are subject to the police powers of the City to adopt and enforce lawful and nondiscriminatory ordinances necessary to the health, safety and welfare of the public and

nothing in this Agreement shall be deemed to modify or reduce the City's lawful police powers.

### III RIGHT OF CITY TO ISSUE AGREEMENT

The Cable Operator acknowledges and accepts the legal right of the City to issue this Agreement on the date of grant thereof. The Cable Operator agrees that this Agreement was granted pursuant to processes and procedures consistent with Applicable Law.

### IV EFFECTIVE DATE OF AGREEMENT

This Agreement shall be effective when approved by the City Council in accordance with Applicable Law and when the Cable Operator files its written acceptance of this Agreement and agreement to be bound by the terms herein with the City Clerk. If such acceptance is not filed within sixty (60) days after adoption by the City Council, this Agreement shall be void and of no force or effect. The grant of this Agreement shall have no effect on the Cable Operator's duty under the prior agreement or any ordinance in effect prior to the effective date of this Agreement to indemnify or insure the City against acts and omissions occurring during the period that the prior agreement was in effect subject to Applicable Law regarding statutes of limitation.

### V TERM

The term of this Agreement shall then be for a period of fifteen (15) years from the date of acceptance by the Cable Operator unless sooner terminated as provided in this Agreement.

### VI AGREEMENT NONEXCLUSIVE

A. This Agreement shall not be construed as any limitation upon the right of the City to grant to other Persons rights, privileges, or authorities similar to the rights, privileges, and authorities herein set forth, in the same or other Streets, alleys, or other public ways or public places. The City specifically reserves the right to grant at any time during the life of this Agreement or renewal thereof, if any, such additional agreements for a wireline provider of Cable Service or Video Programming, to the extent permissible under Applicable Law, which (i) contain substantially similar terms and conditions which do not provide more favorable terms or conditions than those required of Cable Operator herein, and (ii) the material provisions thereof shall be competitively neutral and nondiscriminatory, in accordance with Applicable Law, and shall be reasonably comparable to those contained herein, in order that one wireline operator not be granted an unfair competitive advantage over another wireline operator as determined by City.

B. Notwithstanding any provision to the contrary, if another wireline operator, legally authorized by state or federal law, makes available for purchase by Subscribers or customers Cable Service or its functional equivalent (including Video Programming under 47 U.S.C. § 571(a)(3) or § 573) within the Service Area without a Franchise or other similar lawful authorization granted by the City and the City has the lawful authority to require a franchise from that wireline operator, the City shall within thirty (30) days of a written request from Cable Operator, modify this Franchise to insure that the obligations applicable to Cable Operator are no

more burdensome than those imposed on the new competing provider. If the City fails or refuses to make modifications consistent with this requirement, Cable Operator, upon ninety (90) days advance written notice to City, shall have the right to terminate this Franchise and secure a replacement franchise, license, consent, certificate or other authorization from any appropriate governmental entity or exercise any other rights the Cable Operator may have under state or federal law. Nothing herein shall in any way limit or reduce Cable Operator's right to provide Cable Service in the City under Applicable Laws, nor the City's right to regulate Cable Operator's provision of Cable Service in the City under Applicable Laws.

## VII SERVICE AREA AND LINE EXTENSIONS

A. Cable Operator shall construct and operate its Cable System so as to provide Service to all parts of its Service Area as provided in this Agreement and having a density equivalent of seven (7) residential units per one-quarter (1/4) cable mile of System, as measured from the nearest tap on the Cable System.

B. Where the density is less than that specified above, Cable Operator shall inform Persons requesting Service of the possibility of paying for Installation or a line extension and shall offer to provide them with a free written estimate of the cost, which shall be provided within fifteen (15) working days of such a request. The charge for Installation or extension for each Person requesting Service shall not exceed a pro rata share of the actual cost of extending the Service.

## VIII SYSTEM

A. Present System. Cable Operator shall operate and maintain for the term of this Agreement a System providing a minimum of 550 MHz.

B. Character Generator. The Cable Operator shall donate to the City, free of charge, the existing character generator and existing modulating equipment. The character generator shall be located in such public building or other location in the City as may be designated by the City with ability to transmit signals to the Headend. The internal equipment that has previously been installed by the Cable Operator, which permits the character generator to transmit signals to the Headend, if any, shall become the property of the City. All maintenance of said internal equipment shall be the responsibility of the City.

C. Public, Educational and Governmental Access.

(1) At all times throughout the life of this Agreement, the Cable Operator shall provide City, at no cost to the City or users, a maximum of three (3) Channels for non-commercial PEG access unless otherwise mutually agreed upon by the parties thereto. The PEG Channels will be governed by a set of operating rules and procedures that will be established by the City with input from the Cable Operator.

(2) The Cable Operator shall, at no cost to City unless otherwise specified herein, provide a return connection to facilitate the exchange of programming, including

live cablecasting of programming, from the following locations: 1) City Hall, 2) Grand Island Television studio, and 3) College Park (also includes Doane College and Central Community College).

(3) The City shall designate three (3) PEG Channels which shall be transmitted to Subscribers on the Basic Cable Service tier. PEG Channels shall initially be carried on Channels 6 and 12 and may be carried in a digital format on the Basic Cable Service tier consistent with Section VIII.C.6. The Cable Operator shall monitor the PEG Channels for technical quality to ensure that they meet FCC technical standards including those applicable to the carriage of PEG Channels; provided however, that the Cable Operator is not responsible for the production quality of all PEG programming productions. The City, or its designee, shall be responsible for the production and quality of all PEG programming.

(4) The Cable Operator shall provide the PEG Channels as part of the Basic Cable Service. The PEG Channels will be viewable by the Subscriber without the need for additional equipment beyond that required to receive the Basic Cable Service.

(5) PEG Channels shall be accessed by Subscribers through use of standard equipment required to receive Basic Cable Service.

(6) If the PEG Channels are relocated from their present channel locations, they will be located reasonably close in proximity to other broadcast Channels and/or other commercial video Channels on the Basic Cable Service tier. The Cable Operator agrees that PEG Channels located immediately below Channel # 1 are not considered in reasonably close proximity. The Cable Operator agrees not to encrypt the PEG Channels any differently than other commercial Channels available on the System.

(7) Within ninety (90) days of acceptance of this Agreement, the Cable Operator shall initiate a forty cents (\$.40) per Subscriber, per month PEG capital fee, which shall be paid to the City quarterly in the same manner as Franchise Fees, throughout the life of this Agreement, solely to fund PEG access related capital expenditures (hereinafter "Access Fee"). Any and all payments by Cable Operator to City in support of PEG access programming shall not be deemed "Franchise Fees" within the meaning of Section 622 of the Cable Act (47 U.S.C. § 542) provided that the City utilizes the Access Fee solely for PEG access-related capital expenditures.

D. Undergrounding requirements. The Cable Operator shall at all times comply with the City Code regarding undergrounding requirements; provided however, the Grantee may construct or upgrade its facilities aerially where existing utility(ies) are aerial and shall convert such facilities to underground when the existing utility(ies) are being converted on a schedule consistent with that of the other utilities. If public funds are available to any company, excluding the City or its affiliates, using such Street, easement, or right-of-way for the purpose of defraying the cost of any of the foregoing, such funds shall also be made available to the Grantee.

## IX TECHNICAL STANDARDS

A. The Cable System shall at all times operate so that, at a minimum and in accordance with Applicable Law, it complies with the technical specifications promulgated by the FCC relating to Cable Communications Systems pursuant to the FCC's rules and regulations and found in Title 47, Section 76.01 to 76.617, (as they may be amended from time to time), which regulations are expressly incorporated herein by reference.

