

**AGENDA
CITY COUNCIL MEETING
August 7, 2012**

5:30 Call to Order

1. Approval of Minutes – July 17, 2012

2. Approval of Claims

Anyone desiring to view the Open Meetings Act may do so. The document is available for public inspection and is located on the south wall of the City Council Chambers.

Anyone desiring to speak on an agenda item is invited to do so, and should limit themselves to three minutes. After being recognized by the Chair, proceed to the rostrum and state your name and address for the record.

The City Council may go into closed session to discuss certain agenda items to protect the public interest or to prevent the needless injury to the reputation of an individual and if such individual has not requested a public hearing.

3. Presentation of Award from Northeast Nebraska Economic Development District

4. Action on Request by WAED for a Waiver of City Code Section 18-341 Regarding Sign Requirements and Prohibition of Signs projecting out over the Sidewalk in a Commercial District.

Background: A picture of the proposed new sign for the WAED office is attached. Since the sign is not flat against the front of the building, but will hang perpendicular out over the sidewalk, Wayne City Code requires Council approval.

Recommendation: The sign will meet all other code requirements. The recommendation of the Building Inspector is to approve the application.

5. Public Hearing: To Consider the Planning Commission's Recommendation in Regard to Amending the Wayne Municipal Code, specifically Sections 90-10 Definitions, by adding Agricultural Industry, Light Industry, General Industry, and Heavy Industry (Advertised Time: 5:30 p.m.)

Background: This hearing and the following five hearings are all related to the existing use of concrete crushing and sales in a B-1 zone. Please see the attached memorandum from Joel Hansen dated July 31, 2012, summarizing the recommendations of the Planning Commission.

6. Ordinance 2012-29: Amending Section 90-10 Definitions, by adding Agricultural Industry, Light Industry, General Industry, and Heavy Industry

7. Public Hearing: To Consider the Planning Commission's Recommendation in Regard to Amending the Wayne Municipal Code, specifically

Section 90-114 Exceptions in the A-1 Agricultural Zone by adding (24) Heavy Industry (Advertised Time: 5:30 p.m.)

8. **Ordinance 2012-30: Amending Section 90-114 – Exceptions in the A-1 Agricultural Zone by adding (24) Heavy Industry**
9. Public Hearing: To Consider the Planning Commission’s Recommendation in Regard to Amending the Wayne Municipal Code, specifically Section 90-482 Permitted Principal Uses and Structures in the I-1 Light Industrial and Manufacturing Zone, by adding (46) Light Industry and (47) General Industry (Advertised Time: 5:30 p.m.)
10. **Ordinance 2012-31: Amending Section 90-482 Permitted Principal Uses and Structures in the I-1 Light Industrial and Manufacturing Zone, by adding (46) Light Industry and (47) General Industry**
11. Public Hearing: To Consider the Planning Commission’s Recommendation in Regard to Amending Section 90-484 Exceptions in the I-1 Light Industrial and Manufacturing Zone by adding (5) Heavy Industrial (Advertised Time: 5:30 p.m.)
12. **Ordinance 2012-32: Amending Section 90-484 Exceptions in the I-1 Light Industrial and Manufacturing Zone by adding (5) Heavy Industrial Permitted Principal Uses and Structures in the I-2 Heavy Industrial Zone, by adding (56) Agricultural Industry, (57) Light Industry, (58) General Industry, and (59) Heavy Industry**
13. Public Hearing: To Consider the Planning Commission’s Recommendation in Regard to Amending Section 90-512 Permitted Principal Uses and Structures in the I-2 Heavy Industrial Zone, by adding (56) Agricultural Industry, (57) Light Industry, (58) General Industry, and (59) Heavy Industry (Advertised Time: 5:30 p.m.)
14. **Ordinance 2012-33: Amending Section 90-512 Permitted Principal Uses and Structures in the I-2 Heavy Industrial Zone, by adding (56) Agricultural Industry, (57) Light Industry, (58) General Industry, and (59) Heavy Industry**
15. Public Hearing: To Consider the Planning Commission’s Recommendation in Regard to Amending Section 90-754 Nonconforming Uses by adding (I) Heavy Industry (Advertised Time: 5:30 p.m.)
16. **Ordinance 2012-34: Amending Section 90-754 Nonconforming Uses by adding (I) Heavy Industry**
17. **Ordinance 2012-28: Amending Wayne Municipal Code Chapter 2, Article II, Council, Division 1. Generally by Adding Section 2-51 Code of Decorum (Second Reading)**

18. [Ordinance 2012-35: Authorizing the Release and Abandonment of the East 7' of the Side Yard Utility Easement Located on Lot 5 and the West 7' of the Side Yard Utility Easement Located on Lot 6, Fairway Estates Subdivision](#)

Background: This action allows the purchaser of Lots 5 & 6 to build one home on these two lots in Fairway Estates.

Recommendation: The recommendation of the Zoning Administrator is to release and abandon the easements as requested.

19. [Resolution 2012-55: Approving an Agreement with Arnie's Ford, Inc., regarding the use of Public Right-of-Way](#)
20. [Action on Change Order in the amount of \\$12,390.40 to Elkhorn Paving Company \(Pheasant Run Road Paving Project\)](#)
21. [Action on Contractor's Application for Payment – Final in the amount of \\$24,296.90 to Elkhorn Paving Company \(Pheasant Run Road Paving Project\)](#)

Recommendation: The recommendation of the Project Engineer is to approve the payment for work done under contract and approved by the engineer.

22. [Action on Contractor's Application for Payment No. 1 in the amount of \\$135,531.44 to Luxa Construction \(Western Ridge Paving Project – Phase II\)](#)

Recommendation: The recommendation of the Project Engineer is to approve the payment for work done under contract and approved by the engineer.

23. [Recess](#)
- a. [Convene as Community Development Agency](#)
 - b. [Approve Minutes – July 17, 2012](#)
 - c. [Consideration and Adoption of CDA Res. 2012-5 Authorizing the Issuance of a Tax Increment Revenue Bond \(Benscoter Project\)](#)
 - d. [Action on New Housing Construction Loan Incentive Program](#)

Background: Our existing New Housing Construction Loan Incentive Program provides a \$20,000 construction loan at 0% interest for contractors that build new single-family homes. The loan is repaid by the contractor when the house is sold. If the applicant is an owner building his/her own home, the incentive loan is to be repaid when the owner secures a mortgage on the completed house. At the annual School/City/County planning retreat in July, it was proposed that we would get more interest in this if we let private lenders make the loans, and the City's incentive be amended to eliminate any direct loan and replace that with:

- 1) A buy-out of the interest cost of the construction loan to build the house; and
- 2) Payment of the real estate taxes accrued until the house is sold up to a maximum of 24 months, whichever comes first for spec homes.

The incentive for real estate taxes would apply only for construction of spec homes. It could also be possible to extend this incentive to multi-unit apartments until such time as they are 70% rented out, sold, or 24 months has passed, whichever comes first.

No Staff Recommendation.

- e. [Adjourn CDA and Reconvene as Council](#)

24. [Resolution 2012-56: Revising the Approval of a Redevelopment Plan \(Benscoter Addition Planned Unit Development Replat 1\)](#)

25. [Second Discussion of New Market Rate Apartment Housing Construction Incentives on Lots Previously Cleared through Property Maintenance Code Enforcement at City Cost](#)

Background: The intent of this incentive proposal would be to resolve our problem of not being able to offer TIF financing for new construction on lots that were cleared by the City during our property maintenance code enforcement, and we now own them through filing liens for non-payment by the owner, and foreclosing on them. Since the City paid the cost of demolition and removal on those properties, we cannot recover those costs by getting TIF ourselves. We can only recover the demolition and clearing costs through future property taxes from private new construction on those lots. In the past, we have auctioned these types of lots for construction of single-family homes. I'm asking to have a second discussion of this with elected officials before beginning to draft any TIF agreement that incurs attorney fees.

26. [Action to Amend Current Housing Incentive Program Requiring Energy Star Construction](#)

Recommendation: In our housing incentives, we have a current requirement for participation in the Energy Star Program. The Federal rebates and incentives for that program may not get renewed. We suggest that this requirement be contingent on the continuation of Federal Energy Star incentives. That change will require Council action.

27. [Resolution 2012-57: Approving Agreement with Eisenbraun & Associates for Design and Construction Services on the 10th Street, Main to Windom Reconstruction Project for a Lump Sum Fee of \\$99,960.00 and Using Local Funds to be Reimbursed by Future Allocations of State Highway STP Replacement Funds](#)

Background: This \$600,000 street repaving project still has an 80% cost share commitment from NDOR using Federal Surface Transportation Act funds. This is one of the projects that was set aside at the State level during the reprioritization of

“shovel-ready” projects that could use ARRA funds during the 2008 financial crisis. The STP funds must be used by the expiration date in 2015. Because of the status of the environmental review and the procurement of easements, this project is unlikely to make the deadline.

Recommendation: Because of time delays and the failing condition of the street, the recommendation of the Street Superintendent is for the City to relinquish the STP funding and substitute future state NDOR funding sources instead to complete the project in 2013. The State funding does not have the same Federal compliance requirements, will lower the total cost of the project, and will speed up the completion date.

28. Action on Decision Regarding Wayne Revolving Loan Funds

Recommendation: The recommendation of Lowell Johnson, City Administrator, is to relinquish the available cash in the revolving loan fund and program income from existing loans back to Nebraska Department of Economic Development.

29. Adjourn

APPROVED AS TO FORM AND CONTENT:

Mayor

City Administrator

July 17, 2012

The Wayne City Council met in regular session at City Hall on Tuesday, July 17, 2012, at 5:30 o'clock P.M. Mayor Ken Chamberlain called the meeting to order with the following in attendance: Councilmembers Brian Frevert, Jim Van Delden, Jon Haase, Dale Alexander, Doug Sturm, Kaki Ley, Kathy Berry and Jill Brodersen; City Attorney Amy Miller; City Administrator Lowell Johnson; and City Clerk Betty McGuire.

Notice of the convening meeting was given in advance by advertising in the Wayne Herald on July 6, 2012, and a copy of the meeting notice and agenda were simultaneously given to the Mayor and all members of the City Council. All proceedings hereafter shown were taken while the Council convened in open session.

Councilmember Sturm made a motion, which was seconded by Councilmember Haase, whereas the Clerk has prepared copies of the Minutes of the meeting of July 3, 2012, and that each Councilmember has had an opportunity to read and study the same, and that the reading of the Minutes be waived and declared approved.

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried and the Minutes approved.

The following claims were presented to Council for their approval:

VARIOUS FUNDS: ADVANTAGE TAPE, SE, 225.00; AMERITAS, SE, 2062.30; APPEARA, SE, 99.49; ARNIE'S FORD-MERCURY, SE, 105.01; BAKER & TAYLOR BOOKS, SU, 1205.44; BANK FIRST, FE, 120.00; BARONE SECURITY SYSTEMS, SE, 1080.00; CITY EMPLOYEE, RE, 337.70; CITY EMPLOYEE, RE, 51.28; BROWN SUPPLY, SU, 426.30; CITY EMPLOYEE, RE, 87.98; CITIZENS NATIONAL BANK, RE, 3588.37; CITY OF NORFOLK, SE, 491.10; CITY OF WAYNE, RE, 850.00; CITY OF WAYNE, RE, 20.00; CITY OF WAYNE, RE, 500.00; CITY OF WAYNE, RE, 30000.00; CITY OF WAYNE, PY, 66065.42; CITY OF WAYNE, RE, 30.00; CLAUSSEN & SONS IRRIG., SE, 366.60; COMMUNITY HEALTH, RE, 3.00; COPY WRITE PUBLISHING, SU, 66.74; CITY EMPLOYEE, RE, 64.98; CITY EMPLOYEE, RE, 53.24; ECHO GROUP, SU, 25.20; ERNEST E PING, SE, 243.00; FLOOR MAINTENANCE, SU, 110.70; FREDRICKSON OIL, SE, 86.98; GALE GROUP, SU,

35.33; GALEN WISER, RE, 30.00; GERHOLD CONCRETE, SU, 169.50; GREAT PLAINS ONE-CALL, SE, 84.30; HARDING & SHULTZ, SE, 6296.07; HD SUPPLY WATERWORKS, SU, 975.51; CITY EMPLOYEE, RE, 136.41; ICMA, SE, 5292.71; INGRAM BOOK COMPANY, SU, 205.70; INTL PUBLIC MANAGEMENT, SU, 1300.00; IRS, TX, 21296.19; JASON CAROLLO, SE, 140.00; JEO CONSULTING GROUP, SE, 4290.50; JOHN'S WELDING AND TOOL, SU, CHANNEL IRON, SU, 45.79; CITY EMPLOYEE, RE, 498.56; KTCH, SE, 925.00; MAIN STREET AUTO CARE, SE, 90.00; MELISSA URBANEC, RE, 30.00; MIDSTATES ERECTORS, SE, 195091.00; MIDWEST LABORATORIES, SE, 1463.53; MORROW'S HOUSEMOVING, SE, 8600.00; MSC INDUSTRIAL, SU, 125.82; NE DEPT OF REVENUE, TX, 3338.76; NE LIBRARY ASSOCIATION, FE, 285.00; NE POWER REVIEW BOARD, SE, 830.36; NE PUBLIC HEALTH, SE, 1936.25; NEBRASKA U.C. FUND, RE, 2402.40; N.E. NE AMERICAN RED CROSS, SE, 59.24; NNPPD, SE, 12180.28; OLSSON ASSOCIATES, SE, 1963.59; OVERDRIVE, INC., SE, 1500.00; PAC N SAVE, SU, 287.73; PAMIDA, SU, 102.32; PRESTO X, SE, 82.14; CITY EMPLOYEE, RE, 359.75; QUALITY FOODS, SU, 23.39; QUILL, SU, 161.08; RANDOM HOUSE, SU, 50.25; CITY EMPLOYEE, RE, 186.40; SPARKLING KLEAN, SU, 2115.25; STATE NATIONAL BANK, RE, 92.66; TIM POWELL, RE, 30.00; TOM ADAMSON, SU, 8.00; FIREMAN, RE, 208.00; UNITED RENTALS, SU, 140.00; UNITED STATES PLASTIC, SU, 91.58; UNITED WAY, RE, 10.00; UTILITIES SECTION, FE, 1793.00; WASTE CONNECTIONS, SE, 57.99; WAYNE HERALD, SE, 336.00; WAYNE VETERINARY CLINIC, SE, 28.00; WESCO, SU, 182.49; WAPA, SE, 31905.64; ZACH HEATING & COOLING, SE, 627.80; APPEARA, SE, 129.08; BELSON OUTDOORS, SU, 838.00; CITY EMPLOYEE, RE, 265.27; BOMGAARS, SU, 1160.81; CARHART LUMBER, SU, 904.39; CITY EMPLOYEE, RE, 34.06; CHILDREN'S SAFETY PUBL, SU, 100.00; CITY OF WAYNE, RE, 100.00; CITY OF WAYNE, RE, 531.78; CORNHUSKER STATE IND, SU, 946.25; COUNTRY NURSERY, SU, 84.00; COVENTRY, SE, 22036.74; CUSTOM FILTRATION, SU, 1474.16; DAVE'S DRY CLEANING, SE, 36.00; DE LAGE LANDEN FINANCIAL, SE, 394.00; DUTTON-LAINSON, SU, 716.22; ELLIS PLUMBING & HEATING, SE, 103.00; GERHOLD CONCRETE, SU, 420.00; CITY EMPLOYEE, RE, 42.56; ITRON, SE, 2215.05; JEO CONSULTING GROUP, SE, 2275.50; KAY CONTRACTING, SE, 3455.00; KTCH, SE, 80.00; MUNICIPAL SERVICE, SE, 5397.29; N.E. NEB ECONOMIC DEV DIS, SE, 55.00; CITY EMPLOYEE, RE, 347.82; NPPD, SE, 351803.01; PAMIDA, SU, 6.00; PAULSON TIRE SERVICE, SE, 20.00; PITNEY BOWES, SU, 648.00; QUILL, SU, 436.54; REAMS SPRINKLER SUPPLY, SU, 390.51; REHAB SYSTEMS, SE, 15329.50; CITY EMPLOYEE, RE, 10.26; SOLBERG MANUFACTURING, SU, 39000.00; STATE NATIONAL BANK, RE, 100.00; STEVE MUIR, RE, 500.00; TOP HEALTH, SU, 170.52; VAN DIEST SUPPLY, SU, 2024.00; WAYNE AUTO PARTS, SU, 990.21; WEST-E-CON, SE, 1132.00; WIGMAN COMPANY, SU, 446.25

Councilmember Ley made a motion and Councilmember Sturm seconded to approve the claims. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Mayor Chamberlain advised the public that a copy of the Open Meetings Act was located on the south wall of the Council Chambers and was available for public inspection. In addition, he advised the public that the Council may go into closed session to discuss certain agenda items to protect the public interest or to prevent the needless injury to the reputation of an individual and if such individual has not requested a public hearing.

Councilmember Ley made a motion, which was seconded by Councilmember Sturm, to approve the Settlement Agreement (\$65,000) and Release of all Claims regarding the Kate Lassila vs. City of Wayne and Lance Webster matter. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Councilmember Sturm made a motion, which was seconded by Councilmember Ley, to approve the claim to Fitzgerald, Vetter, Attorneys-at-Law, in the amount of \$61,685.00 regarding the settlement of the Kate Lassila vs. City of Wayne and Lance Webster matter. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Phil Monahan, Fire Chief, introduced Tyler Mostek and requested Council consideration to approving his membership application to the Wayne Volunteer Fire Department.

Councilmember Frevert made a motion, which was seconded by Councilmember Sturm, to approve the membership application of Tyler Mostek to the Wayne Volunteer Fire Department. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Administrator Johnson stated the following Resolution would approve rules for the dog park. This is a combination of what was recommended by both the City's insurance company, EMC, and the Leadership Wayne group.

Jessi Hansen, representing the Leadership Wayne group, was present to answer questions. She noted that dog parks are the fastest growing parks in the United States.

Councilmember Sturm questioned the policing of the park and who would be responsible for enforcing the rules.

Administrator Johnson stated that the dog park would be under city jurisdiction, and violations would be handled the same way as in any other park in the city.

It was suggested that the Leadership Wayne group form a committee to field complaints and help monitor the dog park.

Attorney Miller stated for liability and insurance purposes, a double gate should be installed.

Councilmember Ley introduced Resolution 2012-53, and moved for its approval; Councilmember Sturm seconded.

RESOLUTION NO. 2012-53

A RESOLUTION ADOPTING RULES FOR THE CITY OF WAYNE DOG PARK A/K/A "BARK PARK".

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Administrator Johnson stated the following Resolution would allocate \$64,000 in property tax to the Wayne Municipal Airport Authority. This is an annual request that the Airport Authority makes to the Council. This amount represents about \$.035 of the \$.45 property tax allocation that the City could receive. Last year's allocation was \$62,000.

Councilmember Alexander introduced Resolution No. 2012-54 and moved for its approval; Councilmember Van Delden seconded.

RESOLUTION NO. 2012-54

A RESOLUTION AUTHORIZING THE ALLOCATION OF PROPERTY TAXES TO THE WAYNE AIRPORT AUTHORITY.

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Garry Poutre, Supt. of Public Works & Utilities, was present and stated that he had received a letter from the Village of Carroll stating that they had been recently evaluated by the Department of Health & Human Services, and that that study revealed shortcomings in Carroll's water storage system. A recommendation from DHHS, other than replacing the current storage system, was to see if they could join with another Rural Water District. He's been advised that they have looked into this briefly, but the elevation problems to the north prohibit feasibility of this as an option. The Rural Water District suggested Carroll explore the possibility of entering into an agreement with the City of Wayne for water. The Village of Carroll is seeking funding to conduct a feasibility study to explore this possibility and to give them an idea of what it might cost to build the infrastructure to Wayne for water. While there is no commitment on the City's part at this time, the Village of Carroll is asking that the Council approve their

request to at least look at the option of getting water from Wayne by way of a feasibility study.