B. Cable Operator shall perform all System tests at the intervals required by the FCC, and all other tests reasonably necessary to determine compliance with technical standards required by this Agreement.

C. Written records of all System test results performed by or for Cable Operator shall be maintained, and shall be available for City inspection upon request.

D. Technical Tests. The City may perform technical tests of the Cable System by qualified Persons with proper equipment during reasonable times and in a manner which does not unreasonably interfere with the Normal Operating Conditions of the Cable Operator or the Cable System in order to determine whether or not the Cable Operator is in compliance with FCC Technical Specifications. Such tests may be undertaken only after giving the Cable Operator reasonable notice thereof, and providing a representative of the Cable Operator, an opportunity to be present during such tests. In the event that such testing demonstrates that the Cable Operator has substantially failed to comply with the material provisions of the FCC Technical Specifications, the reasonable costs of such tests shall be borne by the Cable Operator. In the event that such testing demonstrates that the Cable Operator has substantially complied with such material provisions hereof, the cost of such testing shall be borne by the City. Except in emergency circumstances, the City agrees that such testing shall be undertaken no more than one (1) time per calendar year, and that the results thereof shall be made available to the Cable Operator.

E. Notice of shutdown. At least twelve (12) hours before any planned shutdown, the Cable Operator shall give notice to affected Subscribers when possible, of maintenance or major equipment change-outs which require loss of Cable Service to twenty-five (25) or more customers.

## X SYSTEM DESIGN AND CAPACITY

A. Buried Drops. A Cable Operator must bury new Drops within a reasonable time period, subject to weather conditions. In the event the ground is frozen, a Cable Operator will be permitted to delay burial until the ground is suitable for burial which in no event must be later than June 1st.

B. All new Drops shall comply with the National Electrical Code and the National Electrical Safety Code, as they relate to cable television Drop installation. In addition, with respect to any existing unburied Drops currently lying on the ground, the Cable Operator shall

bury such Drops within a reasonable period of time, in accordance with the requirements of this paragraph, weather permitting. Prior to burying any Drop that is not located in an existing easement or public right-of-way, the Cable Operator, or its representative, shall provide notice to the occupant of the dwelling unit and shall bury such Drop at a mutually agreed upon location.

C. Local Office.

(1) For a minimum period of eight (8) years after the effective date of this Agreement, Cable Operator shall maintain a location in the City for receiving Subscriber inquiries, bill payments, and equipment transfers. The location must be staffed by a Person capable of receiving inquiries and bill payments and the location shall be open hours that are at the sole discretion of the Cable Operator that are economic and business logical. At such time as the Cable Operator may close the local office in the City (following completion of the first eight (8) years of this Franchise), Cable Operator shall maintain a drop box within the Service Area for receiving Subscriber payments. Subject to the foregoing, in the event another wireline multichannel video program distributor ("MVPD") commences video service in the City and does not have a franchise or contractual obligation to maintain a local office in the City, Cable Operator may elect to close the local office or substantially reduce its functions in its sole discretion.

(2) Payments at Cable Operator's drop box location shall be deemed received on the date such payments are picked up by the Cable Operator if deposited no later than 3 PM of that day. Payments deposited later than 3 PM may be considered to be received in the following business day's processing.

D. Additional Construction Codes.

(1) The Cable Operator shall at all times comply with:

(a) National Electrical Safety Code (National Bureau of Standards);

(b) National Electrical Code (National Bureau of Fire Underwriters);

and

(c) Applicable FCC or other federal, state and local regulations, including such construction, installation, and maintenance operational standards as may be adopted by the City from time to time and good and accepted industry practices as they pertain to the cable television industry.

## XI GENERAL PROVISIONS

The following provisions shall be applicable to the Cable System throughout the life of this Agreement.

A. Emergency Alert Capabilities. The Cable Operator shall continue to provide the existing Emergency Alert System ("EAS"). However, if the EAS is not tested at regular intervals by the appropriate civil defense authority, the Cable Operator shall not be liable if such

EAS does not perform at required levels. In the case of any emergency or disaster, the Cable Operator shall, upon request of the City, make available its facilities and personnel to the City to provide technical assistance with the operation of the EAS during the emergency or disaster period. The EAS shall comply with FCC Standards.

B. Parental Control Devices. The Cable Operator shall provide Subscribers the ability to lock out such Channels as they may desire and provide equipment to lock out such Channels.

C. Employee Identification. The Cable Operator shall provide a standard identification document to all employees, including employees of subcontractors, who will be in contact with the public. Such documents shall include a telephone number that can be used to verify identification. In addition, the Cable Operator shall use its best efforts to clearly identify all personnel, vehicles, and other major equipment that are operating under the authority of the Cable Operator.

D. Free Service. Cable Operator shall provide free of charge throughout the term of this Agreement, Installation of one (1) Drop, one (1) cable outlet, and one (1) Converter, if necessary, and Basic Cable Service and expanded basic level of Cable Service or the future equivalent of such tiers of Service ("Free Service"), without charge to the institutions listed in Attachment C to this Agreement which currently receive Free Service, as long as the institutions remain educational institutions or are not leased or sold for private use. Existing Converters provided by Cable Operator to existing additional drops at the institutions listed in Attachment C will be provided at no charge for the term of this Agreement. In the event the City requests a Drop to another public institution or of an institution on Attachment C does not currently receive Free Service, the City shall be responsible for the costs, on a time and material basis, of extension in excess of two hundred twenty-five (225) feet. The Cable Operator shall provide Free Service to such subsequently designated institutions without charge.

(1) The installation of additional Drops and/or outlets and/or Converters in any location will be provided by the Cable Operator at the rate card price then in effect for Grand Island residential Subscribers. Alternatively, said institutions may add additional outlets at their own expense, as long as such Installation meets Cable Operator's technical standards in accordance with Section X (A) of the Agreement. The additional outlets of Cable Service shall not be used to sell Cable Service in or throughout such buildings. Outlets shall not be located in common or public areas.

E. Reporting. In addition to the other reporting requirements provided herein the Cable Operator shall, upon request, submit reports to the City in a mutually agreed upon format consistent with the Cable Operator's existing Systems, and demonstrate the Cable Operator's compliance with the terms and provisions of this Agreement.

F. Annexation by Municipality. It is understood that the annexation by the City of areas in the unincorporated part of the City and which are being served by the Cable Operator shall be governed by the provisions of this Agreement.

## XII SUBSCRIBER RIGHTS AND COMPLAINTS

A. The Cable Operator shall comply with the standards and requirements for customer service set forth in Attachment A throughout the term of this Agreement.

B. Subscriber Contracts. Annually, Cable Operator shall provide the City with any standard form residential Subscriber contract utilized by Cable Operator. A list of Cable Operator's current Subscriber rates and charges for Cable Service shall be provided to the City and shall be available for public inspection.

C. Refund Policy. Cable Operator shall maintain a refund policy consistent with 47 U.S.C. §76.309(c)(3). If a Subscriber's Cable Service is interrupted or discontinued, without cause, for twenty-four (24) or more consecutive hours, the Cable Operator shall, upon request by the Subscriber within sixty (60) days of such interruption or discontinuation, credit such Subscriber pro rata for such interruption or discontinuation.

D. Late Fees. Cable Operator shall comply with all applicable state and federal laws with respect to any assessment, charge, cost, fee or sum, however characterized, that the Cable Operator imposes upon a Subscriber for late payment of a bill.

E. Disputes. All Subscribers and members of the general public may direct complaints, regarding Cable Operator's Service or performance to the chief administrative officer of the City or the chief administrative officer's designee, which may be a board or commission of the City.

F. Subject to the privacy provisions of 47 U.S.C. § 521 et seq. (1993), Cable Operator shall prepare and maintain written records of all written complaints made to them and the resolution of such complaints, including the date of such resolution. Such written records shall be on file at the office of Cable Operator. Upon request, Cable Operator shall provide City with a summary of such complaints.

## XIII EQUAL OPPORTUNITY

The Cable Operator shall comply with Applicable Law regarding equal employment opportunity and the provision of Cable Service in the City.

## XIV AGREEMENT RENEWAL

The City and the Cable Operator agree that renewal of this Agreement shall be governed by the requirements of the Cable Act, 47 U.S.C. Section 546, as may from time to time be amended.

## XV FRANCHISE FEE

A. The Cable Operator shall pay, as a Franchise Fee, to the City five percent (5%) of the Cable Operator's annual Gross Revenues collected during the period of its operation under

this Agreement in the City. Each payment shall be accompanied by a brief report, certified as true and correct by a financial representative of the Cable Operator, showing the basis for the computation in form and substance substantially the same as Attachment B attached hereto.

B. The Cable Operator shall file with the City, forty-five (45) days after the last day of each quarter, a revenue statement showing the Gross Revenues received by it during the preceding quarter. The Cable Operator shall pay on a quarterly basis (by the 45th day after the end of each quarter) the Franchise Fee to the City for the preceding quarter.

C. The City shall have the right to audit and copy the Cable Operator's revenue records with respect to the Cable System within the City and all relevant records, and to recompute any amounts determined to be payable under this Agreement. If the results of the audit by the City show a discrepancy of more than five percent (5%) in the Franchise Fee that were to be paid to the City, the Cable Operator shall assume all reasonable document out-of-pocket costs of such audit, and pay same upon demand by the City, costs not to exceed Seven Thousand Five Hundred Dollars (\$7,500). This cost reimbursement shall only be permitted, if applicable, two (2) times during the ten (10) year franchise term.

D. In the event that any Franchise Fee payment is not received by the City on or before the applicable due date, the City shall send a written notice to Cable Operator informing the Cable Operator of the past due payment. If Cable Operator fails to remit payment within ten (10) days of receipt of said written notice from City, the Cable Operator shall remit a late payment surcharge of one percent (1.0%) per month of the total amount of the Franchise Fee payment due. The City shall not be entitled to any additional interest or liquidated damages unless the Cable Operator, thirty (30) days following receipt of the above referenced written notice from City has not remitted the applicable Franchise Fee payment and late payment surcharge to the City. Thereafter, the City shall be entitled to any and all available enforcement remedies under the Agreement and Applicable Law. In the event this Agreement is revoked or otherwise terminated prior to its expiration date, the Cable Operator shall file with the City, within ninety (90) days of the date of revocation or termination, a revenue statement showing the Gross Revenues received by it since the end of the previous year and shall make adjustments at that time for the Franchise Fee due up to the date of revocation or termination.

E. No acceptance of any payment by the City shall be construed as a release, waiver or as an accord and satisfaction of any claim the City may have for further or additional sums payable as a tax, fee or for the performance of any other obligation of the Cable Operator.

F. In the event federal law is amended to allow Franchise Fees in excess of five percent (5%) of Gross Revenues, the City shall be entitled to raise said Franchise Fees payable by the Cable Operator up to the maximum allowed by federal law, subject to the Cable Operator's prior written agreement.

G. The Franchise Fees shall be in addition to any and all taxes or other levies or assessments which are now or hereafter required to be paid by businesses in general by any law of the City, the State of Nebraska, or the United States, including without limitation sales and

other taxes, business license fees or other payments.

## XVI REGULATION, RATES, AND CHARGES

A. Regulatory Authority. The City may exercise, continue to exercise, assign or delegate appropriate regulatory authority under the provisions of this Agreement or Applicable Law. Regulation may be exercised through any duly designated consortium, duly established state body, or other entity created or appointed to advise or support the City or to handle its regulatory responsibilities subject to Applicable Law.

B. The City and the Cable Operator acknowledge that any rates and charges relating to the provision of Cable Service and equipment under this Agreement shall be governed by Applicable Laws and the rules and regulations of the FCC (as amended). The City does not waive any right they may have under Applicable Law to regulate the rates in the future. The City and the Cable Operator, in evaluating and resolving any matters which arise concerning rates and charges, will adhere to Applicable Laws and FCC rules and regulations.

## XVII CONSTRUCTION PROVISIONS

The Cable Operator shall at all times comply with the City Code regarding right-of-way use.

## XVIII INSURANCE AND BONDS OR OTHER SURETY PROVISIONS

### A. Insurance Requirements.

(1) Cable Operator shall maintain in full force and effect, at its own cost and expenses, during the term of this Agreement, comprehensive general liability insurance in the amount of Two Million and No/100 Dollars (\$2,000,000.00) combined single limit for bodily injury, death and property damage. City, and their capacity as such, City's officers, agents and employees, shall be named as an additional insured on the policy and Cable Operator shall file a Certificate of Insurance with the City Clerk. The Grantee shall furnish the Grantor with current certificates of insurance evidencing such coverage.

(2) Each policy of insurance (including the certificates of insurance evidencing such coverage) shall contain a statement on its face that the insurer will not cancel the policy or fail to renew the policy, whether for non-payment of premium, or otherwise, and whether at the request of Cable Operator or for other reasons, except after thirty (30) calendar days advanced written notice from the insurer to the City Clerk, which may be provided electronically or by US mail.

B. Bonds and Other Surety. At all times hereunder until the Cable Operator has liquidated all of its obligations under the Agreement to the City, the Cable Operator shall furnish a bond or other surety in the amount of Twenty-Five Thousand Dollars (\$25,000), conditioned upon the faithful performance by the Cable Operator of its material obligations under this Agreement. The City may, from year to year and in its sole discretion, reduce the amount of any such bond or other surety. The bond or other surety shall insure the faithful performance by the

Cable Operator of all the provisions of this Agreement, and compliance with all orders, permits and directions of the City and the payment by Cable Operator of any claim, penalties, damages, liens and taxes due the City related thereto or which arise by reason of the construction, operation or maintenance of the Cable System. Any failure by Cable Operator to provide the bond or other surety as required herein shall constitute a breach of this Agreement.

#### XIX PERFORMANCE GUARANTEE ESCROW; AND LIQUIDATED DAMAGES

A. In the event that the City has reason to believe that the Cable Operator has defaulted in the performance of any material provision of this Agreement, except as excused by force majeure, the City shall notify the Cable Operator in writing, by certified mail, of the provision or provisions of which the City believes Cable Operator to be in default and the details relating thereto ("Alleged Default Notice").

B. Cable Operator shall have thirty (30) days from receipt of the notice described in paragraph (A) above to (a) respond to the City contesting the assertion of non-compliance, or (b) to cure such default or, in the event that, by the nature of default, such default cannot be cured within the thirty (30) day period, initiate reasonable steps to remedy such default and notify the City of the steps being taken and the projected date that they will be completed. In such case the City shall establish a reasonable deadline when such cure shall be completed having considered the reasonable input of the Cable Operator.

C. In the event that Cable Operator fails to respond to the notice described in paragraph A above pursuant to the procedures set forth in paragraph B above, the City shall schedule a public meeting to investigate the default. Such public meeting shall be held at the next regularly or specially scheduled meeting of the City. The City shall notify the Cable Operator in writing via certified mail, of the time and place of such meeting at least fourteen (14) days prior to such meeting and provide the Cable Operator with an opportunity to be heard.