Mark Tietz, Chairman of the Village Board of Carroll, was present to answer questions.

Councilmember Sturm made a motion, which was seconded by Councilmember Alexander approving the request of the Village of Carroll to do a feasibility study on building infrastructure to Wayne and purchasing water from the Wayne water system. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

The LB840 Sales Tax Advisory Committee met on July 12, 2012, and reviewed an application from Wayne NG Cars, LLC, to Wayne's Economic Development Program Fund. The committee recommended approving a request by Wayne NG Cars, LLC, for a \$250,000 loan guarantee. The terms the committee agreed to included a deadline for closing the loan by December 31, 2012. This project would bring a compressed natural gas vehicle assembly plant to Wayne. This project needs to find conventional financing before the guarantee would be utilized.

The Council previously approved a loan guarantee of \$150,000 to WAED from the Wayne Revolving Loan Funds for this project; however, because of the recent changes in the way the Nebraska Department of Economic Development will be handling revolving loan funds, the original \$150,000 loan guarantee to WAED for Wayne NG Cars, LLC, is no longer available.

Dan Rose, representing Wayne NG Cars, LLC, was present to answer questions.

Councilmember Brodersen made a motion, which was seconded by Councilmember Sturm approving the recommendation of the LB840 Economic Development Advisory Committee to approve a request by Wayne NG Cars, LLC, for a \$250,000 loan guarantee. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Mayor Chamberlain stated the following Ordinance regarding the “Code of Decorum” is brought forward from the last meeting. As of this time, he had not received any comments or changes, as requested at the last meeting, that Council might want regarding this ordinance.

City Clerk McGuire had highlighted those sections in the ordinance that are State Statute and already contained in the City’s Municipal Code book.

Councilmember Frevert stated he was against the “Code of Decorum” in its entirety.

Councilmember Sturm thought it was a good idea to have something in writing.

Mayor Chamberlain also thought this would be helpful for newly elected officials so they have an understanding of their duties and responsibilities.

Councilmember Brodersen liked the idea of looking at this as a “job description” or guidelines for the Council to follow.

Councilmember Ley did not have a problem with the Code of Decorum.

Councilmember Ley introduced Ordinance 2012-28, and moved for approval thereof; Councilmember Sturm seconded.

ORDINANCE NO. 2012-28

AN ORDINANCE AMENDING MUNICIPAL CODE CHAPTER 2, ARTICLE II. COUNCIL, DIVISION 1. GENERALLY, BY ADDING SECTION 2-51 CODE OF DECORUM; TO PROVIDE FOR THE REPEAL OF CONFLICTING ORDINANCES OR SECTIONS; AND TO PROVIDE FOR AN EFFECTIVE DATE.

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmembers Frevert and Haase who voted Nay, the Mayor declared the motion carried. The second reading will take place at the next meeting.

Councilmember Ley made a motion, which was seconded by Councilmember Alexander, to recess as Council and convene as the Community Development Agency. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Chair Haase called the meeting of the Community Development Agency to order. Those in attendance were: Members Brian Frevert, Jim Van Delden, Dale Alexander, Ken Chamberlain, Doug Sturm, Kaki Ley, Kathy Berry and Jill Brodersen; City Attorney Amy Miller; City Administrator Lowell Johnson; and City Clerk Betty McGuire.

Chair Haase advised the public that a copy of the Open Meetings Act was located on the south wall of the Council Chambers and was available for public inspection.

The next item on the CDA agenda was to approve the minutes of the June 5, 2012, meeting.

Member Chamberlain made a motion and Member Alexander seconded approving the minutes of the June 5, 2012, meeting. Chair Haase stated the motion, and the result of roll call being all Yeas, the Chair declared the motion carried.

Chair Haase stated the next item on the agenda is to take action on two housing construction applications for Lot 11 and Lot 12 for the Benscoter Addition. Benscoter, Inc., is the applicant.

Administrator Johnson stated two more application have been received for the housing construction incentive program which was approved in April and provides short-term zero percent interest construction loans of \$20,000 per single-family structure for homes built and sold to households with annual incomes of 150% of the Wayne County median income or less. This request from Benscoter, Inc., is for \$40,000 for two market rate homes, which are being built on two individual lots in the Benscoter Addition. This is two of five homes planned for construction in this subdivision.

Attorney Miller requested the following changes be made to the Application:

“Terms of agreement:

1. ~~Funds will only be advanced upon Builder/buyer's proof of participation in the Energy Star Program and copies of invoice from builder are received.~~ Provide EPA Energy Star Certificate at completion of construction to ensure Energy Star Compliance.
2. Eligible home buyers must have an annual household incomes of no more than 150% median income for Wayne County
3. Builder will be eligible for two incentive loans at a time.
4. Builder will be eligible for \$20,000 construction loan per speculative housing unit and \$30,000 per housing unit being built by an owner of a lot, at 0% interest until date of sale or (4) four years, which ever comes first, from LB840 funds or other funds provided by the city with payback from the ~~home-buyer~~ applicant at time of permanent financing.
5. Construction loan will be secured by a Deed of Trust on the property and subordinate to commercial or private construction financing.
6. Houses must be ready for occupancy permit (within 24 months of date of execution) of incentive agreement.

7. Proof of construction loan is required at time of application.
8. Penalties for not completing house within the required 24 months are:
 - a. ~~If primary construction loan is not secured within 6 months of approval of the incentive or the City incentive loan become void.~~
 - b. Failure to provide EPA Energy Star Certificate at completion of construction to ensure Energy Star Compliance the City incentive loan becomes void.
 - c. If the house is not ready for occupancy within 24 months the builder is not eligible for future city incentives.
 - d. If the house does not have an occupancy permit within the 24 months, the loan is in default and due immediately at 5% interest from the date of loan approval.

Member Chamberlain made a motion and Member Sturm seconded approving the Housing Construction Incentive Applications (\$40,000) of Benscoter, Inc., for Lots 11 and 12, Benscoter Addition Planned Unit Development Replat 1, with the changes recommended by City Attorney Miller. Chair Haase stated the motion, and the result of roll call being all Yeas, the Chair declared the motion carried.

Member Alexander made a motion and Member Van Delden seconded to adjourn as the Community Development Agency and reconvene as Council. Chair Haase stated the motion, and the result of roll call being all Yeas, the Chair declared the motion carried.

Administrator Johnson gave an update on the Strategic Planning Session between WAED, the City, County, School, Hospital, and College.

Administrator Johnson reviewed some new housing construction incentives. He will prepare some draft documents for Council to review at a later time.

Administrator Johnson provided an initial review of the budget assumptions.

Discussion took place in regard to setting a date for budget work sessions. Council consensus was to set the budget work sessions for Monday, July 30, 2012, at

5:30 p.m., in Council Chambers. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Councilmember Sturm made a motion, which was seconded by Councilmember Alexander, to adjourn the meeting. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried and the meeting adjourned at 6:59 p.m.

CLAIMS LISTING AUGUST 7, 2012

4IMPRINT	TOTES	697.00
ADVANCED CONSULTING	WESTERN RIDGE PAVING	2,100.00
AMAZON.COM, LLC	BOOKS	496.84
AMERICAN BROADBAND	FIBER LINE LEASE/TELEPHONE CHARGES	2,249.58
AMERITAS LIFE INSURANCE	POLICE RETIREMENT	1,930.95
APPEARA	LINEN & MAT SERVICE	208.56
ARNIE'S FORD-MERCURY INC	AIR BAG LIGHT	309.66
AS CENTRAL SERVICES	TELECOMMUNICATION SERVICES	448.00
ATCO INTERNATIONAL	FOAMACIDE	55.20
BANK FIRST	FRATERNAL ORDER OF POLICE DUES	120.00
CITY EMPLOYEE	HEALTH REIMBURSEMENT	128.62
BIG T ENTERPRISES, INC	BATTERY	11.00
BLACK HILLS ENERGY	GAS BILLING	439.13
BOMGAARS	FD-FASTENERS/CAR & TIRE WASH	46.74
BOMGAARS	AIR COMPRESSOR/GREASE GUN/BLADE/ ETC	1,961.03
CITY EMPLOYEE	HEALTH REIMBURSEMENT	198.93
BROWN SUPPLY CO	COUPLING	93.35
CITY EMPLOYEE	HEALTH REIMBURSEMENT	72.08
CARHART LUMBER COMPANY	WOOD/PAINT/PIPE/WASHERS/CLAMPS ETC	631.03
CENTURYLINK	TELEPHONE CHARGES	312.01
CITY EMPLOYEE	CLOTHING REIMBURSEMENT	17.69
CITY OF NORFOLK	INSPECTION	204.21
CITY OF WAYNE	AUDITORIUM DEPOSIT REFUND	150.00
CITY OF WAYNE	DRIVEWAY DEPOSIT REFUND	500.00
CITY OF WAYNE	KIDS SUMMER CLUB REFUND	120.00
CITY OF WAYNE	PARKING REFUND	40.00
CITY OF WAYNE	PAYROLL	66,872.74
CITY OF WAYNE	SWIM LESSON REFUND	30.00
CITY OF WAYNE	UTILITY REFUNDS	225.00
CLAUSSEN & SONS IRRIG.	IRRIGATION REPAIR	264.86
COMMUNITY HEALTH	HEALTH CHARITIES	3.00
CONTINENTAL FIRE SPRINKLER	ANNUAL FIRE/BACKFLOW SERVICES	210.00
COUNTRY NURSERY INC	RE-LAY PAVERS	857.40
CREDIT BUREAU SERVICES	WEB SUBMISSIONS	450.00
DAKOTA BUSINESS SYSTEMS	LIBRARY COPIER EQUIPMENT LEASE	103.50
DE LAGE LANDEN FINANCIAL	SR CENTER COPIER LEASE	77.00
DEMCO INC	KNIFE/BAGGIES/WHITE OUT	205.79
DGR & ASSOCIATES CO	ELECTRICAL MAP-CAD	72.00
DONNA TIETSORT	TREE INCENTIVE	50.00
CITY EMPLOYEE	HEALTH REIMBURSEMENT	112.77
DUTTON-LAINSON COMPANY	COPPER WIRE/BLUE TAPE/CONNECTORS	624.05
EAKES OFFICE PLUS	LABELING TAPE	56.97
EASYPERMIT POSTAGE	POSTAGE ON UTILITY BILLS	599.28
ECHO GROUP INC JESCO	ADAPTERS/ELBOW/PVC CONDUIT	78.93
EDWARD JONES	LIGHTING EFFICIENCY	200.00

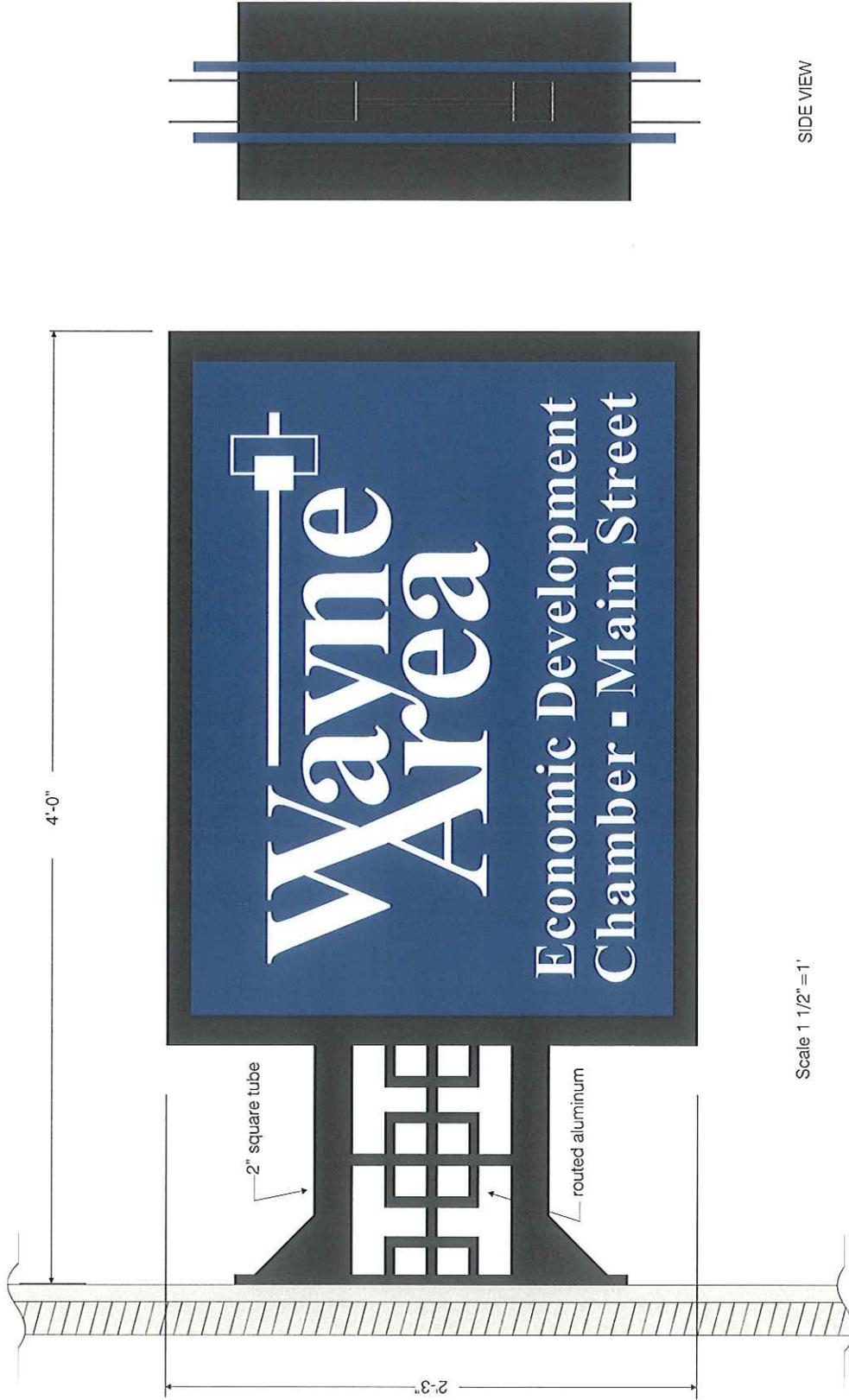
CITY EMPLOYEE	SAFETY BOOTS	1,676.18
EGAN SUPPLY CO	POLISH PADS	42.13
ELECTRIC FIXTURE & SUPPLY	COIL/CONNECTORS	51.79
ELLIS PLUMBING & HEATING	FLUSH VALVE SENSOR REPAIR	72.00
EMERITUS	LIGHTING EFFICIENCY	120.00
FASTENAL CO	HEX NUT	39.03
FIRST CONCORD GROUP LLC	CAFETERIA FEES	3,095.79
FLOOR MAINTENANCE	LAUNDRY DETERGENT/TOILET PAPER	444.65
FORT DEARBORN LIFE	VFD INSURANCE	110.08
GERHOLD CONCRETE CO INC.	DECK FOAM/CONCRETE	861.26
GILL HAULING, INC	SANITATION SERVICES	155.00
GROSSENBURG IMPLEMENT INC	AIR GUN/ASSEMBLY/TRIMMER/FILTERS	955.19
HAWKINS, INC	POOL CHEMICALS	1,086.08
HILLYARD/SIOUX FALLS	CHASSIS SPECTRUM	34.25
CITY EMPLOYEE	HEALTH REIMBURSEMENT	364.00
HOLIDAY INN OF KEARNEY	LODGING- C JUNCK	163.90
ICMA RETIREMENT TRUST-457	ICMA RETIREMENT	5,292.71
INTERSTATE ALL BATTERY	BATTERIES	216.75
IRS	FEDERAL WITHHOLDING	27,763.70
JEO CONSULTING GROUP	WWTP/AQUATIC CENTER/WELLHEAD	6,447.20
JON HAASE	COOLING SYSTEM INCENTIVE	30.00
KRIZ-DAVIS COMPANY	11 PADMOUNTS/FUSES/JUNCTION BOXES	23,852.65
L.G. EVERIST	ROCK	641.84
LAYNE CHRISTENSEN CO	MAIN VALVE REPAIR KIT	746.00
LEAGUE OF NEBRASKA	MEMBERSHIP DUES	5,920.00
CITY EMPLOYEE	HEALTH REIMBURSEMENT	3,075.09
LOU WILTSE	ENERGY INCENTIVE	500.00
MCGUIRE & NORBY	ATTORNEY FEES	10,450.47
MIDLAND EQUIPMENT INC	BUSHING/SEAL/KEY/SPRING PIN	59.29
MIDWEST OFFICE AUTOMATION	COPY CHARGES	1,314.84
MIKE TOWNE	RATE REVIEW	300.00
MISS MOLLY'S COFFEE CO	BUDGET SESSION MEAL	127.80
MSC INDUSTRIAL	IMPACT WRENCH	385.72
MULTIMEDIA SALES & MARKET	CAC ADVERTISING	313.50
CITY EMPLOYEE	HEALTH REIMBURSEMENT	541.45
NE DEPT OF ENVIRONMENTAL	TS ANNUAL OP PERMIT	500.00
NE DEPT OF REVENUE	STATE WITHHOLDING	3,307.11
NE SAFETY COUNCIL	SHIPPING CHARGES ON SAFETY VIDEO	11.49
NIAGARA CONSERVATION CORP	LED NIGHTLIGHTS	966.81
NORFOLK SPORTING GOODS	2 PLAQUES	38.50
N.E.NE AMERICAN RED CROSS	PAYROLL DEDUCTIONS	29.62
NORTHEAST NE PUBLIC POWER	ELECTRICITY	3,475.00
NORTHWEST ELECTRIC LLC	FAN MOTOR	187.40
OLSSON ASSOCIATES	BENSCOTER ADDITION/COOLING TOWER	5,769.28
OVERHEAD DOOR COMPANY	CHAIN HOIST REPAIR	157.50
PEAKER SERVICES INC.	REBUILD UNIT 4 GOVERNOR ENGINE SPEED	4,394.41
POLLARD PUMPING	CHICKEN SHOW PORT A POTTIES	935.00

QUALITY 1 GRAPHICS	NO PARKING SIGNS	160.00
QUILL CORPORATION	TONER CARTRIDGES	928.25
REHAB SYSTEMS	COOLING TOWER-STRONG SEALS	5,750.00
RO DON CORPORATION	HYDRANT WRENCH	644.03
RON'S RADIO	RADIOS	4,932.70
RUDOLPH'S SHOES	SAFETY SHOES	154.60
SALMON WELL CO	WELL SEALING PROGRAM	516.28
STADIUM SPORTING GOODS	BARK PARK SHIRTS/EMBROIDERY	575.00
T & S TRUCKING	TRANSPORT ROCK FOR ALLEYS	226.53
TOM'S BODY & PAINT SHOP	SR CENTER VAN REPAIR	218.01
UNITED RENTALS	CANOPY	80.00
UNITED WAY	PAYROLL DEDUCTION	5.00
US BANK	LODGING/MEALS/PRINTER/BACK UPS/ETC	2,068.21
VERIZON WIRELESS SERVICES	CELL PHONES	276.90
VIAERO	CELL PHONES	170.90
WATERLINK, INC	WATER TREATMENT SOLUTION	4,661.56
WAYNE AREA ECONOMIC DEVEL	AUG 12 CONTRIBUTION	6,383.33
WAYNE COUNTY COURT	BOND	400.00
WAYNE HERALD	SUBSCRIPTION RENEWAL	46.00
WAYNE ROTARY	DUES- N BRADEN	160.00
WAYNE RURAL FIRE	ELECTRICAL TAPE-FD	8.78
WESCO DISTRIBUTION INC	EPR CABLE/CONNECTORS	30,455.79

DELETE FROM CLAIMS

6/5/12 Y & Y LAWN SERVICE-FERTILIZER/PRE-EMERGENT \$205.00

6/19/12 ROBERT WOEHLE & SONS-COOLING TOWER \$2,090.00



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Heidi Claussen



APX Scale 3/8" = 1' FOR REPRESENTATIONAL PURPOSES ONLY



heidesign

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**City of Wayne
Interoffice Memorandum**

Date: July 31, 2012

To: Mayor Chamberlain
Wayne City Council

From: Joel Hansen, Staff Liaison to Planning Commission

Re: Recommendation from April 2, 2012 Meeting
Recommendation from July 2, 2012 Meeting

Executive Summary:

In the past 10 years R&W Construction began crushing concrete on their site at 123 Fairground Avenue. This was an expansion of a commercial use into one that seems to be more industrial in nature. The resulting impact on the neighborhood has led to complaints in regards to the zoning. After reviewing our zoning code with the city attorney's office I have concluded that the intent of the code would not allow concrete crushing in this location but there is no specific language to not allow it. Therefore the Planning Commission is bringing forward to you new language that would better define industrial uses and the appropriate location for them within our zoning jurisdiction. Concrete crushing would be allowed in A-1, I-1, & I-2 with certain restrictions in each that requires separation of the use from places where people and their children typically live and play. It would also cause Woehlers to cease crushing concrete at their current location by a date set by the council. I am recommending this period to be two (2) years to allow Woehlers time to find a new location and crush at the current location one more time to clean up what is accumulated up to that time.