D. Subject to the notice and cure requirements of this section, the City shall be authorized to withdraw from the bond or other surety the following penalties:

(1) For failure to provide data, documents, reports or information or to participate with the City during a System review, the penalty shall be One Hundred Fifty and No/100 Dollars (\$150.00) per day.

(2) For failure to comply with any material provisions of this Agreement for which a penalty is not otherwise specifically provided, the penalty shall be One Hundred Fifty and No/100 Dollars (\$150.00) per day.

(3) For failure to test, analyze and report on the performance of the System following a request by the City, the penalty shall be One Hundred and No/100 Dollars (\$100.00) per day.

E. Subject to applicable federal and state law, in the event the City determines that Cable Operator is in default of any provision of the Agreement, the City may:

(1) Foreclose on all or any part of any security provided under this Agreement, if any, including, without limitation, any bonds or other surety; provided, however, the foreclosure shall only be in such a manner and in such amount as the City reasonably determines is necessary to remedy the default; or

(2) Draw against the bond or other surety all penalties due it, as provided for under this Agreement; or

(3) Commence an action at law for monetary damages or seek other equitable relief; or

(4) Seek specific performance of any provision, which reasonably lends itself to such remedy, as an alternative to damages.

(5) See termination in accordance with Section XXI.

F. The Cable Operator shall not be relieved of any of its obligations to comply promptly with any provision of the Agreement by reason of any failure of the City to enforce prompt compliance.

## XX TERMINATION

A. In addition to all other rights and powers retained by the City under this Agreement, the City reserves the right to terminate this Agreement, and the Cable Operator's rights hereunder, in the event the Cable Operator shall default in the performance of any material term, covenant or agreement of this Agreement. By way of example, and not limitation, the City shall have the right to terminate this Agreement if the Cable Operator shall fail to cure any material default under this Agreement as provided in Section XX.

B. Before the City may terminate this Agreement and the Cable Operator's rights hereunder, the City shall conduct a public hearing, at which time the Cable Operator shall be given an opportunity to attend and present evidence and argument in opposition to the forfeiture or termination of this Agreement. The Cable Operator shall be provided with not less than thirty (30) days notice prior to such public hearing.

C. Any such declaration of forfeiture or termination shall be subject to judicial review as provided by law.

D. Nothing herein contained shall limit or restrict any legal rights that the City or the Cable Operator may have arising from a default in the performance of the terms, conditions and covenants of this Agreement by the Cable Operator.

## XXI REMOVAL OF CABLE SYSTEM

A. In the event of termination or forfeiture of the Agreement or abandonment of the System, the City may require the Cable Operator to remove all or any portion of its System from

all rights-of-way and public property within the City; provided, however, that the Cable Operator will not be required to remove those portions of its System required to provide Telecommunications Services to the extent Cable Operator lawfully provides Telecommunications Services over the System.

B. If the Cable Operator has failed to commence removal of its System, or such part thereof as was designated by the City, within one hundred twenty (120) days after written demand for removal is given, or if the Cable Operator has failed to complete such removal within twelve (12) months after written demand for removal is given, the City may apply funds secured by the Agreement toward removal.

## XXII TRANSFER OF OWNERSHIP OR CONTROL

Cable Operator's right, title or interest in this Agreement shall not be sold, transferred, assigned or otherwise encumbered, without the prior written consent of the City, such consent not to be unreasonably withheld. No such consent shall be required, however, if the sale, transfer, assignment or encumbrance is to an affiliate of Cable Operator, when said affiliate is a wholly owned subsidiary. Additionally, no such consent shall be required, for a transfer in trust, by mortgage, by other hypothecation, or by assignment of any rights, title, or interest of Cable Operator in this Agreement or Cable System in order to secure indebtedness.

## XXIII PERIODIC REEVALUATION AND RENEGOTIATIONS

A. Since the field of cable communications is rapidly evolving and many technological, regulatory, financial, marketing, legal, competitive, and other changes are likely to occur during the life of this Agreement, a degree of flexibility is needed in order to achieve and maintain a Cable System that adequately serves the public interest. To this end, and subject to Applicable Law, this Agreement may be amended by mutual written agreement of the City and Cable Operator.

B. The City may evaluate the Cable Operator's Cable Service and operations no more than once every five (5) years during the term of this Agreement.

C. The City and the Cable Operator may meet at other times to discuss and negotiate changes to this Agreement which are mutually agreed upon by both parties.

D. During any review and evaluation session, the Cable Operator shall cooperate with the City and shall provide such reasonable information and upon such terms and conditions as the parties shall mutually agree upon.

## XXIV RIGHTS OF INDIVIDUALS

As previously set forth, the Cable Operator shall not deny Service, deny access nor otherwise discriminate against Subscribers, Channel users or any Person on the basis of race, creed, color, religion, national origin, sex, ancestry, age or marital status. The Cable Operator shall comply with all Applicable Laws relating to non-discrimination and privacy. Liability for

obscurity, defamation or invasion of privacy on any PEG Channels shall rest with the Person, group of Persons or any organization utilizing said PEG Channels, and no indemnification or liability of the Cable Operator is hereby intended or provided herein. The Cable Operator shall comply with all the privacy provisions pursuant to 47 USC §551 of the Cable Act or other Applicable Laws or regulations.

## XXV COOPERATION

The parties recognize that it is in their mutual best interests for the Cable System to be operated as efficiently as possible. To achieve this, the parties agree to cooperate with each other in accordance with the terms and provisions of this Agreement.

## XXVI WAIVER

The failure of the City at any time to require performance by the Cable Operator of any provision hereof shall in no way affect the right of the City hereafter to enforce the same. Nor shall the waiver by the City of any breach of any provision hereof or the failure of the City to require or enforce prompt compliance be taken or held to be a waiver of any succeeding breach of such provision, or as a waiver of the provision itself or any other provision. Nothing herein shall be deemed to waive or modify any statute of limitation or any lawful defense which is available to Cable Operator.

## XXVII BOOKS AND RECORDS

A. Throughout the term of this Franchise, the Cable Operator agrees that the City, upon reasonable prior written notice to the Cable Operator, may review such of the Cable Operator's books and records regarding the operation of the Cable System and the provision of Cable Service in the City which are reasonably necessary to monitor and enforce Cable Operator's compliance with the provisions of this Agreement. All such documents pertaining to financial matters that may be the subject of an inspection by the City shall be retained by the Cable Operator for a minimum period required by Applicable Laws. The Cable Operator shall not deny the City access to any of the Cable Operator's records on the basis that the Cable Operator's records are under the control of any parent corporation, affiliated entity or a third party. The Cable Operator agrees that the City may upon ten (10) days written request review and copy such of its books and records, during Normal Business Hours and on a non-disruptive basis in a location not more than twenty (20) miles from the City. The Cable Operator shall maintain sufficient books and records of customer service, customer complaints and billing and maintain other books and records in Grand Island to monitor compliance with the terms hereof.

B. Confidential Information. Cable Operator may choose to provide any confidential books and records that it is obligated to make available to the City pursuant to Section XXVIII A of this Agreement, by allowing the City, or its designated representative(s), to view the books and records at a mutually agreeable location and without City obtaining its own copies of such books and records. Alternatively, confidential or proprietary information may be disclosed pursuant to a reasonable mutually agreeable non-disclosure agreement which shall substantially

be in the same form as attached as Attachment D, subject to modification as specifically required under Applicable Law. The intent of the parties is to work cooperatively to insure that all books and records reasonably necessary for City's monitoring and enforcement of franchise obligations are provided to City. To the extent that Cable Operator does provide books or records directly to the City, City agrees to keep confidential any proprietary or confidential books or records to the extent permitted by Applicable Law and Attachment D. Cable Operator shall be responsible for clearly and conspicuously identifying any confidential or proprietary information so as to prevent inadvertent disclosure.

## XXVIII CUMULATIVE RIGHTS

The rights and remedies reserved to the City and Cable Operator by this Agreement are cumulative and shall be in addition to and not in derogation of any other legal or equitable rights or remedies which the City and Cable Operator may have with respect to the subject matter of this Agreement, and a waiver thereof at any time shall have no effect on the enforcement of such rights or remedies at a future time.

## XXIX COMPLIANCE WITH FEDERAL, STATE, AND LOCAL LAWS

The Cable Operator, its contractors, employees, and agents shall comply with all Applicable Laws, rules, and regulations. Except as otherwise provided for herein, the Cable Operator and the City shall be entitled to all rights and be bound by all changes in local, state, and federal law which occur subsequent to the effective date of this Agreement. In addition to the inherent powers of the City to regulate and control the Cable Operator under this Agreement, and those powers expressly reserved by the City, or agreed to and provided for herein, the right and power is hereby reserved by the City to promulgate such additional regulations as it shall find necessary in the exercise of its lawful powers, subject to Section II.B. herein.

## XXX NOTICES

Every notice or response to be served upon the City or the Cable Operator shall be in writing, and shall be deemed to have been duly given to the required party five (5) business days after having been posted in a properly sealed and correctly addressed envelope by certified or registered mail, postage prepaid.

The notices or responses to the City shall be addressed as follows:

The City of Grand Island, Nebraska  
Attention: City Administrator's Office  
100 East First Street, Box 1968  
Grand Island, NE 68802

The notices or responses to the Cable Operator shall be addressed as follows:

Charter Communications  
Attention: Vice President of Legal Operations  
12405 Powerscourt Drive

St. Louis, MO 63131

With a non-binding courtesy copy to:

Charter Communications  
Attention: General Manager  
809 Central Ave.  
Kearney, NE 68847

The City and the Cable Operator may designate such other address or addresses from time to time by giving notice to the other.

### XXXI CAPTIONS

The captions to sections contained herein are intended solely to facilitate the reading thereof. Such captions shall not affect the meaning or interpretation of the text herein.

### XXXII INDEMNIFICATION

Cable Operator hereby agrees to indemnify and hold the City, including its agents, elected and appointed officials and employees, harmless from any claims, actions, liabilities or damages resulting from the actions of Cable Operator in constructing, operating or maintaining the Cable System or arising from the existence of the Cable System in the City. City agrees to give the Cable Operator written notice of its obligation to indemnify City within ten (10) days of receipt of a claim or action pursuant to this section. Notwithstanding the foregoing, the Cable Operator shall not be obligated to indemnify City for any damages, liability or claims resulting from the willful misconduct or negligence of City or for the City's use of the Cable System.

### XXXIII GOVERNMENTAL IMMUNITY

The City is relying on, and does not waive, or intend to waive, by any provision of this Agreement, any right, immunity, limitation or protection (including complete damage immunity) otherwise available to the City, its officers, employees or agents under federal, state or local law.

### XXXIV FORCE MAJEURE

Neither party shall be liable for any failure of performance hereunder due to causes beyond its reasonable control including but not limited to; acts of God, fire, explosion, vandalism or other similar catastrophes; national emergencies; insurrection; strike or organized work slowdown; riots or wars.

### XXXV TIME IS OF THE ESSENCE

Whenever this Agreement sets forth any time for any act to be performed by either of the parties, such time shall be deemed to be of the essence of this Agreement.

### XXXVI CONSTRUCTION OF AGREEMENT

Except as otherwise provided for herein, this Agreement shall be governed, construed, and enforced in accordance with the laws of the State of Nebraska (as amended), the Cable Act as amended, any applicable rules, regulations and orders of the FCC and any other Applicable Laws, rules, regulations, legislation, or orders (as such now exist, are later amended or subsequently adopted).

#### XXXVII NO JOINT VENTURE

Nothing herein shall be deemed to create a joint venture or principal agent relationship between the parties, and neither party is authorized to, nor shall either party act toward third Persons or the public in any manner which would indicate any such relationship with the other.

#### XXXVIII ENTIRE AGREEMENT

This Agreement and all attachments represent the entire understanding and agreement between the parties hereto with respect to the subject matter hereof: and supersede all prior oral negotiations between the parties. This Agreement can be amended, supplemented, modified, or changed only by an agreement in writing which makes specific reference to this Agreement or to the appropriate attachment and which is signed on behalf of both parties.

#### XXXIX ACTIONS OF THE CABLE OPERATOR

In any action by the City or the Cable Operator mandated or permitted under the terms hereof, it shall (unless specified otherwise in this Agreement) act in a reasonable, expeditious, and timely manner.

#### XL SEVERABILITY

If any section, sentence, paragraph, term, or provision hereof is determined to be illegal, invalid, unconstitutional or unenforceable, by any court of competent jurisdiction or by any state or federal regulatory authority having jurisdiction thereof, such determination shall have no effect on the validity of any other section, sentence, paragraph, term, or provision hereof, all of which will remain in full force and effect for the term of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first above written.

ATTEST:

**CITY OF GRAND ISLAND, NE**

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

ATTEST:

**CCVI OPERATING LLC**  
**d/b/a Charter Communications**

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
By: President

## **ATTACHMENT A. CUSTOMER SERVICE STANDARDS**

### **A. Cable System office hours and telephone availability.**

- (i) The Cable Operator will maintain a local, toll-free or collect call telephone access line which will be available to its Subscribers twenty-four (24) hours a day, seven (7) days a week.
- (ii) Trained company representatives will be available to respond to Subscriber telephone inquiries during Normal Business Hours.
- (iii) After Normal Business Hours, the access line may be answered by a service or an automated response system, including an answering machine. Inquiries received after Normal Business Hours must be responded to by a trained company representative on the next business day.
- (iv) Under Normal Operating Conditions, telephone answer time by a customer representative, including wait time, shall not exceed thirty (30) seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed thirty (30) seconds. These standards shall be met no less than ninety percent (90%) of the time under Normal Operating Conditions, measured on a quarterly basis.
- (v) The Cable Operator will not be required to acquire equipment or perform surveys to measure compliance with the telephone answering standards above unless an historical record of complaints indicates a clear failure to comply.
- (vi) Under Normal Operating Conditions, the Subscriber will receive a busy signal less than three percent (3%) of the time.
- (vii) Customer service center and bill payment locations will be open at least during Normal Business Hours and will be conveniently located.

**B. Installations, Outages and Service Calls.** Under Normal Operating Conditions, each of the following four (4) standards will be met no less than ninety five percent (95%) of the time measured on a quarterly basis:

- (i) Standard Installations will be performed within seven (7) business days after an order has been placed. "Standard" Installations are those that are located up to one hundred twenty-five (125) feet from the existing distribution system.
- (ii) Excluding conditions beyond the control of the Cable Operator, the Cable Operator will begin working on "Service Interruptions" promptly and in no event later than twenty-four (24) hours after the interruption becomes known. The

Cable Operator must begin actions to correct other Service problems the next business day after notification of the Service problem.