At their meetings held on April 2 and July 2, 2012, the Wayne Planning Commission held several public hearings; the results of those public hearings are as follows:

Public Hearing: Amending Section 90-10 Definitions

The Planning Commission took evidence and testimony from the public at the hearing and thereafter reviewed the information and evidence presented. After deliberation and discussion, motion was made by Commissioner Carstens and seconded by Commissioner Giese to approve and forward a recommendation of approval to the City Council to amend Section 90-10 Definitions, by adding the following:

Agricultural Industry: Establishments which include the storage, manufacture, sale, or distribution of agricultural supplies or products that create major external effects, including substantial truck or rail traffic and/or significant potential for hazard. Typical uses include grain

elevators, storage of agricultural chemicals such as anhydrous ammonia. Agricultural industries do not include retailers of farm equipment or other, generally non-hazardous agricultural supplies.

Light Industry: Establishments engaged in the manufacture or processing of finished products from previously prepared materials, including processing, fabrication, assembly, treatment, and packaging of such products, and incidental storage, sales, and distribution. These establishments are characterized by having no major external environmental effects across property lines and include no unscreened or un-enclosed outdoor storage. Typical uses include commercial bakeries, butcher shops, soft drink bottling, apparel assembly from fabrics, electronics, manufacturing, print shops, and publishing houses.

General Industry: Enterprises engaged in the processing, manufacturing, compounding, assembly, packaging, treatment, or fabrication of materials and products from prepared materials or from raw materials without noticeable noise, odor, vibration, or air pollution effects across property lines, but often including outdoor storage of materials or products.

Heavy Industry: Enterprises involved in the basic processing and manufacturing of products, predominately from raw materials, with noticeable noise, odor, vibration, or air pollution effects across property lines; or a use or process engaged in the storage of or processes involving potentially or actually hazardous, explosive, flammable, radioactive, or other commonly recognized hazardous materials, except for those uses defined as agricultural industries. This would include concrete mixing and concrete manufacturing/crushing.

with the findings of fact being staff's recommendation, consistency with the Comprehensive Plan, and the current and future land use maps. Vice-Chair Brogie stated the motion and second. Roll call vote was taken with the following: Commissioner Brogie – nay; Commissioner Carstens – aye; Commissioner Giese – aye; Commissioner Piper – aye; and Commissioner Sweetland – aye. Vice-Chair Brogie declared the motion carried by a vote of four ayes and one nay.

Public Hearing: Amending Section 90-114 Exceptions in the A-1 Agricultural Zone

The Planning Commission took evidence and testimony from the public at the hearing and thereafter reviewed the information and evidence presented. After deliberation and discussion, motion was made by Commissioner Carstens and seconded by Commissioner Sweetland to approve and forward a recommendation of approval to the City Council to amend Section 90-114 Exceptions in the A-1 Agricultural Zone, by adding the following use:

24. Heavy Industry, provided that the use is not located within 1,000 feet of any existing residential structure

with the findings of fact being staff's recommendation, consistency with the Comprehensive Plan, and the current and future land use maps. Roll call vote was taken with the following: Commissioner Brogie – aye; Commissioner Carstens – aye; Commissioner Giese – aye; Commissioner Piper – aye; and Commissioner Sweetland – aye. Vice-Chair Brogie declared the motion carried unanimously.

Public Hearing: Amending Section 90-482 Permitted Principal Uses and Structures in the I-1 Light Industrial Zone

The Planning Commission took evidence and testimony from the public at the hearing and thereafter reviewed the information and evidence presented. After deliberation and discussion, motion was made by Commissioner Carstens and seconded by Commissioner Sweetland to approve and forward a recommendation of approval to the City Council to amend Section 90-482 Permitted Principal Uses and Structures in the I-1 Light Industrial Zone, by adding the following uses:

- 46. Light Industry
- 47. General Industry

with the findings of fact being staff's recommendation, consistency with the Comprehensive Plan, and the current and future land use maps. Roll call vote was taken with the following: Commissioner Brogie – aye; Commissioner Carstens – aye; Commissioner Giese – aye; Commissioner Piper – aye; and Commissioner Sweetland – aye. Vice-Chair Brogie declared the motion carried unanimously.

Public Hearing: Amending Section 90-484 Exceptions in the I-1 Light Industrial Zoning District, Specifically Adding (5) Heavy Industry

The Planning Commission took evidence and testimony from the public at the hearing and thereafter reviewed the information and evidence presented. After deliberation and discussion, motion was made by Commissioner Carstens and seconded by Commissioner Giese to approve and forward a recommendation of approval to the City Council to amend Section 90-484 Exceptions in the I-1 Light Industrial Zoning District, by adding the following:

(5) Heavy Industry, provided that the entire property is not located within 500 feet of the following:

- a. a public or private educational facility including but not limited to child day care facility, nursery school, preschool, kindergarten, private school, elementary, intermediate, junior high, middle, or high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, community colleges, universities, and shall include the school grounds of the above identified schools*

b. any park, children's playground area, or youth sports complex including a community activity center and a recreation trail

c. a property line of any lot located in a residential district

with the findings of fact being staff's recommendation, consistency with the Comprehensive Plan, and the current and future land use maps. Roll call vote was taken with the following: Commissioner Braun - nay; Commissioner Carstens - aye; Commissioner Giese - aye; Commissioner Hill - aye; Commissioner Piper - aye; and Commissioner Sorensen - aye. Commissioner Sorensen declared the motion carried by a vote of five ayes to one nay.

Public Hearing: Amending Section 90-512 Permitted Principal Uses and Structures in the I-2 Heavy Industrial Zone

The Planning Commission took evidence and testimony from the public at the hearing and thereafter reviewed the information and evidence presented. After deliberation and discussion, motion was made by Commissioner Carstens and seconded by Commissioner Sweetland to approve and forward a recommendation of approval to the City Council to amend Section 90-512 Permitted Principal Uses and Structures in the I-2 Heavy Industrial Zone, by adding the following:

56. Agricultural Industry
57. Light Industry
58. General Industry
59. Heavy Industry, provided that the entire property is not located within 500 feet of the following:
 - a. a public or private educational facility including but not limited to child day care facility, nursery school, preschool, kindergarten, private school, elementary, intermediate, junior high, middle, or high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, community colleges, universities, and shall include the school grounds of the above identified schools
 - b. any park, children's playground area, or youth sports complex including a community activity center and a recreational trail
 - c. a property line of any lot located in a residential district

with the findings of fact being staff's recommendation, consistency with the Comprehensive Plan, and the current and future land use maps. Roll call vote was taken with the following: Commissioner Brogie - nay; Commissioner Carstens - aye; Commissioner Giese - aye; Commissioner Piper - aye; and Commissioner Sweetland - nay. Vice-Chair Brogie declared the motion carried with three ayes and two nays.

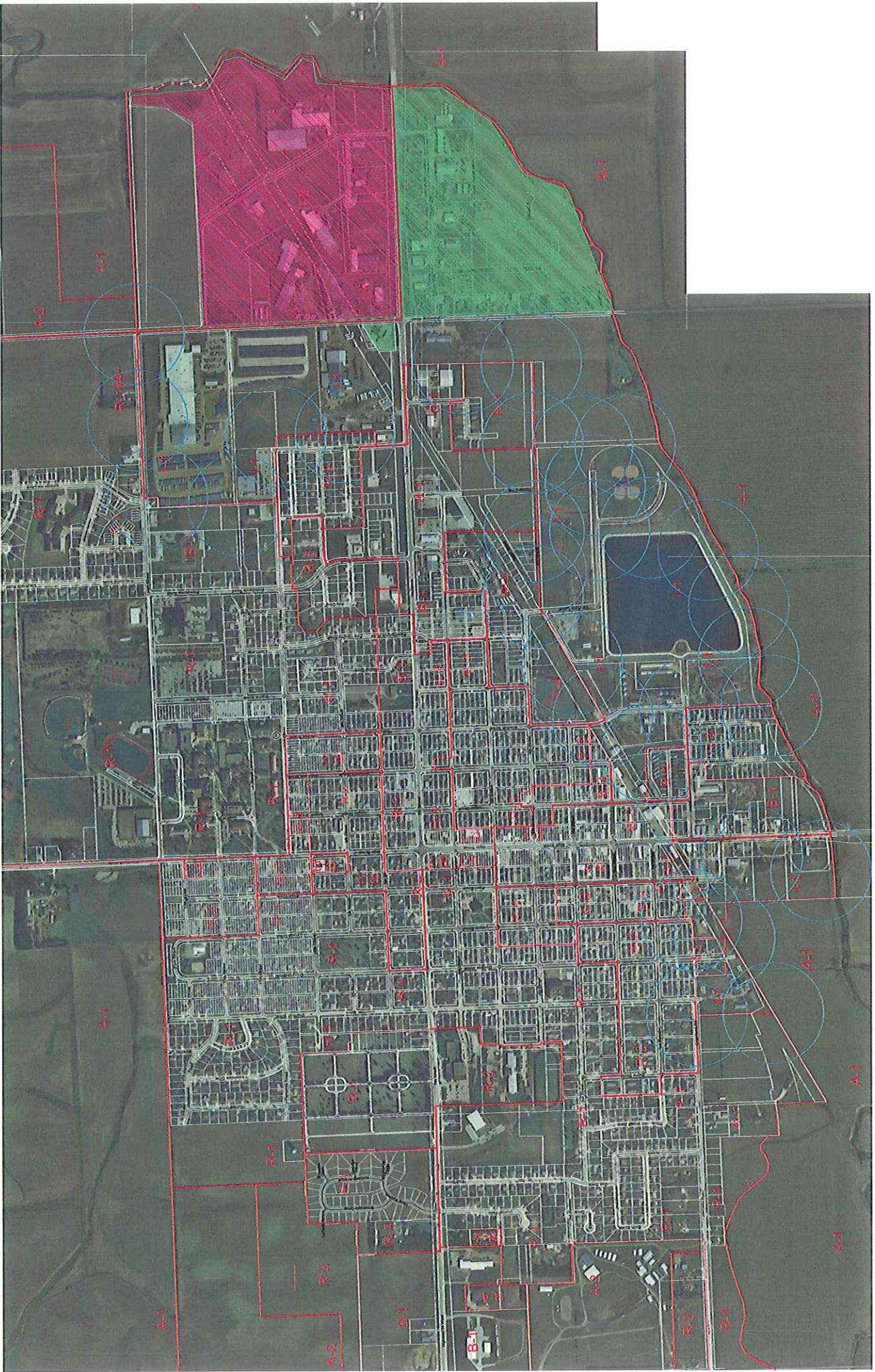
Public Hearing: Amending Section 90-754 Nonconforming Uses, Specifically Adding (l) Heavy Industry

The Planning Commission took evidence and testimony from the public at the hearing and thereafter reviewed the information and evidence presented. After deliberation and discussion, motion was made by Commissioner Sorensen and seconded by Commissioner Giese to approve and forward a recommendation of approval to the City Council to amend Section 90-754, Nonconforming Uses, by adding the following use and allowing the City Council to determine the date of discontinuation:

(l) Heavy Industry. The use of land for Heavy Industry that is not in conformance with this chapter shall be discontinued by _____ . (Date to be determined by City Council).

with the findings of fact being staff's recommendation, consistency with the Comprehensive Plan, and the current and future land use maps. Roll call vote was taken with the following: Commissioner Braun – nay; Commissioner Carstens – nay; Commissioner Giese – aye; Commissioner Hill – aye; Commissioner Piper – aye; and Commissioner Sorensen - aye. Commissioner Sorensen declared the motion carried by a vote of four ayes to two nays.

FYI – The Planning Commission has scheduled to hear Section 90-714 Physical Appearance, Performance Standards for Industrial Uses at their meeting to be held on August 6th. The Commission will hold a public hearing to amend this section by excluding concrete crushing from being contained inside a structure.



ORDINANCE NO. 2012-29

AN ORDINANCE AMENDING WAYNE MUNICIPAL CODE CHAPTER 90, ARTICLE I, IN GENERAL, BY AMENDING SECTION 90-10 DEFINITIONS; TO PROVIDE FOR THE REPEAL OF CONFLICTING ORDINANCES OR SECTIONS; AND TO PROVIDE FOR AN EFFECTIVE DATE.

BE IT ORDAINED by the Mayor and Council of the City of Wayne, Nebraska:

Section 1. The Planning Commission held public hearings on April 2, and July 2, 2012, and recommended amending Section 90-10 Definitions of the Wayne Municipal Code, with the "Findings of Fact" being:

- Staff's recommendation; and
- Consistency with the Comprehensive Plan and the current and future land use maps.

Section 2. That Chapter 90, Article I, Section 90-10 of the Wayne Municipal Code is amended as follows:

Sec. 90-10. Definitions.

Agricultural Industry: Establishments which include the storage, manufacture, sale, or distribution of agricultural supplies or products that create major external effects, including substantial truck or rail traffic and/or significant potential for hazard. Typical uses include grain elevators, storage of agricultural chemicals such as anhydrous ammonia. Agricultural industries do not include retailers of farm equipment or other, generally non-hazardous agricultural supplies.

Light Industry: Establishments engaged in the manufacture or processing of finished products from previously prepared materials, including processing, fabrication, assembly, treatment, and packaging of such products, and incidental storage, sales, and distribution. These establishments are characterized by having no major external environmental effects across property lines and include no unscreened or un-enclosed outdoor storage. Typical uses include commercial bakeries, butcher shops, soft drink bottling, apparel assembly from fabrics, electronics, manufacturing, print shops, and publishing houses.

General Industry: Enterprises engaged in the processing, manufacturing, compounding, assembly, packaging, treatment, or fabrication of materials and products from prepared materials or from raw materials without noticeable noise, odor, vibration, or air pollution effects across property lines, but often including outdoor storage of materials or products.

Heavy Industry: Enterprises involved in the basic processing and manufacturing of products, predominately from raw materials, with noticeable noise, odor, vibration, or air pollution effects across property lines; or a use or process engaged in the storage of or processes involving potentially or actually hazardous, explosive, flammable, radioactive, or other commonly recognized hazardous materials, except for those uses defined as agricultural industries. This would include concrete mixing and concrete manufacturing/crushing.

Section 3. All Ordinances or parts of Ordinances in conflict herewith are repealed.

Section 4. This Ordinance shall be in full force and effect after its passage, approval, and publication as provided by law.

PASSED AND APPROVED this _____ day of _____, 2012.

THE CITY OF WAYNE, NEBRASKA

By _____
Mayor

ATTEST:

City Clerk

ORDINANCE NO. 2012-30

AN ORDINANCE AMENDING WAYNE MUNICIPAL CODE CHAPTER 90, ARTICLE III. AGRICULTURAL DISTRICTS BY AMENDING SECTION 90-114 EXCEPTIONS; TO PROVIDE FOR THE REPEAL OF CONFLICTING ORDINANCES OR SECTIONS; AND TO PROVIDE FOR AN EFFECTIVE DATE.

BE IT ORDAINED by the Mayor and Council of the City of Wayne, Nebraska:

Section 1. The Planning Commission held public hearings on April 2, and July 2, 2012, and recommended amending Section 90-114 Exceptions (A-1 Agricultural District) of the Wayne Municipal Code, with the "Findings of Fact" being:

- Staff's recommendation; and
- Consistency with the Comprehensive Plan and the current and future land use maps.

Section 2. That Chapter 90, Article III, Section 90-114 of the Wayne Municipal Code is amended as follows:

24. Heavy Industry, provided that the use is not located within 1,000 feet of any existing residential structure

Section 3. All Ordinances or parts of Ordinances in conflict herewith are repealed.

Section 4. This Ordinance shall be in full force and effect after its passage, approval, and publication as provided by law.

PASSED AND APPROVED this _____ day of _____, 2012.

THE CITY OF WAYNE, NEBRASKA

By _____
Mayor

ATTEST:

City Clerk

ORDINANCE NO. 2012-31

AN ORDINANCE AMENDING WAYNE MUNICIPAL CODE CHAPTER 90, ARTICLE VI. INDUSTRIAL AND MANUFACTURING DISTRICTS BY AMENDING SECTION 90-482 PERMITTED PRINCIPAL USES AND STRUCTURES; TO PROVIDE FOR THE REPEAL OF CONFLICTING ORDINANCES OR SECTIONS; AND TO PROVIDE FOR AN EFFECTIVE DATE.

BE IT ORDAINED by the Mayor and Council of the City of Wayne, Nebraska:

Section 1. The Planning Commission held public hearings on April 2, and July 2, 2012, and recommended amending Section 90-482 Permitted Principal Uses and Structures (I-1 Light Industrial and Manufacturing District) of the Wayne Municipal Code, with the "Findings of Fact" being:

- Staff's recommendation; and
- Consistency with the Comprehensive Plan and the current and future land use maps.

Section 2. That Chapter 90, Article VI, Section 90-482 of the Wayne Municipal Code is amended as follows:

- 46. Light Industry
- 47. General Industry

Section 3. All Ordinances or parts of Ordinances in conflict herewith are repealed.

Section 4. This Ordinance shall be in full force and effect after its passage, approval, and publication as provided by law.

PASSED AND APPROVED this _____ day of _____, 2012.

THE CITY OF WAYNE, NEBRASKA

By _____
Mayor

ATTEST:

City Clerk

ORDINANCE NO. 2012-32

AN ORDINANCE AMENDING WAYNE MUNICIPAL CODE CHAPTER 90, ARTICLE VI. INDUSTRIAL AND MANUFACTURING DISTRICTS BY AMENDING SECTION 90-484 EXCEPTIONS; TO PROVIDE FOR THE REPEAL OF CONFLICTING ORDINANCES OR SECTIONS; AND TO PROVIDE FOR AN EFFECTIVE DATE.

BE IT ORDAINED by the Mayor and Council of the City of Wayne, Nebraska:

Section 1. The Planning Commission held public hearings on April 2, and July 2, 2012, and recommended amending Section 90-484 Exceptions (I-1 Light Industrial and Manufacturing District) of the Wayne Municipal Code, with the "Findings of Fact" being:

- Staff's recommendation; and
- Consistency with the Comprehensive Plan and the current and future land use maps.

Section 2. That Chapter 90, Article VI, Section 90-484 of the Wayne Municipal Code is amended as follows:

(5) Heavy Industry, provided that the entire property is not located within 500 feet of the following:

a. a public or private educational facility including but not limited to child day care facility, nursery school, preschool, kindergarten, private school, elementary, intermediate, junior high, middle, or high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, community colleges, universities, and shall include the school grounds of the above identified schools

b. any park, children's playground area, or youth sports complex including a community activity center and a recreation trail

c. a property line of any lot located in a residential district

Section 3. All Ordinances or parts of Ordinances in conflict herewith are repealed.

Section 4. This Ordinance shall be in full force and effect after its passage, approval, and publication as provided by law.

PASSED AND APPROVED this _____ day of _____, 2012.