(iii) The “appointment window” alternatives for Installations, Service calls, and other Installation activities will be either a specific time or, at maximum, a four (4) hour time block during Normal Business Hours. (The Cable Operator may schedule Service calls and other Installation activities outside of Normal Business Hours for the express convenience of the Subscriber.)

(iv) The Cable Operator may not cancel an appointment with a Subscriber after the close of business on the business day prior to the scheduled appointment.

(v) If a Cable Operator representative is running late for an appointment with a Subscriber and will not be able to keep the appointment as scheduled, the Subscriber will be contacted. The appointment will be rescheduled, as necessary, at a time which is convenient for the Subscriber.

C. Communications between the Cable Operator and Subscribers

(i.) Notifications to Subscribers.

(1) The Cable Operator shall provide written information on each of the following areas at the time of Installation of Cable Service, at least annually to all Subscribers and the City, and at any time upon request:

- a. Products and Cable Services offered;
- b. Prices and options for programming services and conditions of subscription to programming and other services;
- c. Installation and service maintenance policies;
- d. Instructions on how to use the Cable Service;
- e. Channel positions of programming carried on the Cable System; and
- f. Billing and complaint procedures, including the address and telephone number of the City’s cable office.

Subscribers shall be advised of the procedures for resolution of complaints about the quality of the television signal delivered by the Cable Operator, including the address of the responsible officer of the City.

(2) Customers will be notified of any changes in rates, programming services or Channel positions as soon as possible in writing. Notice must be

given to Subscribers a minimum of thirty (30) days in advance of such changes if the change is within the control of the Cable Operator. In addition, the Cable Operator shall notify Subscribers thirty (30) days in advance of any significant changes in the information required by Section (C)(i)1(a)-(f) of this Attachment A.

(3) In addition to the requirement of subparagraph (2) of this section regarding advance notification to Subscribers of any changes in rates, programming services or Channel positions, Cable Operator shall give thirty (30) days' written notice to both Subscribers and the City before implementing any rate or Service change. Such notice shall state the precise amount of any rate change and briefly explain in readily understandable fashion the cause of the rate change (e.g., inflation, change in external costs or the addition/deletion of Channels). When the change involves the addition or deletion of Channels, each Channel added or deleted must be separately identified. For purposes of the carriage of digital broadcast signals, the Cable Operator need only identify for Subscribers, the television signal added and not whether that signal may be multiplexed during certain dayparts.

(4) To the extent Cable Operator is required to provide notice of Service and rate changes to Subscribers, the Cable Operator may provide such notice using any reasonable written means at its sole discretion.

(5) Notwithstanding any other provision of this section, Cable Operator shall not be required to provide prior notice of any rate change that is the result of a regulatory fee, Franchise Fee, or any other fee, tax, assessment, or charge of any kind imposed by any federal agency, state, or City on the transaction between the Cable Operator and the Subscriber.

D. Billing.

(i.) Consistent with 47 C.F.R. § 76.1619, bills will be clear, concise and understandable. Bills must be fully itemized, with itemizations including, but not limited to, Basic Cable Service and premium Service charges and equipment charges. Bills will also clearly delineate all activity during the billing period, including optional charges, rebates and credits.

(ii.) In case of a billing dispute, the Cable Operator must respond to a written complaint from a Subscriber within thirty (30) days.

E. Refunds. Refund checks will be issued promptly, but no later than either:

(i.) The Subscriber's next billing cycle following resolution of the request or thirty (30) days, whichever is earlier, or

(ii.) The return of the equipment supplied by the Cable Operator if service is

terminated.

F. Credits. Credits for Service will be issued no later than the Subscriber's next billing cycle following the determination that a credit is warranted.

**ATTACHMENT B. FRANCHISE FEE PAYMENT WORKSHEET**

**TRADE SECRET – CONFIDENTIAL**

	Month/Year	Month/Year	Month/Year	Total
Cable Service Revenue				
Installation Charge				
Franchise Fee Revenue				
Advertising Revenue				
Home Shopping Revenue				
Other Revenue				
Equipment rental				
REVENUE				
Fee Calculated				

Fee Factor: 5%

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## ATTACHMENT C. FREE SERVICE TO PUBLIC BUILDINGS

ADAMS STREET PROPERTY
BARR JUNIOR HIGH
CENTRAL CATHOLIC
CITY CIVIL DFNS
CITY HALL
CITY OF GRAND ISLAND, (RACQUET CENTER)
CITY OF GRAND ISLAND FIELDHOUSE
CITY STREET DEPT
DODGE ELEMENTARY
EARLY LEARNING CENTER
EDITH ABBOTT LIBRARY
EMERGENCY CENTER
ENGLEMAN SCHOOL
FIRE STATION 1
FIRE STATION 2
FIRE STATION 3
FIRESTATION 4
GIPS KNEALE ADMINISTRATION BUILDING
G I POLICE DEPT
G I SR HIGH
GATES ELEMENTARY
HEARTLAND LUTHERAN
HOWARD ELEMENTARY
JEFFERSON ELEMENTARY
KNICKREHM SCHOOL
LINCOLN ELEMENTARY
LUTHERN CHURCH SCHOOL
NEWELL ELEMENTARY
NORTHWEST HIGH SCHOOL

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SEEDLING MILE SCHOOL,*
SHOEMAKER ELEMENTARY,*
STARR ELEMENTARY,*
STOLLEY PARK ELEMENTARY,*
SUCCESS ACADEMY
TRINITY LUTHERAN SCHL,*
WALNUT MIDDLE SCHOOL,*
WASMER ELEMENTARY,*
WATER SHOP,CITY
WEST LAWN ELEMENTARY,*
WESTRIDGE ELEMENTARY,*
Island Oasis Water Park, 321 East Fonner Park Road

## ATTACHMENT D. NON-DISCLOSURE AGREEMENT

THIS NON-DISCLOSURE AGREEMENT is made as of \_\_\_\_\_, 2012 between CC VI Operating, LLC (“Charter”) and the City of Grand Island, NE (“Recipient”).

WHEREAS, Charter holds a cable television franchise (“Agreement”) issued by Recipient which requires that Charter make available certain of its books and records to verify Charter’s compliance with the terms and provisions of the Agreement; and

WHEREAS, Charter is making available for inspection by Recipient certain Confidential Material (as defined below) for the sole and exclusive purpose of permitting Recipient to perform an audit of the payments required under the Agreement and to compile a written report based on the audit findings (the “Purpose”); and

WHEREAS, as a condition to making the Confidential Material available, the parties desire to protect the confidential nature of the Confidential Material in accordance with the terms of this Agreement;

NOW, THEREFORE, in consideration of the foregoing and of the promises contained in this Agreement, Charter and Recipient hereby agree as follows:

1. Confidential Material. For purposes of this Agreement, the term Confidential Material shall include all business, financial, technical and other information concerning Charter’s business, provided in writing or in any other form or media; provided, however, that “Confidential Material” shall not include any information that (a) becomes generally available to the public other than as a result of disclosure, directly or indirectly, by Recipient or its Representatives (as defined below), or (b) was available to Recipient on a non-confidential basis prior to disclosure by Charter, (c) is lawfully obtained from a third party under no obligation of confidentiality, (d) is developed by the Recipient or is generally disclosed by Charter to third parties without an obligation of confidentiality. This Agreement imposes no obligation on Recipient with respect to any portion of the Confidential Material disclosed by Charter, unless such portion is marked “CONFIDENTIAL” prior to submitting such information to Recipient.