THE CITY OF WAYNE, NEBRASKA

By _____
Mayor

ATTEST:

City Clerk

ORDINANCE NO. 2012-33

AN ORDINANCE AMENDING WAYNE MUNICIPAL CODE CHAPTER 90, ARTICLE VI. INDUSTRIAL AND MANUFACTURING DISTRICTS BY AMENDING SECTION 90-512 PERMITTED PRINCIPAL USES AND STRUCTURES; TO PROVIDE FOR THE REPEAL OF CONFLICTING ORDINANCES OR SECTIONS; AND TO PROVIDE FOR AN EFFECTIVE DATE.

BE IT ORDAINED by the Mayor and Council of the City of Wayne, Nebraska:

Section 1. The Planning Commission held public hearings on April 2, and July 2, 2012, and recommended amending Section 90-512 Permitted Principal Uses and Structures (I-2 Heavy Industrial and Manufacturing District) of the Wayne Municipal Code, with the "Findings of Fact" being:

- Staff's recommendation; and
- Consistency with the Comprehensive Plan and the current and future land use maps.

Section 2. That Chapter 90, Article VI, Section 90-512 of the Wayne Municipal Code is amended as follows:

- 56. Agricultural Industry
- 57. Light Industry
- 58. General Industry
- 59. Heavy Industry, provided that the entire property is not located within 500 feet of the following:
 - a. a public or private educational facility including but not limited to child day care facility, nursery school, preschool, kindergarten, private school, elementary, intermediate, junior high, middle, or high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, community colleges, universities, and shall include the school grounds of the above identified schools
 - b. any park, children's playground area, or youth sports complex including a community activity center and a recreational trail
 - c. a property line of any lot located in a residential district

Section 3. All Ordinances or parts of Ordinances in conflict herewith are repealed.

Section 4. This Ordinance shall be in full force and effect after its passage, approval, and publication as provided by law.

PASSED AND APPROVED this _____ day of _____, 2012.

THE CITY OF WAYNE, NEBRASKA

By _____

Mayor

ATTEST:

City Clerk

ORDINANCE NO. 2012-34

AN ORDINANCE AMENDING WAYNE MUNICIPAL CODE CHAPTER 90, ARTICLE IX. NONCONFORMING USES BY AMENDING SECTION 90-754 NONCONFORMING USES; TO PROVIDE FOR THE REPEAL OF CONFLICTING ORDINANCES OR SECTIONS; AND TO PROVIDE FOR AN EFFECTIVE DATE.

BE IT ORDAINED by the Mayor and Council of the City of Wayne, Nebraska:

Section 1. The Planning Commission held public hearings on April 2, and July 2, 2012, and recommended amending Section 90-754 Nonconforming Uses of the Wayne Municipal Code, with the "Findings of Fact" being:

- Staff's recommendation; and
- Consistency with the Comprehensive Plan and the current and future land use maps.

Section 2. That Chapter 90, Article IX, Section 90-754 of the Wayne Municipal Code is amended as follows:

(I) Heavy Industry. The use of land for Heavy Industry that is not in conformance with this chapter shall be discontinued by _____ . (Date to be determined by City Council).

Section 3. All Ordinances or parts of Ordinances in conflict herewith are repealed.

Section 4. This Ordinance shall be in full force and effect after its passage, approval, and publication as provided by law.

PASSED AND APPROVED this _____ day of _____, 2012.

THE CITY OF WAYNE, NEBRASKA

By _____
Mayor

ATTEST:

City Clerk

ORDINANCE NO. 2012-28

AN ORDINANCE AMENDING MUNICIPAL CODE CHAPTER 2, ARTICLE II, COUNCIL, DIVISION 1. GENERALLY, BY ADDING SECTION 2-51 CODE OF DECORUM; TO PROVIDE FOR THE REPEAL OF CONFLICTING ORDINANCES OR SECTIONS; AND TO PROVIDE FOR AN EFFECTIVE DATE.

BE IT ORDAINED by the Mayor and Council of the City of , Nebraska:

Section 1. That Chapter 2, Article II., Division 1., of the Municipal Code is amended by adding Sec. 2-51 as follows:

Sec. 2-51. Code of Decorum.

It is the policy of the City of Wayne that the proper operation of democratic government requires that public officials and employees be independent, impartial and responsible to the people; that governmental decisions and policy be made in proper channels of the governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. In recognition of these goals, a code of conduct for all city officials and employees is adopted. The City Council may adopt, amend, and/or rescind this code. If any portion of this Code of Conduct is found to conflict with City Ordinance or State Law, the provisions of City Ordinance or State Law shall be followed.

MAYOR:

1. Presides at all the meetings of the City Council.
2. May debate any matter coming before the City Council.
3. Votes when his/her vote shall be decisive and the City Council is equally divided on any pending matter.
4. Has superintending control of all officers and affairs of the Municipality and shall take care that the State and Municipal law are complied with.
5. Has the power to approve or veto any ordinance, order, by-law, resolution, award of contract, or allowance of a claim passed by the City Council.
6. Demonstrates respect, kindness, consideration, and courtesy to others.
7. Prepares in advance of City Council meetings and becomes familiar with agenda items.
8. Will not willfully and knowingly use confidential information acquired in the course of and by reason of their official duties for personal gain.
9. Shall communicate to the City Council such information and recommend such measures as in the Mayor's opinion may tend to improve the municipality.
10. May call for a special meeting.
11. Makes judgment calls on proclamations and similar situations.
12. Recognized as spokesperson for the City. The Mayor may designate another.
13. Selects substitute for City representation when unable to attend events.
14. Recommends subcommittees and names for appointment to Committees for City Council confirmation.
15. Leads the City Council into an effective, cohesive working team.
16. Signs documents on behalf of the City.
17. Serves as official delegate of the City at events and conferences.
18. Provides advance notice to City Hall if he/she is unable to attend any called meeting.
19. Demonstrates honesty and integrity in every action and statement.

20. Inspires public confidence in Wayne City government.
21. Will treat all people fairly, based upon authority and recognized standards.

COUNCIL PRESIDENT:

1. Chairs Council meetings in the absence of the Mayor.
2. May debate any matter coming before the City Council and may move, second, debate and vote from the chair, subject only to such limitations of debate as are imposed by these rules on all members, and shall not be deprived of any rights and privileges of a Councilmember by reason of his/her acting as presiding officer.
3. Performs the duties of the Mayor if the Mayor is absent or disabled.
4. Represents City at ceremonial functions at the request of the Mayor.

COUNCILMEMBERS:

All members of the City Council have equal votes. No Councilmember has more power than any other Councilmember, and all should be treated with equal respect. The Council is the policymaker of Wayne City Government, and therefore the City Council should feel free to ask for, and receive thorough answers to reasonable questions. It is their responsibility to make good policy by understanding the form of government and the role they play in that form. The Council shall make all decisions in the City of Wayne's best interest.

Councilmembers should:

1. Fully participate in City Council meetings and other public forums while demonstrating respect, kindness, consideration, and courtesy to others.
2. Prepare in advance of City Council meetings and be familiar with agenda items.
3. Not willfully and knowingly use confidential information acquired in the course of and by reason of their official duties for personal gain, including confidentiality in executive session.
4. Represent the City at ceremonial functions at the request of the Mayor.
5. Apply knowledge and expertise to the assigned activity and to the interpersonal relationships that are part of the job in a consistent, confident, and competent manner.
6. Serve as a model of leadership and civility to the employees of the City and the citizens of the community.
7. Inspire public confidence in Wayne City government.
8. Provide advance notice to City Hall whenever possible if he/she is unable to attend any called meeting.
9. A vacancy will exist on the City Council if a Councilmember is absent from more than five (5) consecutive regular meetings unless the absences are excused by a majority vote of the remaining members. This procedure, by law, requires notice and a hearing be provided to the Councilmember.
10. Demonstrate honesty and integrity in every action and statement.

MEETING PROCEDURES:

Regular City of Wayne Council meetings are held on the first (1st) and third (3rd) Tuesdays of every month. The Mayor or four (4) Councilmembers can call for a special meeting, the object of which shall be submitted to the City Council in writing.

In chairing official meetings of the City Council, the Mayor, or Council President shall:

1. Maintain order, decorum, and the fair and equitable treatment of all speakers.
2. Keep discussion and questions focused on specific agenda items under consideration.
3. Open public hearings at the designated time(s) and inform those in attendance that each person addressing the City Council shall step up to the podium, state their name and address for the record, and unless further time is granted by the City Council, limit their remarks to three (3) minutes in length.

ELECTED OFFICIALS CONDUCT IN PUBLIC MEETINGS:

1. Every Councilmember desiring to speak shall address the chair, and upon recognition by the presiding officer, shall confine himself/herself to the question under debate, avoiding all personalities and indecorous language.
2. A member, once recognized, shall not be interrupted when speaking, unless the presiding officer is required to call the member to order or as otherwise provided in this article. If a member, while speaking, is called to order, they shall cease speaking until the question of order is determined, and if in order, the member shall be permitted to proceed.
3. A member having the floor shall yield the same for a point of order addressed to the chair, a question of personal privilege raised by any member and an inquiry for information addressed to the chair. The member may, upon request of any other member, temporarily yield the floor for a question or a statement by any member, at the conclusion of which they will again be entitled to the floor.
4. The City Council may limit debate or discussion on any matter, by "calling the question" on a motion. "Calling the question" requires a second and must pass by a two-thirds vote.
5. A Councilmember may request, through the Mayor, the privilege of having a transcript of their statement on any subject under consideration of the Council entered in the minutes.

ELECTED OFFICIALS CONDUCT WITH CITY STAFF:

1. Clear, honest communication that respects the abilities, experience, and dignity of each individual is expected. Rude or boorish behavior towards staff is not acceptable.
2. Questions of City staff should be directed only to the City Administrator, City Attorney, City Clerk, or Department Heads. All requests for information concerning staff should be copied to the City Administrator. Requests for follow-up or directions to staff should be made only through the Mayor or City Administrator when appropriate and should be in writing so there is no confusion on the request. When in doubt about what staff contact is appropriate, Councilmembers should contact the Mayor or City Administrator for direction.
3. Materials supplied to a Councilmember in response to a request will be made available to all members of the City Council so that all have equal access to information.
4. Councilmembers should never express concerns about the performance of a City employee in public, to the employee directly, or to the employee's supervisor. Comments about staff performance should only be made to the Mayor or City Administrator through private correspondence or conversation.
5. Councilmembers should not attempt to influence City staff in their daily work or in the granting of City licenses and permits.

ELECTED OFFICIALS CONDUCT WITH CONSULTANTS/ENGINEERS AND THE PUBLIC:

1. Making individual presenters feel welcome is an important part of the democratic process. No signs of partiality, prejudice or disrespect should be evident. Every effort should be made to be fair and impartial in listening to testimony that is presented.
2. It is disconcerting to speakers to have Councilmembers not look at them when they are speaking. It is acceptable to look down at documents or to make notes, but continual visiting, reading or gazing around gives the appearance of disinterest.
3. All speakers should be allowed the privilege of making an appropriate presentation without interruption. If a speaker becomes flustered or defensive by questions, it is the responsibility of the Chair to stay calm, focus the speaker, and maintain the order and decorum of the meeting.
4. Questions directed to the public/consultants/engineers should seek to clarify or expand information. It is never appropriate to belligerently challenge or belittle the speaker.

ELECTED OFFICIALS CONDUCT WITH OTHER AGENCIES, BOARDS AND COMMISSIONS:

1. If an elected official appears before another governmental agency, legislative hearing or organization to give a statement on an issue, the elected official must clearly state: 1) if his/her statement reflects his/her personal opinion or if it is the official stance of the City; and 2) whether this is the majority or minority opinion of the City Council.
2. If the elected official is officially representing the City, he/she must support and advocate the official City position on an issue, and not his/her personal viewpoint.
3. Elected officials may be asked to attend a Board or Commission meeting as a liaison of the City Council. The elected official should be sensitive to the way his/her participation could be viewed as unfairly affecting the process. Any public comments by an elected official should be clearly made as individual opinion and not as representation of the feeling of the entire body unless directed to do so.
4. A primary role of Boards/Commissions is to represent the many points of view in the municipality and to provide advice to the elected officials based on a full spectrum of concerns and perspectives. Elected officials shall be fair and respectful of all citizens serving on Boards/Commissions. It is inappropriate for a Councilmember to contact a Board or Commission member to lobby on behalf of an individual, business, or developer.

ELECTED OFFICIALS CONTACT WITH THE MEDIA:

1. The best advice for dealing with the media is to never go "off the record".
2. The Mayor or his/her designee is the designated representative of the City Council to represent and speak on the official City position. If an individual Councilmember is contacted by the media, the Councilmember should be clear about whether his/her comments represent the official City position or his/her personal viewpoint.

ELECTED OFFICIALS CONDUCT IN UNOFFICIAL SETTINGS:

1. Councilmembers should make no promises on behalf of the City Council. It is appropriate to give a brief overview of City policy and to refer to City staff for further information. It is inappropriate to overtly or implicitly promise City Council action, or to promise City staff will do something specific (fix a pothole, remove a library book, etc).

2. It is acceptable for Councilmembers to publicly disagree about an issue, but it is unacceptable to make derogatory comments about other Councilmembers, their opinions or actions.

REQUIREMENT OF THE PUBLIC WHEN ADDRESSING THE CITY COUNCIL AS A BODY:

1. The presiding officer of the City Council can, but is not required by state law to, provide opportunity during City Council meetings for discussion by interested persons or their authorized representatives on any City Council agenda item prior to final action thereon; provided, that a preference shall be given to any person who, at least three (3) days prior to the meeting, shall have requested opportunity for discussion by notice directed to the City Clerk.
2. Any member of the public may direct a written communication to the City Council on any matter concerning City business by directing the communication to the City Council through the Mayor, City Administrator, or City Clerk. Any such written communication that cannot be handled administratively shall be placed on the agenda at the next regularly scheduled meeting.
3. The presiding officer shall, from time to time, make such rules as he/she may deem necessary to fulfill and carry out the intent of the provisions of this section.
4. As a general rule, each person addressing the City Council shall step up to the podium, state his/her name and address for the record, and unless further time is granted, limit his/her remarks to three (3) minutes in length. All remarks shall be addressed to the City Council as a body and not to any member thereof. No person, other than the City Council and the person having the floor, shall be permitted to enter into any discussion, either directly or through a member of the City Council, without permission of the Mayor or Presiding Officer.
5. Nothing in this section shall prohibit any citizen from contacting a Councilmember(s) regarding an issue of concern.

SANCTIONS:

1. Members of the public who do not follow proper decorum after a warning in a public hearing may be barred from further testimony at that meeting or removed from the Council Chambers.
2. Councilmembers should refer to the Mayor or City Administrator any City staff who do not follow proper decorum in their dealings with Councilmembers, other City staff, or the public. Such employees may be disciplined in accordance with City Personnel regulations.
3. City Councilmembers who intentionally and repeatedly do not follow proper decorum may be reprimanded, formally censured by the Council, and/or lose seniority or committee assignments. Serious infractions of the Code of Conduct could lead to other sanctions as deemed appropriate by the City Council.
4. It is the responsibility of the Mayor to initiate action if a Councilmember's behavior may warrant sanction. If no action is taken by the Mayor, the alleged violation(s) can be brought up with the full City Council in a public meeting.
5. If a violation is outside the observed behaviors of the Mayor or City Council, the alleged violation should be reported to the Mayor who will then conduct a study on the report and take the next appropriate action.

6. These actions can be, but are not limited to: discussing and counseling the individual on violations; recommending sanction to the full City Council to consider in a public meeting; or forming a City Council ad hoc subcommittee to review the allegation, the investigation and its findings, as well as to recommend sanction options for council consideration.

CHECKLIST FOR MONITORING CONDUCT:

1. Will my decision/statement/action violate the trust, rights or good will of others?
2. What are my interior motives and the spirit behind my actions?
3. If I have to justify my conduct in public tomorrow, will I do so with pride or shame?
4. How would my conduct be evaluated by people whose integrity and character I respect?
5. Even if my conduct is not illegal or unethical, is it done at someone else's expense?
6. Is my conduct fair? Just? Morally right?
7. If I were on the receiving end of my conduct, would I approve and agree, or would I take offense?
8. Does my conduct give others reason to trust or distrust me?
9. Am I willing to take an ethical stand when it is called for?
10. Am I willing to make my ethical beliefs public in a way that makes it clear what I stand for?
11. Do I exhibit the same conduct in my private life as I do in my public life?
12. Can I take legitimate pride in the way I conduct myself and the example I set?
13. Do I listen and understand the views of others?
14. Do I question and confront different points of view in a constructive manner?
15. Do I work to resolve differences and come to mutual agreement?
16. Do I support others and show respect for their ideas?
17. Will my conduct cause public embarrassment to someone else?

Section 2. All Ordinances or parts of Ordinances in conflict herewith are repealed.

Section 3. This Ordinance shall be in full force and effect after its passage, approval, and publication as provided by law.

PASSED AND APPROVED this ____ day of _____, 2012.

THE CITY OF WAYNE, NEBRASKA

By _____
Mayor

ATTEST:

City Clerk

ORDINANCE NO. 2012-35

AN ORDINANCE AUTHORIZING THE RELEASE AND ABANDONMENT OF THE SIDE YARD UTILITY EASEMENTS CONSISTING OF THE EAST 7 FEET OF SIDE-YARD UTILITY EASEMENT IN LOT 5 AND THE WEST 7 FEET OF SIDE-YARD UTILITY EASEMENT IN LOT 6, FAIRWAY ESTATES SUBDIVISION TO THE CITY OF WAYNE, WAYNE COUNTY, NEBRASKA.

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

Section 1. The City of Wayne, Nebraska has received a request to release the 7 feet side-yard utility easements located between Lots 5 and 6, Fairway Estates Subdivision, to the City of Wayne, Wayne County, Nebraska.

Section 2. The City hereby releases and abandons all of the East 7 feet of side-yard utility easement in Lot 5 and the West 7 feet of side-yard utility easement in Lot 6, Fairway Estates Subdivision to the City of Wayne, Wayne County, Nebraska, and the Mayor is hereby authorized to execute the quitclaim deed to the current property owner to carry out said release and abandonment.

Section 3. This Ordinance shall be in full force and effect, from and after its passage, approval and publication, as provided by law.

PASSED AND APPROVED THIS 7th day of August, 2012.

THE CITY OF WAYNE, NEBRASKA

By _____
Mayor

ATTEST:

City Clerk

RESOLUTION NO. 2012-55

A RESOLUTION APPROVING AN AGREEMENT WITH ARNIE'S FORD, INC., REGARDING THE USE OF PUBLIC RIGHT-OF-WAY.

WHEREAS, the City of Wayne has the care, supervision, and control of all public highways, bridges, streets, alleys, public squares and commons within the Municipality; and

WHEREAS, Arnie's Ford, Inc., desires to cross and occupy the City's public right-of-way of the 100 block of West 3rd Street and the 200 block of Logan Street to construct and install a single 2" conduit and data lines connecting their properties at 116 W. 3rd Street, 119 W. 3rd Street, and 211 Logan Street, Wayne, Nebraska.

NOW, THEREFORE BE IT RESOLVED by the Mayor and Council of the City of Wayne, Nebraska, that subject to the terms, conditions, covenants, and agreements contained in the attached agreement, which is hereby approved and made a part hereof, the City of Wayne will grant permission to use public right-of-way for the purpose above stated, and the Mayor and City Clerk are authorized to execute the agreement referred to herein.

PASSED AND APPROVED this 7th day of August, 2012.

THE CITY OF WAYNE, NEBRASKA,

By _____
Mayor

ATTEST:

City Clerk

PERMIT AGREEMENT

This Agreement is made and entered into by and between the City of Wayne, Nebraska, a municipal corporation, hereinafter referred to as "City" and Arnie's Ford Inc., a Nebraska Corporation, Wayne, Nebraska, hereinafter referred to as "Arnie's".

WITNESSETH:

WHEREAS, the City owns and operates public right-of-way within the City of Wayne, Nebraska, and

WHEREAS, Arnie's desires to cross and occupy the City's public right-of-way of the 100 block of West 3rd Street and the 200 block of Logan Street to construct and install a single 2" conduit and data lines connecting their properties at 116 W. 3rd Street, 119 W. 3rd Street, and 211 Logan Street, Wayne, Nebraska.