2. Restriction on Use and Disclosure. Consistent with Section \_\_\_\_ of the Agreement, Charter shall provide all books and records requested by the City or City’s agent in the following manner: 1) a mutually acceptable physical location within the City; or 2) via mail or electronic communication acceptable to the City and Grantee. Recipient and its Representatives may make such notes with respect to the Confidential Material (“Notes”) as may be necessary for the Purpose, and all such Notes shall be treated as Confidential Material hereunder. Recipient shall use the Confidential Material solely in furtherance of the Purpose, and shall not disclose the Confidential Material or any portion thereof to any person except those of its employees, consultants and advisors who need to know such information in furtherance of the Purpose (the persons to whom such disclosure is permitted being collectively referred to as “Representatives”). Recipient agrees that, before disclosing the Confidential Material or any

portion thereof to any Representatives, Recipient will inform the Representatives of the confidential nature of the Confidential Material and of the Representatives' duty to treat the Confidential Material in accordance with this Agreement. Without in any way limiting the foregoing, Recipient shall take all steps necessary to prevent disclosure of the Confidential Material under any open records law, including, without limitation, by exercising its discretion not to disclose Confidential Material in response to an open records act request, and taking all necessary actions to defend against such request. If Recipient or any of its Representatives becomes legally compelled to disclose any of the Confidential Material, the compelled party shall provide Charter with prompt notice of such requirement prior to disclosure so that Recipient may seek a protective order or other appropriate remedy. If such protective order or other remedy is not obtained, the compelled party shall furnish only that portion of the Confidential Material which it is legally required to furnish and shall use its best efforts to assure that confidential treatment will be accorded such Confidential Material. Recipient shall have the right to draft a written report to fulfill the Purpose of the review and Recipient agrees that in drafting said report cause any such audit report to be treated confidentially to the full extent permitted by law. Information shall, to the extent feasible, be provided in an aggregate form and Recipient shall use its best efforts not to communicate confidential information in the report unless necessary to communicate a finding of the audit/review.

3. Equitable Remedies. Recipient acknowledges that, in the event of a breach or threatened breach of this Agreement, there is a substantial likelihood of material, irreparable injury to Charter, and that money damages would not be a sufficient remedy for any such breach or prospective breach by Recipient or its Representatives. Recipient therefore agrees that Charter shall be entitled to specific performance of Recipient's agreements herein, and to injunctive relief to terminate or prevent any breach or prospective breach of this Agreement. No bond or other security shall be necessary with respect to such relief. Charter shall be entitled to receive from Recipient reimbursement of Charter's costs and expenses (including attorneys' fees) incurred in connection with any breach or threatened breach by Recipient or its Representatives, but such reimbursement may only be ordered by a court of competent jurisdiction.

5. Miscellaneous. This Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof and supersedes all prior agreements and understandings, oral and written, with respect to such matters. No failure or delay in exercising any right, power, or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other exercise of any right, power or privilege hereunder. If any part or any provision of this Agreement shall be deemed to be invalid or unenforceable in any respect, such part shall be ineffective to the extent of such invalidity only, without in any way affecting the remaining provisions of this Agreement. No amendment to this Agreement shall be valid unless it is made in writing and signed by both parties. This Agreement shall inure to the benefit of, and be binding upon, the parties, their successors and permitted assigns. This Agreement shall be governed by laws of the State of Nebraska without regard to the choice of law provisions thereof.

IN WITNESS WHEREOF, each party has caused this Agreement to be duly executed on its behalf as of the date set forth above.

CC VI OPERATING, LLC

CITY OF GRAND ISLAND, NE

By:\_\_\_\_\_

By:\_\_\_\_\_

Name:\_\_\_\_\_

Name:\_\_\_\_\_

Title:\_\_\_\_\_

Title:\_\_\_\_\_

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RESOLUTION 2012-303

WHEREAS, the City of Grand Island has had a cable franchise agreement with CCVI Operating, LLC d/b/a Charter Communications or a predecessor corporation of Charter since April 11, 1966; and

WHEREAS, the present cable franchise agreement with Charter Communications has expired; and

WHEREAS, the City and Charter Communications have negotiated a fifteen year cable franchise agreement with terms in the best interest of both parties,

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the Mayor is hereby authorize to sign on behalf of the City the fifteen year cable franchise agreement with Charter Communications..

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, October 9, 2012.

---

Jay Vavricek, Mayor

Attest:

---

RaNae Edwards, City Clerk

Approved as to Form	☐ _____
October 5, 2012	☐ City Attorney



# City of Grand Island

Tuesday, October 9, 2012

Council Session

## Item I5

### **#2012-304 - Consideration of Modifying Language Relative to Residency Requirements for City Department Directors**

Staff Contact: Robert J. Sivick, City Attorney

# **Council Agenda Memo**

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

**Meeting:** October 9, 2012

**Subject:** Consideration of Modifying Language Relative to Residency Requirements for City Department Directors

**Item #'s:** I-5

**Presenter(s):** Robert J. Sivick, City Attorney

## **Background**

On December 4, 2001 the Grand Island City Council (Council) approved expanding the area where Department Directors could reside to within ten miles of the City of Grand Island (City) zoning jurisdiction. Since the City has zoning jurisdiction for two miles beyond its borders this in effect extended the acceptable area of residency for Directors to twelve miles beyond the City's borders. On December 18, 2001 the Council approved Resolution 2001-314 which among other things incorporated the new residency requirements for Directors into the employee handbook. That requirement is memorialized in the City Personnel Rules and Regulations (Personnel Rules) §3.12.

This matter was the subject of a Study Session meeting of the Council on October 2, 2012. At that meeting the Council directed the City Legal Department to remove language referring to the City's zoning jurisdiction from the Director residency requirements as that language existed in no other provisions related to residency of other City employees. The Resolution before you this evening is the result of the City Legal Department's efforts to comply with that directive.

## **Discussion**

Residency requirements for municipal employees have been the subject of litigation across the country for the last few decades. Generally Courts are prone to strike down residency requirements that lack a legitimate public purpose related to the operation of municipal government. The most obvious example of such a legitimate public purpose would be public safety but would also include public utilities and infrastructure.

The Human Resources Department conducted a survey of residency requirements for Department Directors in other Nebraska cities and compiled the following data:

## RESIDENCY REQUIREMENTS FOR DEPARTMENT DIRECTORS

Hastings	No written policy. Strongly recommended
La Vista	Only City Administrator & Police Chief
Bellevue	Only City Administrator & Assistant City Administrator
Kearney	All Directors are required to live within City limits
Lincoln	No residency requirement for Directors
Omaha	No residency requirement for Directors
Norfolk	No residency requirement for Directors - some positions have a response time if in public works or public safety
Fremont	Residency requirement for City Administrator, Police & Fire Chief within 20 minutes of city limits and Utility Mgr. has to live within service area.
Papillion	No residency requirements for Directors
Columbus	No residency requirements for Directors. Police & Fire Chiefs follow the 30 minute rule in place for their department members
North Platte	No residency requirement for Directors

The Human Resources Department compiled the present residency requirements for City employees as listed below:

## CURRENT RESIDENCY REQUIREMENTS FOR CITY EMPLOYEES

Department Directors:	Within 10 miles of the zoning jurisdiction
Emergency Management Employees:	Within a 25 mile radius of the City limits
Utilities Department Employees:	Residency boundaries of the department
Sworn Police Officers (FOP Contract):	Within 35 miles of city limits
Firefighters (IAFF Contract):	Within a 35 mile radius of the City limits
Parks & Streets (AFSCME Contract):	No residency requirement
IBEW Wastewater:	No residency requirement
IBEW Service/Clerical	No residency requirement
IBEW Utilities & Finance:	Residency Boundaries as established in the contracts
Non-union:	No residency requirement

The Human Resources Department compiled data on the residency of City employees broken down by Department as listed below:

	GI	OTHER	TOTAL	% GI
ADMINISTRATION	4	1	5	80%
BUILDING	9	2	11	82%
EMER MANAGEMENT	17	1	18	94%
FINANCE	28	4	32	88%
FIRE	38	28	66	58%

HUMAN RESOURCES	2	2	4	50%
LEGAL	3	0	3	100%
LIBRARY	26	2	28	93%
PARKS	24	5	29	83%
PLANNING	3	0	3	100%
POLICE	75	18	93	81%
PUBLIC WORKS	61	13	74	82%
UTILITIES	128	6	134	96%
<b>TOTAL</b>	<b>418</b>	<b>82</b>	<b>500</b>	<b>84%</b>

The Resolution before you for consideration removes the language in §3.12 of the Personnel Rules referring to the City's zoning jurisdiction and states the requirement in terms of miles (twelve) which is the case with all other City residency requirements.