WHEREAS, the City is willing to permit Arnie's, to the extent hereinafter provided, in accordance with the provisions hereof, to cross and occupy the right-of-way of the City with a single 2" conduit and data lines hereinafter called "Lines".

NOW, THEREFORE, in consideration of mutual promises and covenants hereinafter contained, the parties hereto, their successors and assigns, do hereby covenant and agree as follows:

1. Term.

The effective date of this contract shall be the date of the execution hereof and shall continue in force and effect to and including the 31st day of December, 2004. This contract shall cover crossing the right-of-way of the City at the location selected by Arnie's between at 116 W. 3rd Street and 119 W. 3rd Street, and between 119 W/ 3rd Street and 211 Logan Street, Wayne, Nebraska.

2. Work Plans and as Completed Plans.

Arnie's shall provide the City with a work plan showing the proposed route and an "as built" showing the actual constructed route of the Lines. No construction work shall commence for the installation of said Lines until the City of Wayne has approved the proposed plan and route. Said approval shall be executed by the Utilities Superintendent in writing. Arnie's may proceed with the installation upon receipt of the approval from the Utilities Superintendent.

3. Availability of Right-of-Way.

City shall have the sole right to determine the availability of its right-of-way for joint use with Arnie's, and any other entities, and shall be under no obligation to grant permission for its use by Arnie's. If permission is granted, Arnie's will occupy the right-of-way space allotted by the City under the conditions agreed upon by the parties in accordance with the terms of this agreement. Arnie's may, upon written notice to the City, discontinue use of any or all of the City's right-of-way and shall have any Lines removed within 30 days following the notice. The conduit can remain in place.

4. Non-Interference.

Arnie's shall place said lines in a manner reasonably satisfactory to the City and so as to not to interfere with the present and/or any future use which the City may desire to make of its right-of-way. Said lines shall be installed and, at all times, maintained by Arnie's in accordance with the provisions of all applicable regulations or codes promulgated by state, local, or other governmental authorities having jurisdiction thereof. Arnie's agrees to take any additional necessary precautions as the circumstances may require and install protective equipment or take other means to protect all persons and property against injury or damage caused by installing the Lines across City right-of-way.

5. Right-of-Way "As-Is".

This Agreement shall apply only to the City's existing right-of-way in its present condition. The City shall have no obligation to upgrade, extend or improve any right-of-way under the terms of this agreement.

6. City Replacement or Repairs.

In the event the City desires to repair, replace or change any utilities of City used in the right-of-way area, or cause repairs to be made thereon, Arnie's shall pay the cost of removing the fiber optic line and re-establishing the same at Arnie's cost. The City shall not be responsible for any costs in repairing, maintaining, relocating, or alterations of the cable of said Arnie's, regardless of the cause of incurring the cost.

7. Interference and Emergencies.

Whenever Arnie's lines may interfere with the operation of the utilities of the City or other licensees using City's right-of-way, or should the lines constitute a hazard to the service rendered by City or other licensees, and upon notice to Arnie's of such interference, hazard, or

noncompliance, Arnie's shall immediately remove, rearrange or change its lines. In the case of an emergency, the City reserves the right to remove or relocate the lines of Arnie's without notice, and no liability therefore shall be incurred by the City for such action.

8. Relocation.

The City reserves the right, without liability, to Arnie's, to discontinue the use of, remove, replace, or change the use of utilities or City's right-of-way regardless of any occupancy or crossing of City's right-of-way by Arnie's, and Arnie's shall, at its sole cost, upon 30 days written notice by the City, make such changes in or removal of its lines as shall be required by any such action of City as requested.

9. City Not Responsible For Permits.

The City shall not be required to secure any right, license or permit from any governmental body, authority, or other person or persons which may be required for the construction or maintenance of said lines of Arnie's, and Arnie's agrees to obtain said right, license, or permit if necessary.

10. Unforeseen Circumstances.

If either the City or Arnie's is unable to perform any of the terms or covenants of the agreement by reason of damage or delay resulting from disaster, labor disturbances, shortage of labor, strikes, lock outs, force majeure or act of God, or from any regulations or restrictions of any governmental agency, or on account of any eventuality beyond the reasonable control of the City or Arnie's, each party shall be excused from the performance during the period of such prevention.

11. Insurance.

For the further protection of the City, but without restricting or waiving any obligation of Arnie's herein contained, Arnie's shall and agrees to procure and maintain in reliable insurance companies acceptable to the City, with the following minimum insurance coverage:

<u>Type of Insurance:</u>	<u>Minimum Limits:</u>
1. Public liability bodily injury	\$500,000 each person \$500,000 each accident
2. Public liability property damage	\$500,000 each accident \$500,000 aggregate

Arnie's shall submit to the City certificates and policies, if requested, evidencing that satisfactory coverage of the types set forth above are in effect. The certificates shall contain a provision that no cancellation or material changes in the policies shall become effective except upon 10 days written advance notice thereof by the insurer to the City.

12. Non Assignment by Arnie's.

Arnie's shall not assign, transfer, or sublet any of the rights hereby granted, without prior written consent of the City.

13. Notices.

Unless otherwise expressly provided herein, any notices required to be given to the City shall be given by mailing the required notice, certified or registered mail, postage prepaid, to the City, at the office of the Wayne City Clerk, PO Box 8, Wayne, Nebraska 68787-0008. Any notices required to be given to Arnie's shall be by certified or registered mail, postage prepaid, to Arnie's Ford, 119 E. 3rd Street, Wayne, Nebraska 68787. In the event of a change in the address of either party during the term of this agreement, each party shall be required to inform the other party of any new or change of address in writing.

14. Hold Harmless.

Arnie's hereby agrees to indemnify and hold the City harmless from any and all causes of action, liability, or damages, which may arise from this agreement or the installation of Arnie's lines across the right-of-way of the City as above described.

IN WITNESS WHEREOF, the parties have hereunto set their hands this _____ day of _____, 2012.

ATTEST:

CITY OF WAYNE, Nebraska,

City Clerk

Ken Chamberlain, Mayor

ARNIE'S Ford, Inc.

STATE OF NEBRASKA)
) ss.
COUNTY OF WAYNE)

Subscribed and sworn to before me on this _____ day of August, 2012, by Ken Chamberlain, Mayor of the City of Wayne, Nebraska, on behalf of said City.

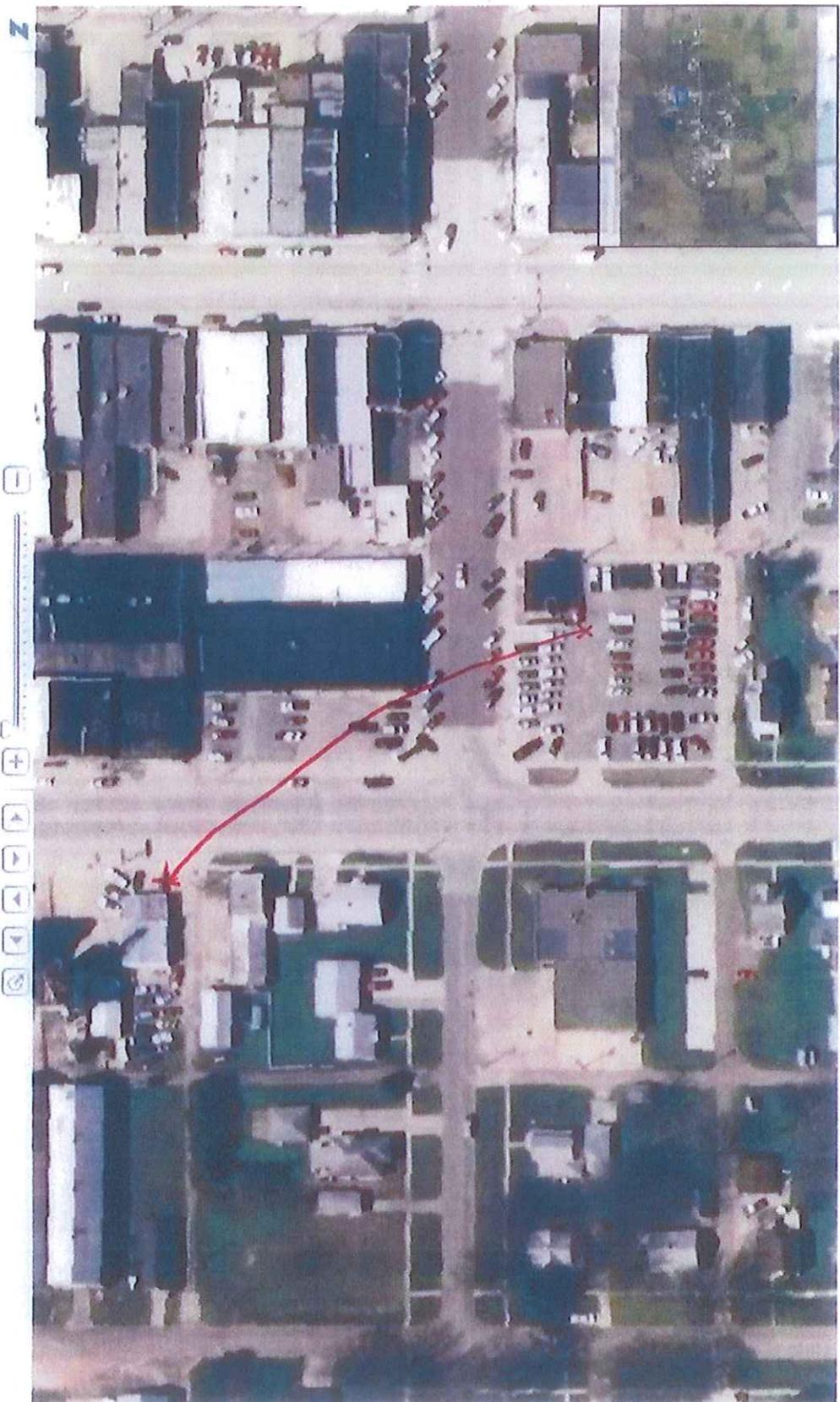
Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF WAYNE)

Subscribed and sworn to before me on this _____ day of August, 2012, by _____ as _____ on behalf of Arnie's Ford, Inc., a Nebraska Corporation.

Notary Public

2007 Aerial Photo of Wayne, Nebraska



Change Order

No. 1

Effective Date: _____

Project: Paving Improvement Project 2011-01	Owner: City of Wayne, Nebraska	Owner's Contract No.:
Contract:		Date of Contract:
Contractor: Elkhorn Paving Company		Engineer's Project No.: 617-001

The Contract Documents are modified as follows upon execution of this Change Order:

Description:
Storm Sewer was completed upon request from the Nebraska Department of Roads

Attachments: (List documents supporting change):

CHANGE IN CONTRACT PRICE:

Original Contract Price:
\$ 154,387.03

[Increase] [Decrease] from previously approved Change Orders
No. 1 to No. 1:
\$ 12,390.40

Contract Price prior to this Change Order:
\$ 154,387.03

[Increase] [Decrease] of this Change Order:
\$ 12,390.40

Contract Price incorporating this Change Order:
\$ 166,777.43

CHANGE IN CONTRACT TIMES:

Original Contract Times: Working days Calendar days
Substantial completion (days or date): _____
Ready for final payment (days or date): _____

[Increase] [Decrease] from previously approved Change Orders
No. _____ to No. _____:
Ready for final payment (days): _____

Contract Times prior to this Change Order:
Ready for final payment (days or date): _____

[Increase] [Decrease] of this Change Order:
Ready for final payment (days or date): _____

Contract Times with all approved Change Orders:
Ready for final payment (days or date): _____

RECOMMENDED:
By: _____
Engineer (Authorized Signature)

ACCEPTED:
By: _____
Owner (Authorized Signature)

ACCEPTED:
By: _____
Contractor (Authorized Signature)

Date: _____

Date: _____

Date: _____

Approved by Funding Agency (if applicable): _____

Date: _____

Pheasant Run rd

Contractor's Application For Payment No. Final

Application Period: August 1, 2012

To (Owner): City of Wayne, Nebraska

Project: Paving Improvement Projects 2011-01

Owner's Contract No.: _____

From (Contractor): Elkhorn Paving

Contract: _____

Via (Engineer): John A. Zwingman

Advanced Consulting Engineering Services

Engineer's Project No.: 617-001

Approved Change Orders		Deductions		
Number	Additions			
1	12,390.40			154,387.03
				12,390.40
				166,777.43
TOTALS				
NET CHANGE BY CHANGE ORDERS				166,777.43
				142,480.53
				24,296.90
				0.00

1. ORIGINAL CONTRACT PRICE \$ 154,387.03
2. Net change by Change Orders \$ 12,390.40
3. CURRENT CONTRACT PRICE (Line 1 ± 2) \$ 166,777.43
4. TOTAL COMPLETED AND STORED TO DATE (Column F on Progress Estimate) \$ 166,777.43
5. RETAINAGE:
 - a. 0 % x \$ _____ Work Completed \$ _____
 - b. _____ % x \$ _____ Stored Material \$ _____
 - c. Total Retainage (Line 5a + Line 5b) \$ _____
6. AMOUNT ELIGIBLE TO DATE (Line 4 - Line 5c) \$ 166,777.43
7. LESS PREVIOUS PAYMENTS (Line 6 from prior Application) \$ 142,480.53
8. AMOUNT DUE THIS APPLICATION \$ 24,296.90
9. BALANCE TO FINISH, PLUS RETAINAGE (Column G on Progress Estimate + Line 5 above) \$ 0.00

CONTRACTOR'S CERTIFICATION

The undersigned Contractor certifies that: (1) all previous progress payments received from Owner on account of Work done under the Contract have been applied on account to discharge Contractor's legitimate obligations incurred in connection with Work covered by prior Applications for Payment; (2) title of all Work, materials and equipment incorporated in said Work or otherwise listed in or covered by this Application for Payment will pass to Owner at time of payment free and clear of all Liens, security interests and encumbrances (except such as are covered by a Bond acceptable to Owner indemnifying Owner against any such Liens, security interest or encumbrances); and (3) all Work covered by this Application for Payment is in accordance with the Contract Documents and is not defective.

Payment of: \$ 24,296.90 (Line 8 or other - attach explanation of other amount)

is recommended by: _____ (Engineer) (Date)

Payment of: \$ _____ (Line 8 or other - attach explanation of other amount)

is approved by: _____ (Owner) (Date)

Approved by: _____ Funding Agency (if applicable) (Date)

By: _____ Date: _____

Western Ridge Paving
Pay application #1

Dated: August 1, 2012

ITEM NO.	DESCRIPTION OF WORK	SCHEDULED VALUE	WORK COMPLETED		MATERIALS PRESENTLY STORED ON SITE	TOTAL COMPLETED AND STORED TO DATE	PERCENT COMPLETE	BALANCE TO FINISH	RETAINAGE (5%)
			FROM PREVIOUS APPLICATION	THIS PERIOD					
1	7-INCH PC CONCRETE PAVING NDOR TYPE 47B-3625	\$98,734.10	\$0.00	\$98,734.10	\$0.00	\$98,734.10	100%	\$0.00	\$4,936.71
2	SUBGRADE PREPARATION	\$4,872.00	\$0.00	\$4,872.00	\$0.00	\$4,872.00	100%	\$0.00	\$243.60
3	EARTHWORK Approx Quantities Embankment- 150 Cu. Yds Excavation- 2,000 Cu. Yds	\$28,712.57	\$0.00	\$28,712.57	\$0.00	\$28,712.57	100%	\$0.00	\$1,435.63
4	SEEDING	\$2,994.60	\$0.00	\$2,994.60	\$0.00	\$2,994.60	100%	\$0.00	\$149.73
5	12-FOOT OPEN THROAT INLET	\$7,351.40	\$0.00	\$7,351.40	\$0.00	\$7,351.40	100%	\$0.00	\$367.57
TOTAL		\$142,664.67	\$0.00	\$142,664.67	\$0.00	\$142,664.67	100%		\$7,133.23

TOTAL CONTRACT PRICE	\$142,664.67
NET CHANGE BY CHANGE ORDERS	\$0.00
CURRENT CONTRACT PRICE	\$142,664.67
TOTAL COMPLETED AND STORED TO DATE	\$142,664.67
RETAINAGE	\$7,133.23
AMOUNT ELIGIBLE FOR PAYMENT	\$135,531.44
LESS PREVIOUS AMOUNT PAID	\$0.00
AMOUNT DUE THIS APPLICATION	\$135,531.44
BALANCE TO FINISH (INCLUDING RETAINAGE)	\$7,133.23

CDA RESOLUTION NO. 2012-5

A RESOLUTION OF THE CITY OF WAYNE, NEBRASKA, ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF WAYNE ACTING AS THE GOVERNING BODY OF THE COMMUNITY DEVELOPMENT AGENCY OF SAID CITY; AUTHORIZING THE ISSUANCE OF A TAX INCREMENT REVENUE BOND; PROVIDING FOR THE TERMS AND PROVISIONS OF SAID BOND; PLEDGING REVENUES OF THE AGENCY PURSUANT TO THE COMMUNITY DEVELOPMENT LAW; AUTHORIZING THE SALE OF SAID BOND; PROVIDING FOR A GRANT; PROVIDING FOR A REDEVELOPMENT CONTRACT AND PROVIDING FOR THIS RESOLUTION TO TAKE EFFECT.

BE IT RESOLVED by the Mayor and City Council of the City of Wayne, Nebraska, acting as the governing body of the Community Development Agency of the City of Wayne, Nebraska, as follows:

Section 1. The Mayor and City Council hereby find and determine (a) that the Community Development Agency of the City of Wayne, Nebraska (the "Agency") was duly created by ordinance of the City of Wayne (the "City") for purposes of assisting with redevelopment of real estate located within the City; that the Agency has and may exercise all of the powers of a redevelopment authority provided for under the Community Development Law of the State of Nebraska; that there has been prepared a redevelopment plan entitled "Redevelopment Contract" [Louis Benscoter Project] which constitutes a Redevelopment Plan (the "Plan") for the redevelopment of the following described real estate:

Lots 12, 14, 15, 16, and 18, Benscoter Addition Planned Unit Development Replat 1 in the City of Wayne, Wayne County, Nebraska.

as surveyed, platted and recorded, now being a part of the City of Wayne, all in Wayne County, Nebraska; (b) that prior to the preparation of the Plan an area which includes the Project Area was declared blighted and substandard by action of the Mayor and City

Council of the City; (c) that the City has had in effect its general plan for the development of the City from the time prior to the establishment of the Agency and the preparation of Plan; (d) that the Plan was submitted to the City Planning Commission of the City and approved and thereafter recommended by the Agency to the Mayor and City Council of the City; (e) the Mayor and City Council of the City held a public hearing on the Plan for which notice was given by publication done prior to such hearing pursuant to law, and after such hearing the Mayor and City Council gave their approval to the Plan; (f) that the Plan, among other things, calls for the construction of five single family and town home residences in the Project Area; (g) that Louis Bencoter, (hereafter referred to as the "Redeveloper") are interested in the redevelopment of the Project Area and the Agency has previously communicated its willingness to assist in the completion of the project in order to encourage the construction of such residences and infrastructure and to promote the economic development of the City as well as the redevelopment of a blighted and substandard area of the City; (h) that the Agency has agreed to assist the Redeveloper with a grant to pay part of the cost of such project improvements, and for such purpose it is necessary for the Agency to authorize the issuance of its tax increment revenue bond; (i) that all conditions, acts and things required by law to exist or to be done precedent to the authorizing of the Agency's tax increment revenue bond as provided for in this Resolution do exist and have been done as provided by law.

Section 2. A tax increment revenue bond in the principal amount and denomination of \$135,000.00, is hereby ordered issued in accordance with Section 18-2125, R.R.S. Neb. 2007, by the Agency and shall be designated as its "Tax Increment Revenue Bond" (Louis Bencoter Project) Series 2012 A" (hereinafter referred to as the "Bond"). The Bond shall be dated as of the date of its delivery. The Bond shall bear interest from the date of its issuance and delivery until maturity (or earlier redemption) at

the rate of six percent (6.0%) per annum, provided, however, that if for any interest payment date (a) the real estate taxes with respect to the Project Area becoming delinquent upon the delinquency date next preceding such interest payment date have been paid in full and (b) such taxes available for deposit to or deposited in the Bond Fund (as hereinafter established and defined), together with any other monies in the Bond Fund, are insufficient to pay the interest on the Bond then due and owing, the amount of interest accruing on the Bond shall not be reduced, but shall be paid from the Bond Fund as and to the extent of funds then available for deposit to or deposited in such Bond Fund. The principal of the Bond shall become due on December 31, 2027, provided that such principal amount shall be subject to mandatory redemption from "Available Funds" as described in Section 5 below on June 1 and October 1 of each year. All such interest upon the Bond shall be payable semiannually on June 1 and October 1 of each year, commencing June 1, 2014. The Bond shall be in fully registered form. The Agency's Treasurer (the City Clerk/ Treasurer of the City of Wayne) is hereby designated as paying agent and registrar for the Bond (the "Agent"). The Agent shall serve in such capacities pursuant to the terms of this Resolution. The interest due on each interest payment date prior to maturity shall be payable to the registered owner of record as of the last business day of the calendar month immediately preceding the calendar month in which such interest payment date occurs (the "Record Date"), subject to the provisions of Section 4 hereof. Payments of interest due on the Bond, except for payments due on final maturity date, or other final payment, shall be made by the Agent by mailing a check or draft in the amount then due for interest on the Bond to the registered owner of the Bond, as of the Record Date for such interest payment date, to such owner's registered addresses as

shown on the books of registration as required to be maintained in Section 3 hereof. Payments of principal and interest due at final maturity or other final payment shall be made by the Agent to the registered owner upon presentation and surrender of the Bond to the Agent at the Agency's offices at City Hall in the City of Wayne, Nebraska. The Agency and the Agent may treat the registered owner of the Bond as the absolute owner of the Bond for the purpose of making payments thereon and for all other purposes and neither the Agency nor the Agent shall be affected by any notice or knowledge to the contrary, whether the Bond or any installment of interest due thereon shall be overdue or not. All payments on account of interest or principal made to the registered owner of the Bond in accordance with the terms of this resolution shall be valid and effectual and shall be a discharge of the Agency and the Agent, in respect of the liability upon the Bond or claims for interest to the extent of the sum or sums so paid.

Section 3. The Agent shall keep and maintain for the Agency books for the registration and transfer of the Bond at the Agency's offices at City Hall in Wayne, Nebraska. The name and registered address of the registered owner of the Bond shall at all times be recorded in such books. The Bond may be transferred pursuant to its provisions at the Agency's offices by surrender of such Bond for notation of transfer, accompanied by a written instrument of transfer, in form satisfactory to the Agent, duly executed by the registered owner in person or by such owner's duly authorized agent, and thereupon the Agent on behalf of the Agency will register such transfer upon its books and make notation thereof on the Bond and deliver the Bond at its office to the transferee owner (or send it by registered mail to the transferee owner thereof at such transferee owner's expense). All transfers of the Bond shall be upon the basis of a private placement

and each proposed transferee registered owner shall furnish the Agent with assurances in form satisfactory to the Agent that such Bond is being purchased for investment purposes only, without view to redistribution and upon the independent credit judgment and investigation of the proposed transferee. The Agency and the Agent shall not be required to transfer the Bond during any period from any Record Date until its immediately following interest payment date or to transfer the Bond when called for redemption, in whole or in part, for a period of 15 days next preceding any date fixed for redemption or partial redemption.

Section 4. In the event that payments of interest or for mandatory partial redemption due on the Bond on any interest payment date are not timely made, such interest or redemption price shall cease to be payable to the registered owner as of the Record Date for such interest payment date and shall be payable to the registered owner of the Bond as of a special date of record for payment of such defaulted interest or redemption price as shall be designated by the Agent whenever monies for the purpose of paying such defaulted interest or redemption price become available.

Section 5. At any time the Agency shall have the option of prepaying in whole or in part principal of the Bond. Any such optional prepayment of principal shall be accompanied by an amount equal to all accrued but unpaid interest on the principal amount being prepaid. Notice of any optional redemption for the Bond shall be given at the direction of the Agency by the Agent by mail not less than 15 days prior to the date fixed for redemption, first class, postage prepaid, sent to the registered owner at the Bond at said owner's registered address. Notice of call for redemption may be waived in writing by any registered owner. In the event of prepayment in whole the Bond shall be

cancelled. The determination of the amount and timing of any optional redemption of the Bond shall be in the absolute discretion of the Agency. The Bond shall also be subject to mandatory partial redemption, without notice, on each interest payment date from all funds to be available in the Bond Fund (as hereinafter established and defined), excluding amounts, if any, from investment earnings for such fund which the Agency shall be entitled to apply to administrative costs related to the Bond, rounded down to the nearest one hundred dollars, after payment of all accrued but unpaid interest on each interest payment date (which funds are referred to in this Resolution as "Available Funds"). Available Funds shall be applied to the prepayment of principal on each interest payment date and shall be remitted to the registered owner of the Bond with interest payments. The Agent shall mark the Agent's records with respect to each mandatory partial principal prepayment made from Available Funds and it shall not be necessary for the registered owner to present the Bond for notation of such prepayment. The records of the Agent shall govern as to any determination of the principal amount of the Bond outstanding at anytime and the registered owner shall have the right to request information in writing from the Agent at any time as to the principal amount outstanding upon the Bond.

Section 6. The Bond shall be in substantially the following form:

**UNITED STATES OF AMERICA
STATE OF NEBRASKA
COUNTY OF WAYNE**

**TAX INCREMENT REVENUE BOND OF THE COMMUNITY
DEVELOPMENT AGENCY OF THE CITY
OF WAYNE, NEBRASKA
(Louis Benscoter Project,)
SERIES 2012 A**

<u>Principal Amount</u>	<u>Interest Rate Per Annum</u>	<u>Final Maturity Date</u>
\$135,000.00	6.0%	December 31, 2027

KNOW ALL PERSONS BY THESE PRESENTS: That the Community Development Agency of the City of Wayne, Nebraska, hereby acknowledges itself to owe and for value received promises to pay, but only from the sources herein designated, to the registered owner designated on the reverse hereof, or registered assigns, the principal sum shown above in lawful money of the United States of America with such principal sum to become due on the maturity date set forth above, with interest on the unpaid balance from date of delivery hereof until maturity or earlier redemption at the rate of six percent (6.0%) per annum, subject to limitation as set forth in the authorizing resolution. Said interest shall be payable semiannually on June 1 and October 1 of each year commencing on June 1, 2014. The payment of principal and interest due upon the final maturity is payable upon presentation and surrender of this bond to the Treasurer of said Agency, as Paying Agent and Registrar for said Agency, at the offices of the Community Development Agency of the City of Wayne at City Hall, in Wayne, Nebraska. The payments of interest and of mandatory redemption of principal on each interest payment date (other than at final payment) will be paid when due by a check or draft mailed by said Paying Agent and Registrar to the registered owner of this bond, as shown on the books or record maintained by the Paying Agent and Registrar, at the close of business on the last business day of the calendar month immediately preceding the calendar month in which the interest payment date occurs, to such owner's address as shown on such books and records. Any payment of interest or mandatory redemption of principal not timely paid when due shall cease to be payable to the person entitled thereto as of the Record Date such interest was payable, and shall be payable to the person who is the registered owner of this bond on such special record date for payment of such defaulted interest or redemption price as shall be fixed by the Paying Agent and Registrar whenever monies for such purpose become available.

The Agency, however, reserves the right and option of prepaying principal of this bond, in whole or in part, from any available sources at any time at the principal amount thereof plus accrued interest to the date fixed for redemption. Notice of any such optional prepayment shall be given by mail, sent to the registered owner of this bond at said registered owner's address in the manner provided in the resolution authorizing said bond. The principal of this bond shall be subject to mandatory redemptions made in part on any interest payment date from "Available Funds" (as defined in the resolution authorizing the issuance of this bond) without any requirement for notice. Such optional and mandatory

prepayments shall be made upon such terms and conditions as are provided for in the resolution authorizing this bond.

This bond is a single bond in the total principal amount of One Hundred Thirty Five Thousand Dollars and no cents (\$135,000.00) issued by the Agency for the purpose of paying the costs of redevelopment of certain real estate located in the City of Wayne, as designated in that redevelopment contract containing a redevelopment plan recommended by the Agency and approved by the Mayor and City Council of the City of Wayne, Nebraska, (the "Plan"), all in compliance with Article 21 of Chapter 18, Reissue Revised Statutes of Nebraska, 2007, as amended, and has been duly authorized by resolution passed and approved by the Mayor and City Council of the City of Wayne, acting as the governing body of the Agency (the "Resolution").

This bond constitutes a limited obligation of the Agency payable exclusively from that portion of the ad valorem real estate taxes mentioned in subdivision (1)(b) of Section 18-2147, R.R.S. Neb. 2007, as levied, collected and apportioned from year to year with respect to certain real estate located within the "Project Area" (as defined in the Resolution). Pursuant to the Resolution and Section 18-2150, R.R.S. Neb. 2007, said portion of taxes has been pledged for the payment of this bond, both principal and interest as the same fall due or become subject to mandatory redemption. This bond shall not constitute a general obligation of the Agency and the Agency shall be liable for the payment thereof only out of said portion of taxes as described in this paragraph. This bond shall not constitute an obligation of the State of Nebraska or of the City or Wayne (except for such receipts as have been pledged pursuant to Section 18-2150 R.R.S. Neb. 2007) and neither the State or Nebraska nor the City of Wayne shall be liable for the payment thereof from any fund or source including but not limited to tax monies belonging to either thereof (except for such receipts as have been pledged pursuant to Section 18-2150 R.R.S. Neb. 2007). Neither the members of the Agency's governing body nor any person executing this bond shall be liable personally on this bond by reason of the issuance hereof. The resolution authorizing said issue designates the terms upon which additional bonds payable from said taxes may be issued in the future.

This bond is transferable by the registered owner or such owner's attorney duly authorized in writing at the office of the Paying Agent and Registrar upon surrender of this bond for notation of transfer as provided on the reverse hereof and subject to the conditions provided for in the resolution authorizing the issuance of this bond. The Agency, the Paying Agent and Registrar and any other person may treat the person whose name this bond is registered as the absolute owner hereof for the purposes of receiving payment due hereunder and for all purposes and shall not be affected by any notice to the contrary, whether this bond be overdue or not.

THIS BOND, UNDER CERTAIN TERMS SET FORTH IN THE RESOLUTION AUTHORIZING ITS ISSUANCE, MAY ONLY BE TRANSFERRED TO PERSONS OR ENTITIES DELIVERING AN INVESTMENT LETTER TO THE PAYING AGENT AND REGISTRAR CONFORMING TO REQUIREMENTS SET FORTH IN SAID RESOLUTION.

If the day for payment of the principal of or interest on this bond shall be a Saturday, Sunday, legal holiday or a day on which banking institutions in the City of Wayne, Nebraska, are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not a Saturday, Sunday, legal holiday or a day on which such banking institutions are authorized to close, and payment on such date shall have the same force and effect as if made on the nominal date of payment.

IT IS HEREBY CERTIFIED AND WARRANTED that all conditions, acts and things required by law to exist or to be done precedent to and in the issuance of this bond, did exist, did happen and were done and performed in regular and due form and time as required by law and that the indebtedness of said Agency, including this bond, does not exceed any limitation imposed by law.

IN WITNESS WHEREOF, the Mayor and City Council of the City of Wayne, Nebraska, as the governing body of the Community Development Agency of the City of Wayne have caused this bond to be executed on behalf of said Agency by being signed by the Chair and Secretary of the Agency and by causing the official seal of said Agency to be affixed hereto, all as of the date of issue shown above.

Delivered this ____th day of August, 2012.

(SEAL)

COMMUNITY DEVELOPMENT
AGENCY OF THE CITY OF
WAYNE, NEBRASKA

:

By: _____ (do not sign) _____
Chair

ATTEST:

_____(do not sign) _____
Secretary

PROVISION FOR REGISTRATION

The ownership of this Bond shall be registered as to both principal and interest on the books and records of the Community Development Agency of the City of Wayne, Nebraska, kept by the Paying Agent and Registrar identified in the foregoing bond, who shall make notation of such registration in the registration blank below, and the transfer of this Bond may thereafter be registered only upon an assignment duly executed by the registered owner or such owner's attorney or legal representative, in such form as shall be satisfactory to said Paying Agent and Registrar, such registration of transfer to be made on such books and endorsed hereon by said Paying Agent and Registrar

Date of Registration	Name of Registered Owner	Signature of Paying Agent and Registrar

Section 7. The Plan sets forth January 1, 2013, as the effective date after which ad valorem taxes on real property located within the Project Area may be apportioned pursuant to Section 18-2147, R.R.S. Neb. 2007. From and after said effective date that portion of the ad valorem taxes on all real estate located within the Project Area which is described in subdivision (1)(b) of Section 18-2147, R.R. S. Neb 2007 (the "Project Area Tax Receipts"), shall be paid into a special fund of the Agency to be designated as the "Louis Bencoter Project Fund" (the "Bond Fund") to be held by the Agent. The Agency hereby pledges for the payment of the Bond both principal and interest as the same fall due, equally and ratably, all Project Area Tax Receipts as so paid into the Bond Fund as a prior and first lien upon said receipts for the security and payment of the Bond.

Section 8. The Bond shall be executed on behalf of the Agency by the Mayor and City Clerk and sealed with the Agency's seal. Upon execution the Bond shall be registered by the Agent in the name of the initial registered owner as directed by the original purchaser and shall thereupon be delivered to the Redeveloper (or its designee, including any pledgee), as the original purchaser thereof for a price equal to the principal amount thereof. The original purchaser and initial registered owner shall deliver an investment representation letter satisfactory in form to the officers of the Agency, or any one of them.

Section 9. If the date for payment of the interest or principal on the Bond shall be a Saturday, Sunday, legal holiday or a day on which banking institutions in the City of Wayne, Nebraska, are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not a Saturday, Sunday, legal holiday or a day on which such banking Institutions are authorized to close, and payment

on such day shall have the same force and effect as if made on the nominal date of payment.

Section 10. The City Clerk shall make and certify one or more transcripts of the Agency precedent to the issuance at the Bond one of which copies shall be delivered to the original purchaser of the Bond.

Section 11. The Chair, and Secretary of the Agency, and the Mayor and City Clerk or any one of them are hereby authorized to take any and all actions, and to execute any and all documents deemed by them necessary to effect the transactions authorized by this Resolution.

Section 12. The proceeds of the Bond after payment of issuance costs, shall be paid to the Agency and applied to make payment of a development grant to the Redeveloper with such grant to be made upon such conditions as are set forth in that Redevelopment Contract by and between the Agency and Redeveloper which Redevelopment Contract, as to its terms and conditions, is hereby approved in the form presented. The Chair, and Secretary of the Agency are hereby authorized to execute and deliver said Redevelopment Contract in substantially the form presented but with such changes as such executing officers shall deem appropriate for and on behalf of the Agency.

Section 13. The authorization for the Bond provided for in this Resolution is based upon expectations as to valuation and proposed tax rates suggested by the Redeveloper. The Agency has not given and hereby gives no assurances that such expectations will in fact be fulfilled.

Section 14. The Mayor and City Council sitting as the Community Development Agency of the City of Wayne, Nebraska, specifically find, as follows:

(a) The project described in the redevelopment contract and plan attached thereto, would not be economically feasible without the use of tax-increment financing;

(b) The project would not occur in the Redevelopment Area without the use of tax-increment financing; and

(c) The costs and benefits of the Project, including costs and benefits to other affected political subdivisions, the economy of the community, and the demand for public and private services have been analyzed by the governing body and have been found to be in the long term best interests of the community impacted by the project.

Section 15. The purchase price of the Bond may be off set against the grant provided in the Redevelopment Contract in the event that the Redeveloper is the purchaser of said Bond.

Section 16. This Resolution shall be in force and take effect from and after its adoption as provided by law.

PASSED AND APPROVED this 7th day of August, 2012.

Chair

(SEAL)

ATTEST:

Secretary

Said motion was seconded by Member _____ and upon roll call vote on the question of adoption of said resolution, the following voted AYE: _____ . The following voted NAY: _____ . More than a majority of the governing body having voted in favor of the passage of the resolution, the same was declared adopted by the Agency's Chairperson.

I, the undersigned Secretary for the Community Development Agency of the City Wayne, Nebraska, hereby certify that the foregoing is a true and correct copy of the proceedings had and done by the Mayor and City Council, acting as the governing body of said Agency on August 7, 2012; that all of the subjects included in the foregoing proceedings were contained in the agenda for the meeting, kept continually current and readily available for public inspection at the office of the Agency; that such subjects were contained in said agenda for at least twenty-four hours prior to said meeting; that at least one copy of all reproducible material discussed at the meeting was available at the meeting for examination and copying by members or the public; that the said minutes from which the foregoing proceedings have been extracted were in written form and available for public inspection within ten working days and prior to the next convened meeting of said body; that all news media requesting notification concerning meetings of said body were provided advance notification of the time and place of said meeting and the subjects to be discussed at said meeting.

Secretary

RESOLUTION NO. 2012-56

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF WAYNE, NEBRASKA REVISING THE APPROVAL OF A REDEVELOPMENT PLAN; AND RELATED MATTERS

WHEREAS, the City of Wayne, Nebraska, a municipal corporation and city of the first class (the “City”), has determined it to be desirable to undertake and carry out urban redevelopment projects in certain areas of the City that are determined to be blighted and substandard and in need of redevelopment; and

WHEREAS, the Community Development Law, Chapter 18, Article 21, Reissue Revised Statutes of Nebraska, as amended (the “Act”), prescribes the requirements and procedures for the planning and implementation of redevelopment projects; and

WHEREAS, the City has previously declared the area legally described in **Exhibit A** attached hereto (the “Redevelopment Area”) to be blighted and substandard and in need of redevelopment pursuant to the Act; and

WHEREAS, the Community Development Agency of the City of Wayne, Nebraska (the “Agency”) has prepared or caused to be prepared a Redevelopment Contract including a Redevelopment Plan (the “Redevelopment Plan”), in the form attached hereto as **Exhibit B**, for the redevelopment of that portion of the Redevelopment Area legally described on **Exhibit C** (the “Project Area”); and

WHEREAS, the City published and mailed notices of a public hearing regarding the consideration of the approval of the Redevelopment Plan pursuant to Section 18-2115 of the Act, and has on the date of this Resolution held a public hearing on the proposal to approve the Redevelopment Plan; and

WHEREAS, the City has reviewed the Redevelopment Plan and determined that the proposed land uses and building requirements described therein are designed with the general purpose of accomplishing a coordinated, adjusted, and harmonious development of the City and its environs which will, in accordance with present and future needs, promote health, safety, morals, order, convenience, prosperity and the general welfare, as well as efficiency in economy in the process of development; including, among other things, adequate provision for traffic, vehicular parking, the promotion of safety from fire, panic, and other dangers, adequate provisions for light and air, the promotion of the healthful and convenient distribution of population, the provision of adequate transportation, water, sewerage, and other public utilities, schools, parks, recreational and community facilities, and other public requirements, the promotion of sound design and arrangement, the wise and efficient expenditure of public funds, and the prevention of the recurrence of unsanitary or unsafe dwelling accommodations, or conditions of blight.

NOW THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF WAYNE, NEBRASKA:

Section 1. The Redevelopment Plan is hereby determined to be feasible and in conformity with the general plan for the development of the City as a whole, and the Redevelopment Plan is in conformity with the legislative declarations and determinations set forth in the Act; and it is hereby found and determined, based on the analysis conducted by the

Agency, that (a) the redevelopment project described in the Redevelopment Plan would not be economically feasible without the Project Area without the use of tax-increment financing, and (c) the costs and benefits of the redevelopment project, including costs and benefits to other affected political subdivisions, the economy of the City, and the demand for public and private services have been analyzed by the City and have been found to be in the long-term best interest of the community impacted by the redevelopment project. The City acknowledges receipt of the recommendations of the Agency with respect to the Redevelopment Plan.