### **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**

The City Administration recommends the Council approve Resolution 2012-304 which amends Personnel Rule §3.12 by removing language referring to the City's zoning jurisdiction and stating the residency requirement for City Department Directors as twelve miles from the City limits.

### **Sample Motion**

Move to approve Resolution 2012-304 which amends Personnel Rule §3.12 by removing language referring to the City's zoning jurisdiction and stating the residency requirement for City Department Directors as twelve miles from the City limits.

## RESOLUTION 2012-304

WHEREAS, on December 18, 2001 the Grand Island City Council approved Resolution 2012-314 which among other things incorporated residency requirements for City of Grand Island Department Directors as within ten (10) miles of the City's zoning jurisdiction; and

WHEREAS, the City's zoning jurisdiction is two (2) miles beyond the City limits, making the residency requirements for Department Directors as twelve (12) miles beyond the City limits; and

WHEREAS, reference to the City's zoning jurisdiction is confusing and not referenced in any other residency requirements for City employees,

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the City of Grand Island Personnel Rules and Regulations §3.12 be amended as follow:

### **Sec. 3.12 RESIDENCY**

All Department Directors are required to reside within ~~ten~~ twelve (12) miles of the zoning jurisdiction City limits. All Emergency Management employees are required to reside within a twenty-five (25) mile radius of the City limits of ~~Grand Island~~. All Utilities Department employees are required to reside within the residency boundaries of the department. Residency for police and fire employees are established by contracts.

Employees that drive City vehicles home and senior management personnel need to check their department's Standard Operating Procedures in reference to residency requirements.

Employees subject to particular residency requirements will establish residency in compliance with that requirement within six (6) months after the calendar day of the start of employment in the City position subject to that residency requirement and will maintain such residency during the term of employment in that position. For purposes of these Personnel Rules and Regulations, residency will mean the employee's domicile.

Adopted by the City Council of the City of Grand Island, Nebraska, October 9, 2012.

---

Jay Vavricek, Mayor

Attest:

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RaNae Edwards, City Clerk



# City of Grand Island

Tuesday, October 9, 2012

Council Session

## Item I6

**#2012-305 – Consideration of Appointing Todd McCoy as Parks and Recreation Director**

Staff Contact: Mayor Jay Vavricek

# **Council Agenda Memo**

**From:** Mayor Jay Vavricek

**Meeting:** October 9, 2012

**Subject:** Appointment of Todd McCoy as Parks and Recreation Director

**Item #'s:** I-6

**Presenter(s):** Mayor Jay Vavricek

## **Background**

The Parks and Recreation Director position became vacant in June of 2012 when long time Director Steve Paustian retired. The City Human Resources Department began the recruitment process to fill the position. The position was advertised nationally and 34 applications were received.

## **Discussion**

Council President Peg Gilbert and Councilmembers Bob Niemann and Larry Carney along with City Administrator Brown and Human Resources Director Sutherland participated in the screening process to help determine finalists that would come for in-person interviews with the Mayor and interview committee. While three finalists were selected, two of the finalists declined the final interview.

After consulting with individuals involved with the process Todd was then interviewed. Based on the strength of the recommendation, the results of his interview and 15 years of hands on experience, the committee recommendation naming Todd as a finalist had merit. As the three very best applicants of the entire field were identified, there was no need to compare him to others who were not initially recommended as a finalist.

While the process didn't go quite as planned, in the end I couldn't be more pleased with the outcome. Todd has made his mark in the Parks Department as the Recreation Superintendent and also in the community. He is well liked and respected. We are fortunate to have such a quality individual here, ready to step up and take the lead right in our own back yard. I said before, previous devotion and service in the city would not be overlooked should advancement opportunities occur. My recommendation of Todd to Council indicates another example to promote from within and appreciate previous dedication, loyalty, talent and service.

Thank you to council members Gilbert, Niemann and Carney for their role in analyzing the many deserving and talented applicants who sought consideration in the position.

Mr. McCoy earned a Bachelor's degree in Recreation with an Emphasis on Administration and Natural Resources from the University of Nebraska at Kearney, NE. He began his employment with the City of Grand Island in 1997 as the Recreation Superintendent. McCoy continues to serve in that role in addition to being named the interim Parks and Recreation Director in June of 2012 when former Parks and Recreation Director Steve Paustian retired. Mr. McCoy worked as a Youth Care Worker at Boystown for two years prior to starting with the City of Grand Island.

Throughout the last 15 years, McCoy has managed Grand Island recreation facilities and programs including Island Oasis Water Park, Lincoln Pool, Community Fieldhouse, Grand Island Games, various sports leagues and tournaments, and children's programming. Furthermore, McCoy is a Certified National Pool Operator, a member of the National Recreation and Parks Association and a member of the World Water Park Association. In 2003, the Nebraska Recreation and Parks Association named McCoy Outstanding Recreation Professional.

I am confident in Todd McCoy's ability to lead the Parks and Recreation Department into the future. His work ethic, community presence and visionary spirit will serve our community well.

If McCoy's appointment is approved by city council, McCoy will assume the duties of Parks and Recreation Director on Wednesday, Oct. 9. McCoy will start at step one of the pay scale which is \$69,047.21 annually.

### **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**

Recommend Todd McCoy be appointed as the Parks and Recreation Director.

### **Sample Motion**

Move to appoint Todd McCoy as Parks and Recreation Director.

RESOLUTION 2012-305

WHEREAS, under City Code, 2 – 31, the position of Parks and Recreation Director for the City of Grand Island, Nebraska, is an appointed position; and

WHEREAS, the Mayor, with the approval of the City Council, may appoint the position of Parks and Recreation Director; and

WHEREAS, the Mayor has recommended the appointment of Todd McCoy as the Parks and Recreation Director effective October 10, 2012; and

WHEREAS, Mr. McCoy will be compensated at step one of the current Parks and Recreation Director pay scale in compliance with the City Personnel Rules.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that Todd McCoy is hereby duly appointed the Parks and Recreation Director for the City of Grand Island, Nebraska,

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, and October 9, 2012.

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

Attest:

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

Approved as to Form	☐ _____
October 5, 2012	☐ City Attorney



# City of Grand Island

Tuesday, October 9, 2012

Council Session

## Item J1

### **Approving Payment of Claims for the Period of September 26, 2012 through October 9, 2012**

*The Claims for the period of September 26, 2012 through October 9, 2012 for a total amount of \$2,787,857.08. A MOTION is in order.*

Staff Contact: Jaye Monter