Section 2. The Redevelopment Plan is hereby approved in substantially the form attached hereto, with such immaterial changes, additions, or deletions thereto as may be determined to be necessary by the Mayor in his sole and absolute discretion. The Mayor and Clerk are hereby authorized to execute the Notice to Divide Taxes and file the same with the Assessor and Treasurer of Wayne County.

Section 3. In accordance with Section 18-2147 of the Act, the City hereby provides that any ad valorem tax on real property in the Project Area, to wit: Lot(s) Lots 12, 14, 15, 16, and 18 Benscoter Addition, all in the City of Wayne, Wayne County, Nebraska, for the benefit of any public body be divided as follows for a period of 15 years after the effective date of this provision as provided in Section 18-2147 of the Act, which effective date shall be January 1, 2013:

(a) That proportion of the ad valorem tax which is produced by levy at the rate fixed each year by or for each public body upon the Redevelopment Project Valuation (as defined in the Act) shall be paid into the funds of each such public body in the same proportion as all other taxes collected by or for the bodies; and

(b) That proportion of the ad valorem tax on real property in the Project Area in excess of such amount (the Redevelopment Project Valuation), if any, shall be allocated to, is pledged to, and, when collected, paid into a special fund of the Agency to pay the principal of, the interest on, and any premiums due in connection with the bonds, loans, notes or advances of money to, or indebtedness incurred by, whether funded, refunded, assumed, or otherwise, such Agency for financing or refinancing, in whole or in part, the Project. Specifically, such portion is pledged to the payment of principal and interest on bonds issued to assist in the financing of the redevelopment project. When such bonds, loans, notes, advances of money, or indebtedness, including interest and premium due have been paid, the Agency shall so notify the County Assessor and County Treasurer and all ad valorem taxes upon real property in the Project Area shall be paid into the funds of the respective public bodies.

Section 4. Section 3 of the Resolution No. 2012-33A of the Mayor and Council dated May 1, 2012 is hereby repealed.

Section 5. The Mayor and Clerk are hereby authorized and directed to execute such documents and take such further actions as are necessary to carry out the purposes and intent of this Resolution and the Redevelopment Plan.

PASSED AND APPROVED this 7th day of August, 2012.

THE CITY OF WAYNE, NEBRASKA

By _____
Mayor

ATTEST:

City Clerk

REDEVELOPMENT CONTRACT

This Redevelopment Contract is made and entered into on August 7, 2012, by and between the Community Development Agency of the City of Wayne, Nebraska (Agency) and Louis Benscoter, (Redeveloper).

WITNESSETH:

WHEREAS, the Agency is a duly organized and existing Community Development Agency, a body politic and corporate under the laws of the State of Nebraska, with lawful power and authority to enter into this Redevelopment Contract;

WHEREAS, the City of Wayne, Nebraska (the "City"), in furtherance of the purposes and pursuant to the provisions of Section 12 of Article VIII of the Nebraska Constitution and Sections 18-2101 to 18-2154, Reissue Revised Statutes of Nebraska, 2007, as amended (collectively the Act), has designated an area described on the attached Exhibit A as a blighted and substandard area; and

WHEREAS, the Agency has completed all procedures necessary for adoption of a Redevelopment Plan and approval of a Redevelopment Contract; and

WHEREAS, Agency and Redeveloper desire to enter into this Redevelopment Contract for acquisition and redevelopment of the redevelopment area;

NOW, THEREFORE, in consideration of the premises and the covenants and agreements herein set forth, Agency and Redeveloper do hereby covenant, agree and bind themselves as follows:

ARTICLE I

DEFINITIONS AND INTERPRETATION

Section 1.01 Terms Defined in this Redevelopment Contract.

Unless the context otherwise requires, the following terms shall have the following meanings for all purposes of this Redevelopment Contract, such definitions to be equally applicable to both the singular and plural forms and masculine, feminine and neuter gender of any of the terms defined:

“Act” means Sections 18-2101 through 18-2154, Reissue Revised Statutes of Nebraska, 2007, as amended, and acts amendatory thereof and supplemental thereto.

"Bondholder" means the holders of Bonds issued by the Agency from time to time outstanding.

"Bonds" or "Series 2012 A Bonds" means the Agency's Community Redevelopment Revenue Bonds (Benscoter Project) Series 2012 A Bonds and other Bonds issued pursuant to Section 3.02 hereof. "Bonds".

“City” means the City of Wayne, Nebraska.

"Governing Body" means the City Council of the City.

"Premises" or "Redevelopment Area" means all that certain real property situated in Wayne, Wayne County, Nebraska, more particularly described on Exhibit A attached hereto and incorporated herein by this reference.

"Project" means the Redevelopment Project as described in the Redevelopment Plan and those Lots designated on Exhibit “B”.

"Project Costs" means only costs or expenses incurred by Redeveloper to acquire the Project, demolish existing buildings and install infrastructure and utilities pursuant to the Act, including, but not limited to costs for: obtaining options to purchase, purchase and closing, including brokerage commissions, tax pro rates, title insurance premiums, land survey and engineering, soil tests, excavation, grading, infrastructure, to

include paving, water, sanitary and storm sewer mains, manholes, pumping stations, force mains, pavement (including street, intersections, curb, gutter, and sidewalks and walking trails), storm water runoff retention ponds, electric power substations and lines, including underground, street and area signage and engineering fees, costs for the benefit of the project, and reimbursement for such costs. The Project Costs may incurred from time to time by the Redeveloper.

"Redevelopment Contract" means this redevelopment contract between Agency and Redeveloper.

"Redevelopment Plan" means Exhibit C attached hereto, adopted by the Agency and the City pursuant to the Act, as amended from time to time.

"Resolution" means the Resolution of the Agency dated _____, 2012, as supplemented from time to time, approving this Redevelopment Contract and providing for the issuance of the Bonds.

"TIF" or "Tax-Increment Financing" means the use of TIF Revenues.

"TIF Revenues" means excess ad valorem taxes generated by the Project and Future Project Plans which are divided pursuant to section 18-2147 of the Act with a effective dates established in the Redevelopment Plan as amended from time to time.

"City" means the City of Wayne, Nebraska.

Section 1.02 Construction and Interpretation.

The provisions of this Redevelopment Contract shall be construed and interpreted in accordance with the following provisions:

(a) This Redevelopment Contract shall be interpreted in accordance with and governed by the laws of the State of Nebraska, including the Act.

(b) Wherever in this Redevelopment Contract it is provided that any person may do or perform any act or thing the word "may" shall be deemed permissive and not mandatory and it shall be construed that such person shall have the right, but shall not be obligated, to do and perform any such act or thing.

(c) The phrase "at any time" shall be construed as meaning "at any time or from time to time."

(d) The word "including" shall be construed as meaning "including, but not limited to."

(e) The words "will" and "shall" shall each be construed as mandatory.

(f) The words "herein", "hereof", "hereunder", "hereinafter" and words of similar import shall refer to the Redevelopment Contract as a whole rather than to any particular paragraph, section or subsection, unless the context specifically refers thereto.

(g) Forms of words in the singular, plural, masculine, feminine or neuter shall be construed to include the other forms as the context may require.

(h) The captions to the sections of this Redevelopment Contract are for convenience only and shall not be deemed part of the text of the respective sections and shall not vary by implication or otherwise any of the provisions hereof.

ARTICLE II

REPRESENTATIONS

Section 2.01 Representations by Agency.

Agency makes the following representations and findings:

(a) Agency is a duly organized and validly existing Community Development Agency under the Act;

(b) The proposed land uses and building requirements in the Project are designed with the general purpose of accomplishing, in conformance with the general plan of development of the City, a coordinated, adjusted, and harmonious development of the City and its environs which will, in accordance with present and future needs, promote health, safety, morals, order, convenience, prosperity, and the general welfare, as well as efficiency and economy in the process of development; including, among other things, adequate provision for traffic, vehicular parking, the promotion of safety from

fire, panic, and other dangers, adequate provision for light and air, the promotion of healthful and convenient distribution of population, the provision of adequate transportation, water, sewerage, and other public utilities, schools, parks, recreational and community facilities, and other public requirements, the promotion of sound design and arrangement, the wise and efficient expenditure of public funds, and the prevention of the recurrence of unsanitary or unsafe dwelling accommodations, or conditions of blight;

(c) The Redevelopment Contract is feasible and in conformity with the general plan for the development of the City as a whole and the plan is in conformity with the legislative declarations and determinations set forth in the Act;

(d) Based on the representations of Redeveloper and other information provided to the Agency,

(i) the Project and Future Project Plans would not be economically feasible without the use of tax-increment financing;

(ii) the Project and Future Project Plans would not occur in the Redevelopment Area without the use of tax-increment financing; and

(iii) the costs and benefits of the Project and Future Project Plans, including costs and benefits to other affected political subdivisions, the economy of the community, and the demand for public and private services have been analyzed by the governing body and the Agency and have been found to be in the long-term best interest of the community;

(e) Attachment C to this Redevelopment Contract is the Redevelopment Plan that has been duly approved and adopted by the Community Development Agency of the City pursuant to Section 18-2116 and 18-2117 of the Act;

(f) The Project and Future Project Plans will achieve the public purposes of the Act by, among other things, increasing the tax base, and lessening blight and substandard conditions in the Redevelopment Area.

Section 2.02 Representations of Redeveloper.

The Redeveloper makes the following representations:

(a) The execution and delivery of the Redevelopment Contract and the consummation of the transactions therein contemplated will not conflict with or constitute a breach of or default under any bond, debenture, note or other evidence of indebtedness or any contract, loan agreement or lease to which Redeveloper is a party or by which it is bound, or result in the creation or imposition of any lien, charge or encumbrance of any nature upon any of the property or assets of the Redeveloper contrary to the terms of any instrument or agreement.

(b) There is no litigation pending or to the best of its knowledge, threatened against Redeveloper affecting its ability to carry out the acquisition; construction, equipping and furnishing of the Project or the carrying into effect of this Redevelopment Contract or, except as disclosed in writing to the Agency, as to any other matter materially affecting the ability of Redeveloper to perform its obligations hereunder.

(c) Redeveloper has made a fiscal analysis of the Redevelopment Plan and specifically represents to the City and Agency that:

(i) the Project and Future Project Plans would not be economically feasible without the use of tax-increment financing, and Redeveloper will not undertake the Project without Tax-Increment Financing;

(ii) the Project Future project Plans would not occur in the Redevelopment Area and Redeveloper will not construct the Project without the use of Tax-Increment Financing;

ARTICLE III

OBLIGATIONS OF THE AGENCY

Section 3.01 Division of Taxes.

In accordance with Section 18-2147 of the Act, the Agency has included in the Redevelopment Plan a provision that any ad valorem tax on real property in the that portion of the Project, described on Exhibit A, for the benefit of any public body be divided for a period of fifteen years after the effective date of this provision. The effective date of this provision shall be January 1, 2013, as to the lots described in Exhibit "B".

Section 3.02 Issuance of Bonds.

(a) Agency on or about _____, 2012, shall issue the Series 2012 A Bonds in the aggregate principal amount of approximately \$135,000.00, and bearing interest from and after the date of issue, bearing interest at Six Percent (6.0%) per Series 2012 A Bonds). The Series 2012 A Bonds shall be limited obligations of the Agency, and shall be solely payable from and secured by TIF Revenues and other security specifically pledged therefore.

(b) The Agency shall not issue bonds in excess of Project Costs actually incurred by the Redeveloper.

Section 3.03 Pledge of TIF Revenues.

Pursuant to the Resolution, the Agency shall pledge the TIF Revenues as security for the Bonds.

Section 3.04 Grant of Proceeds of Bonds.

Agency shall grant 100% of the proceeds from the Series 2012 A Bonds to Redeveloper and 100 % of all other Bonds issued pursuant to this agreement, from time to time, secured by a pledge of the TIF Revenues as contemplated in Section 3.02 above, to Redeveloper for the purpose of paying Project Costs. The grant of proceeds may be

offset against the sale of the bonds if the Redeveloper is the purchaser of the bonds.

Section 3.05 Creation of Fund.

Agency shall create a special fund to collect and hold the TIF Revenues. Such special fund shall be used for no purpose other than to pay Bonds issued pursuant to Sections 3.02 above.

Section 3.06 Perform Obligations of Redevelopment Plan.

Agency shall perform, or provide for the performance, in a timely manner, of all obligations to set forth in the Redevelopment Plan required to be performed by the Agency or City, as provided in this Redevelopment Contract.

ARTICLE IV

OBLIGATIONS OF REDEVELOPER

Section 4.01 Construction

Redeveloper shall acquire the Project, fund Project Costs and complete the development of approximately five single family and, or townhouse residential lots in the Redevelopment Area in 2012.

Section 4.02 Non Discrimination .

Redeveloper agrees and covenants for itself, its successors and assigns that as long as any Bonds are outstanding, it will not discriminate against any person or group of persons on account of race, sex, color, religion, national origin, ancestry, disability marital status or receipt of public assistance in connection with the Project. Redeveloper, for itself and its successors and assigns, agrees that during the construction of the Project, Redeveloper will not discriminate against any employee or applicant for employment because of race, religion, sex, color, national origin, ancestry, disability, marital status or receipt of public assistance. Redeveloper will comply with all applicable federal, state and local laws related to the Project.

Section 4.03 Acknowledgement of Tax Level.

Redeveloper, City and Agency acknowledge that the payment of the Bonds is entirely contingent on factors over which the Agency has no control, including but not limited to the assessed valuation of the project, the variation of tax levies established in the future by taxing entities, statutory, constitutional and court ruling changes.

ARTICLE V

FINANCING REDEVELOPMENT PROJECT; ENCUMBRANCES

Section 5.01 Financing.

Redeveloper shall pay all Project Costs, if any, which are in excess of the amounts paid from the proceeds of the Bonds granted to Redeveloper, except for offsite infrastructure costs of the City. The Agency and the City shall not levy special assessments on the Redeveloper's property to pay for any Redevelopment plan improvements.

ARTICLE VI

DEFAULT, REMEDIES:

Section 6.01 General Remedies of Agency and Redeveloper.

Subject to the further provisions of this Article VI, in the event of any failure to perform or breach of this Redevelopment Contract or any of its terms or conditions, by either party hereto or any successor to such party, such party, or successor, shall, upon written notice from the other, proceed immediately to commence such actions as may be reasonably designed to cure or remedy such failure to perform or breach which cure or remedy shall be accomplished within a reasonable time by the diligent pursuit of corrective action. In case such action is not taken, or diligently pursued, or the failure to perform or breach shall not be cured or remedied within a reasonable time, this Redevelopment Contract shall be in default and the aggrieved party may institute such proceedings as may be necessary or desirable to enforce its rights under this

Redevelopment Contract.

Section 6.02 Additional Remedies of Agency.

In the event that Redeveloper, or its successor in interest, shall fail to commence the construction of the Project [site preparation only] on or before August 1, 2012, such event shall be deemed a failure to perform under this Redevelopment Contract.

In the event of such failure to perform, breach or default occurs and is not cured in the period herein provided, the parties agree that the damages caused to the Agency would be difficult to determine with certainty and that a reasonable estimation of the amount of damages that could be incurred is the unpaid portion of the principal of the 2012 A Bond payment schedule, which may be satisfied by delivery of the 2012 A Bond (the "Liquidated Damages Amount") . The Liquidated Damages Amount shall be paid by Redeveloper to Agency within 30 days of demand from Agency.

Interest shall accrue on the Liquidated Damages Amount at the rate of one percent (1%) over the prime rate as published and modified in the Wall Street Journal from time to time and interest shall commence from the date that the Agency gives notice to the Redeveloper demanding payment.

Section 6.03 Enforced Delay Beyond Party's Control.

For the purposes of this Redevelopment Contract, neither party, as the case may be, nor any successor shall be in breach of or in default in its performance of obligations within its control, when and without its fault, a default in such obligation occurs caused by acts of God, or Government, acts of terrorism, or in the event of enforced delay in the project due to unforeseeable causes beyond the control of the parties or either of them, including fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather or delays in subcontractors due to such causes; it being the purpose and intent of this provision that in the event of the occurrence of any such enforced delay, the time or times for performance of the

obligations of the Agency or of Redeveloper with respect to construction of the Project, as the case may be, shall be extended for the period of the enforced delay: Provided, that the party seeking the benefit of the provisions of this section shall, within thirty (30) days after the beginning of any such enforced delay, have first notified the other party thereof in writing, and of the cause or causes thereof and requested an extension for the period of the enforced delay.

Section 6.04 Liability.

In the event it is determined by a court of competent and final jurisdiction that either the Agency or the City cannot be obligated to approve Future Project Plans or Redevelopment Contract amendments pursuant to this Redevelopment Contract, the Agency and the City shall be jointly and severally liable to the Redeveloper and Bond holders for their respective damages.

ARTICLE VII

MISCELLANEOUS

Section 7.01 Notice Recording.

This Redevelopment Contract or a notice memorandum of this Redevelopment Contract may be recorded with the County Register of Deeds in which the Premises is located.

Section 7.02 Governing Law.

This Redevelopment Contract shall be governed by the laws of the State of Nebraska, including but not limited to the Act.

Section 7.03 Binding Effect; Amendment.

This Redevelopment Contract shall be binding on the parties hereto and their respective successors and assigns. This Redevelopment Contract shall run with the Premises. The Redevelopment Contract shall not be amended except by a writing signed by the party to be bound.

IN WITNESS WHEREOF, Agency and Redeveloper have signed this
Redevelopment Contract as of the date and year first above written.

COMMUNITY DEVELOPMENT
AGENCY OF THE CITY OF WAYNE,
NEBRASKA

LOUIS BENSCOTER

Chairman

ATTEST:

Secretary

STATE OF NEBRASKA)
)
COUNTY OF WAYNE)

The foregoing instrument was acknowledged before me this _____ day of August, 2012, by Ken Chamberlain and Betty A. McGuire, Chair and Secretary, respectively, of the Community Development Agency of the City of Wayne, Nebraska, on behalf of the Agency.

Notary Public

EXHIBIT A

**DESCRIPTION OF PREMISES
(REDEVELOPMENT AREA)**

Lots 12, 14, 15, 16, and 18 within the Benscoter Addition Planned Unit Development
Replat 1 to the City of Wayne, Wayne County, Nebraska, as currently platted.

EXHIBIT B

Description of lots pledged with effective date of January 1, 2013

Lots 12, 14, 15, 16, and 18 within the Benscoter Addition Planned Unit Development Replat 1 to the City of Wayne, Wayne County, Nebraska, as currently platted.

EXHIBIT C

BENSCOTER REDEVELOPMENT PLAN

OVERVIEW

This Redevelopment Plan (the "Redevelopment Plan" or the "Plan") is intended to redevelop an area within the City of Wayne (the "City"), which has been declared blighted and substandard pursuant to the Community Development Law of the State of Nebraska.

The Redeveloper will acquire and redevelop the real estate shown on Exhibit A (the "Redevelopment Plan Area") by constructing 5 single family residences.

The Redeveloper will not develop the project in the Redevelopment Area or elsewhere in the City without the benefit of tax increment financing. The costs and risks of the project are simply too great to be absorbed by the Redeveloper without the assistance of tax increment financing. All financing for the redevelopment is contingent on the grant of bond proceeds to be set forth in a redevelopment contract. The Plan proposes that the Wayne Community Development Agency (the "Agency") issue bonds, to be designated Series 2012 A Bonds (the "Bonds") to be repaid solely from the excess ad valorem real estate property taxes generated by a series of redevelopment projects pursuant to §18-2147 of the Nebraska Revised Statutes, for a period of 15 years from the effective date. The Redeveloper will use the proceeds of the Bonds to assist in payment of Project Costs, to be defined in the redevelopment contract, in the construction and acquisition of the project.

THE REDEVELOPMENT PLAN

1. Relationship of Plan to local objectives for appropriate land use: This Plan contemplates no change in current land use. Reutilization of the existing real estate meets existing local objectives for appropriate land use for the Redevelopment Plan Area. This new development is targeted to entice new residents to the community for general economic support of the community and to retain vital services in the City.

2. Relationship of Plan to local objectives for improved traffic flow and public utilities in Redevelopment Plan Area:

Streets: Streets have been dedicated and platted in accordance with the preliminary and final plats approved by the City. All streets have a hard surface

Potable Water Lines: The potable water lines and fire hydrants required in the subdivision have been installed.

Sanitary Sewer Lines: The sewer lines required in the subdivision have been installed.

3. Relationship of Plan to local objectives for community facilities: The execution of this Plan will provide a much needed residential housing for the community that has been identified as an unmet need.

4. Redevelopment Plan Area: Exhibit C1 shows the boundaries of the Redevelopment plan Area.

5. Proposed land use plan: Exhibit C2 shows the proposed land use plan after redevelopment as a fully developed residential development. This plat will be amended and changed as circumstances require for the future projects.

6. Information on standards for population densities; land coverage; building intensities; and land coverage after redevelopment: Population density will change for the area. Currently there is no residential occupancy. During this phase of the construction, 5 single family residential lots will be developed.

7. Statement regarding change in street layouts: This Plan proposes no changes in street layout.

8. Site plan after redevelopment: Exhibit C2 is an accurate proposed site plan of the Redevelopment Plan Area after redevelopment. The Plan may change slightly during the phases as development occurs.

9. Statement as to the kind and number of additional public facilities or utilities required to support land use after redevelopment: No additional public utilities are required to support the proposed Plan, as discussed above.

10. Public cost/benefit analysis: The Redevelopment Plan requires that the Redeveloper acquire and construct a residential development. It is intended that no public funds, other than the tax increment financing benefit, will be used for the acquisition and development of the redevelopment Plan.

The Redeveloper will provide all financing for Project Costs of the Redeveloper. The Redeveloper will either provide purchasers for the Bonds or purchase the Bonds. The Bonds shall be repaid solely from the excess ad valorem tax stream created by the redevelopment projects, and not secured by any additional pledge by either the Agency or the City. All ad valorem taxes currently generated in the Redevelopment Plan Area will continue to be paid to all respective taxing authorities, including the school district, the City and Wayne County. All ad valorem taxes for each respective project shall revert to the taxing authorities at the expiration of each fifteen year project term or the full payment of the Bonds.

The Project initially will result in at least 5 new residential units. Full build-out of the Redevelopment Plan is estimated to take 10 years. The Project provides for long-term property tax base increase and stability, encouragement of additional redevelopment and an expansion of the local sales tax and property tax bases through the new residents spending in City stores.

Pledge of Incremental Taxes. Pursuant to Section 18-2147 of the Act, any ad valorem tax levied upon real property in Redevelopment Project shall be divided, for the period not to exceed 15 years after the effective date of the provision, which effective date shall be January 1, 2013, as follows:

a. That portion of the ad valorem tax which is produced by levy at the rate fixed each year by or for each public body upon the redevelopment project valuation shall be paid into the funds, of each such public body in the same proportion as all other taxes collected by or for the bodies; and

b. That portion of the ad valorem tax on real property in the redevelopment project in excess of such amount, if any, shall be allocated to and, when collected, paid into a special fund of the Agency to pay the principal of; the interest on, and any premiums due in connection with the bonds, loans, notes, or advances on money to, or indebtedness incurred by, whether funded, refunded, assumed, or otherwise, such Agency for financing or refinancing, in whole or in part, a redevelopment project. When such bonds, loans, notes, advances of money, or indebtedness including interest and premium due have been paid, the Agency shall so notify the County Assessor and County Treasurer and all ad valorem taxes upon real property in such redevelopment project shall be paid into the funds of the respective public bodies.



August 3, 2012

Joel Hansen
City of Wayne
306 Pearl Street
Wayne, NE 68787

RE: Budget Estimate and Engineering Agreement
10th Street, Main to Windom Reconstruction Project
E/A Project No. P07183.D02

Dear Mr. Hansen:

Attached are two copies of the engineering proposal for the 10th Street Project and one copy of the budget estimate for the project. Based on the estimate I would suggest using \$680,000 in your budget process for the project.

If you have any questions, please feel free to contact me. We look forward to working with you on this project.

Sincerely,
EISENBRAUN AND ASSOCIATES, INC.

A handwritten signature in black ink that reads "Keith DeJong". The signature is written in a cursive style.

Keith DeJong, PE
Project Manager

10th Street, Main to Windom - w/ Parking North Side

Engineer's Cost Opinion

Wayne, NE

Revised:

E/A Project No. P07183.D02

Thursday, August 02, 2012

Item No.	Item Description	Estimated Quantity	Engineer's Estimate	
			Unit Price	Total Price
Removals				
	Mill and Remove Asphalt Surfacing	3,610 SY	\$ 5.00	\$ 18,050.00
	Remove Concrete Surfacing	4,982 SY	\$ 4.00	\$ 19,928.00
	Remove Concrete Curb and Gutter	2,918 LF	\$ 2.50	\$ 7,295.00
	Remove and Salvage Brick Pavers	94 SY	\$ 5.00	\$ 470.00
	Remove Sidewalk	655 SY	\$ 5.00	\$ 3,275.00
	Remove Retaining Walls	118 LF	\$ 10.00	\$ 1,180.00
	Remove Stormwater Manhole	1 EA	\$ 500.00	\$ 500.00
	Remove Storm Sewer Inlets	7 EA	\$ 400.00	\$ 2,800.00
	Remove 18" RCP Storm Sewer	135 LF	\$ 11.00	\$ 1,485.00
	Remove Sanitary Sewer Manholes	2 EA	\$ 600.00	\$ 1,200.00
	Adjust Sanitary Sewer Manhole	1 EA	\$ 250.00	\$ 250.00
	Remove Gate Valve and Box	3 EA	\$ 150.00	\$ 450.00
	Remove Fire Hydrant	2 EA	\$ 475.00	\$ 950.00
Grading Surfacing & Stormwater Collection Subtotal				\$ 57,833.00
Mobilization & Grading				
	Mobilization	Lump Sum	\$ 25,000.00	\$ 25,000.00
	Unclassified Excavation	3,350 CY	\$ 2.50	\$ 8,375.00
	Remove, Salvage and Place 6" Topsoil	1,810 SY	\$ 5.00	\$ 9,050.00
	12" Compacted Subgrade	5,656 SY	\$ 1.00	\$ 5,656.00
	12" Undercut	5,656 SY	\$ 1.50	\$ 8,484.00
Grading Surfacing & Stormwater Collection Subtotal				\$ 56,565.00
Surfacing - Street and Parking				
	Gravel Leveling Course	4,460 SY	\$ 1.00	\$ 4,460.00
	Concrete Combination Curb & Gutter	2,958 LF	\$ 18.00	\$ 53,244.00
	4" Concrete Sidewalk	883 SY	\$ 36.00	\$ 31,788.00
	Detectable Warning Panel	12 EA	\$ 300.00	\$ 3,600.00
	6" Concrete Driveways	513 SY	\$ 35.00	\$ 17,955.00
	8" Non Reinforced Concrete Pavement	4,359 SY	\$ 40.00	\$ 174,360.00
	8" Reinforced Concrete Pavement	62 SY	\$ 65.00	\$ 4,030.00
	8" Concrete Valley Gutter	39 SY	\$ 50.00	\$ 1,950.00
	Gravel Surface Course	28 TON	\$ 16.00	\$ 448.00
Grading Surfacing & Stormwater Collection Subtotal				\$ 291,835.00

10th Street, Main to Windom - w/ Parking North Side

Engineer's Cost Opinion

Wayne, NE

Revised:

E/A Project No. P07183.D02

Thursday, August 02, 2012

Item No.	Item Description	Estimated Quantity	Engineer's Estimate	
			Unit Price	Total Price
Traffic Control				
	Traffic Control	1,100 UT	\$ 4.95	\$ 5,445.00
	Traffic Control, miscellaneous	Lump Sum	\$ 1,000.00	\$ 1,000.00
Traffic Control Subtotal				\$ 6,445.00
Erosion Control				
	Seeding	100 LB	\$ 6.00	\$ 600.00
	Fertilizing	100 LB	\$ 4.00	\$ 400.00
	Fiber Mulching	1 TON	\$ 400.00	\$ 400.00
	Curb Inlet Sediment Filter	8 EA	\$ 150.00	\$ 1,200.00
Erosion Control Subtotal				\$ 2,600.00
Sanitary Sewer				
	8" PVC Sanitary Sewer Main w/ Bedding	416 LF	\$ 20.00	\$ 8,320.00
	48" Precast Concrete Manhole w/ Frame and Lid	2 EA	\$ 3,000.00	\$ 6,000.00
	Connect into Existing Sewer	2 EA	\$ 500.00	\$ 1,000.00
	6" PVC Sanitary Sewer Service Line w/ Bedding	50 LF	\$ 16.00	\$ 800.00
	8" x 6" Wye	4 EA	\$ 130.00	\$ 520.00
	Bypass Pumping	1 EA	\$ 500.00	\$ 500.00
Sanitary Sewer System Subtotal				\$ 17,140.00
Water				
	6" C900 PVC Water Main	1235 LF	\$ 20.00	\$ 24,700.00
	6" DI Pipe Bend	1 EA	\$ 300.00	\$ 300.00
	6" x 6" DI Pipe Tee	2 EA	\$ 300.00	\$ 600.00
	6" Gate Valve with Box	7 EA	\$ 1,000.00	\$ 7,000.00
	6" Standard Fire Hydrant	2 EA	\$ 2,750.00	\$ 5,500.00
	6" Restrainer Devices	28 EA	\$ 50.00	\$ 1,400.00
	Connect to Existing Water Main	3 EA	\$ 750.00	\$ 2,250.00
	1" Water Service Line	34 LF	\$ 25.00	\$ 850.00
	Tapping Saddle, Corp Stop and Curb Stop w/ Box	3 EA	\$ 600.00	\$ 1,800.00
Water System Subtotal				\$ 44,400.00

**10th Street, Main to Windom - w/ Parking North Side
 Engineer's Cost Opinion
 Wayne, NE**

Revised:

Thursday, August 02, 2012

E/A Project No. P07183.D02

Item No.	Item Description	Estimated Quantity	Engineer's Estimate	
			Unit Price	Total Price
Storm Sewer				
	24" RCP Class 3 storm sewer w/ bedding	82 LF	\$ 48.00	\$ 3,936.00
	30" RCP Class 3 storm sewer w/ bedding	62 LF	\$ 60.00	\$ 3,720.00
	5' x 5' junction box w/ frame and grate	1 EA	\$ 4,000.00	\$ 4,000.00
	5' curb inlet w/ Manhole Frame and Lid	3 EA	\$ 2,400.00	\$ 7,200.00
	10' curb inlet w/ Manhole Frame and Lid	3 EA	\$ 5,000.00	\$ 15,000.00
	Type "B" Storm Inlet	2 EA	\$ 2,400.00	\$ 4,800.00
	Connect to existing storm sewer	1 EA	\$ 800.00	\$ 800.00
Storm Sewer Subtotal				\$ 39,456.00
Construction Cost:			\$ 516,274	
Construction Contingency (10% Construction Cost):			\$ 51,600	
Geotechnical Testing Services (est.):			\$ 10,000	
Design Engineering:			\$ 17,160	
Construction Engineering:			\$ 82,800	
Project Construction Total:			\$ 677,834	
<p>Note: The prices utilized in this cost opinion are based on prices received for similar projects in 2011 and 2012. Prices for future work will be subject to change due to inflation or labor and material cost increases. In providing opinions of probable construction cost, it is understood that the Design Professional has no control over costs or the price of labor, equipment or materials, or over the Contractor's method of pricing. The opinions of probable construction cost provided herein are made on the basis of the Design Professional's qualifications and experience, and no warranty, either expressed or implied, is made as to the accuracy of such opinions as compared to bid or actual costs obtained at some point in the future.</p>				

RESOLUTION NO. 2012-57

A RESOLUTION APPROVING AGREEMENT FOR SERVICES BETWEEN THE CITY OF WAYNE AND EISENBRAUN & ASSOCIATES FOR THE 10TH STREET, MAIN TO WINDOM STREET RECONSTRUCTION PROJECT, AND AUTHORIZING THE USE OF LOCAL FUNDS TO BE REIMBURSED BY FUTURE ALLOCATIONS OF STATE HIGHWAY STP REPLACEMENT FUNDS FOR SAID PROJECT.

WHEREAS, the Wayne City Council is desirous of entering into an Agreement with Eisenbraun & Associates for professional engineering services regarding the "10th Street, Main to Windom Street Reconstruction Project"; and

WHEREAS, a proposal has been requested and received from Eisenbraun & Associates; and

WHEREAS, staff recommendation is to accept said proposal of Eisenbraun & Associates for the project at a cost of \$99,960; and

WHEREAS, staff recommendation is to relinquish Federal STP funding and use local funds to be reimbursed by future allocations of State Highway STP Replacement Funds for said project, so that the same can be completed in 2013.

NOW, THEREFORE BE IT RESOLVED, by the Mayor and City Council of the City of Wayne, Nebraska, that the Agreement between the City of Wayne and Eisenbraun & Associates for the "10th Street, Main to Windom Street Reconstruction Project" be accepted as recommended, and the City Administrator and/or Mayor is authorized and directed to execute said agreement for the professional services on behalf of the City.

PASSED AND APPROVED this 7th day of August, 2012.

THE CITY OF WAYNE, NEBRASKA,

By _____
Mayor

ATTEST:

City Clerk

August 3, 2012



Joel Hansen
City of Wayne
306 Pearl Street
Wayne, NE 68787

RE: Design and Construction Administration Engineering Services
10th Street, Main to Windom Reconstruction Project
E/A Project No. P07183.D02

Dear Mr. Hansen:

Thank you for your recent request for professional engineering services for the 10th Street, Main to Windom Reconstruction Project. The Basic Scope of Services offered to you for the design and construction engineering services is based on the conversations we have had with you and Gary Poutre concerning the project.

We have structured this agreement to clearly define our proposed services. Eisenbraun and Associates (E/A or ENGINEER) proposes to provide the following services to the City of Wayne (OWNER):

SCOPE OF SERVICES

The engineering services that are needed to provide the final set of construction plans, specifications, contract documents and ROW documents for the 10th Street, Main to Windom Reconstruction Project in Wayne, Nebraska are listed below.

Design Engineering Services

- E/A will provide drawings for two permanent easements. The OWNER will write up the permanent and temporary easements and work with the property owners to obtain the easements. The OWNER will also verify and update ownership information for the easements and property parcels. E/A will provide dimensions where necessary to the OWNER for how far the construction work will extend into the properties.
- Attend one public meeting with the OWNER to go over the plans with the property owners and the interested public. E/A will provide plan sheets for the public to view at the meeting.
- Survey the intersection of 10th Street and Windom Street where Wayne State College reconstructed a portion of the intersection. Also survey the location of the new gas main along the south side of 10th Street and the asphalt milling removal areas. Adjust the plans and redesign the street construction as necessary to accommodate or adjust these items.
- Design the concrete pad for the garbage dumpster at Wayne State College. The OWNER will provide the layout and dimensions for the pad.
- Design an ADA accessible ramp from the sidewalk into the former hair salon building.

- Design the replacement for the retaining wall on the south side of 10th Street just east of Main Street. The OWNER will contact the property owner and determine what the property owner's needs and requirements are for replacing or eliminating the wall.
- Redesign the concrete path to the college dormitory to protect the existing trees as much as feasible. A 2:1 grade can be used if necessary to minimize damage to the tree roots. It is understood that some roots will be damaged and removed during the construction project.
- Adjust quantities and notes for the asphalt material that has been milled off of the street, dumpster pad addition, Windom Street adjustments, handicapped ramp, retaining wall and other items as necessary.
- The project design will be set up with the understanding that the entire street can be closed to traffic for the entire duration of the project.
- Prepare the specification book that will contain the bid documents, contract documents, general conditions and specifications for the project.
- Prepare a stormwater pollution prevention plan and fill out a stormwater discharge permit application for the project.
- Submit completed design plans and specifications to DHHS and DEQ for review of the water and sewer main replacements.
- Submit the required application for a permit from the DOR to reconstruct the fillets and pavement for 10th Street at the Main Street (Highway 15) intersection.
- Complete the final set of design drawings and specifications for a bid letting that will be conducted by the OWNER.

Project Letting

- Prepare the advertisement for bidding the project and contact qualified contractors to make them aware of the project.
- Assist the OWNER in obtaining bids for construction including answering all technical questions from prospective bidders and preparing bid addenda as required.
- Conduct a single bid letting for the project at City Hall, analyze the bids and make an award recommendation to the OWNER.

Construction Engineering Services

Post Bid and Construction Phase

- E/A shall assist the OWNER with the proper execution of a contract between the OWNER and a construction contractor. The OWNER will submit the contract documents to its legal counsel for review and approval. Upon the proper execution of the aforesaid contract, E/A will provide the following services in accordance with Articles 1 through 17, inclusive, of the Standard General Conditions of the Construction Contract. The extent and limitations of the duties, responsibilities and authority of E/A are as assigned therein. E/A shall conduct a preconstruction meeting with the successful Contractor, his subcontractors, the OWNER and other involved parties. E/A will review for conformance with the design concept any necessary shop drawings furnished by Contractors. E/A will review the Contractor's applications for progress and final payment and, when approved, submit same to the OWNER for payment. E/A will make a final review of the project prior to the issuance of the Statement of Substantial Completion of construction and submit a written report to the OWNER. Prior to submitting the final pay estimate, E/A shall submit a statement of project completion to the OWNER. E/A can neither guarantee
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the performance of the construction contracts by the Contractor nor assume responsibility for Contractor's failure to finish and perform its work in accordance with the Contract Documents.

- E/A shall act as initial interpreter of the requirements of the Contract Documents and judge of the acceptability of the work thereunder and make decisions on all claims of OWNER and Contractor(s) relating to the acceptability of the work or the interpretation of the requirements of the Contract Documents pertaining to the execution and progress of the work. E/A shall not be liable for the results of any such interpretations or decisions rendered in good faith.
 - By recommending any payment, E/A will not thereby be deemed to have represented that exhaustive, continuous or detailed reviews or examination have been made by E/A to check the quality or quantity of Contractor(s)' work as it is furnished and performed beyond the responsibilities specifically assigned to E/A in this Agreement and the Contract Documents. E/A's review of Contractor(s)' work for the purposes of recommending payments will not impose on E/A responsibility to supervise, direct or control such work or for the means, methods, techniques, sequences, or procedures of construction or safety precautions or programs incident thereto or Contractor(s) compliance with laws, rules, regulations, ordinances, codes or orders applicable to their furnishing and performing the work. It will also not impose responsibility on E/A to make any examination to ascertain how or for what purposes any Contractor has used the moneys paid on account of the Contract Price, or to determine that title to any of the work, materials or equipment has passed to OWNER free and clear of any lien, claims, security interests or encumbrances, or that there may not be other matters at issue between OWNER and Contractor that might affect the amount that should be paid.
 - E/A shall provide construction staking of the project sufficient in detail to provide the Contractor with a baseline and horizontal and vertical control as required for construction of the project.
 - E/A shall provide a part-time Resident Project Representative (RPR) to monitor the project as it progresses. The RPR will be available approximately 20 hours per week on average over the anticipated project construction time frame. E/A's efforts will be directed toward providing a greater degree of confidence for the OWNER that the completed work of the Contractor will conform to the contract documents, but neither the OWNER nor E/A shall be responsible for the failure of the Contractor to perform the work in accordance with the contract documents. The Resident Project Representative duties are listed in Attachment No. 1.
 - E/A shall verify that tests, equipment and systems startups, and operating and maintenance instructions are conducted as required by the Contract Documents and in the presence of the required personnel, and that the Contractor maintains adequate records thereof. Geotechnical testing services shall be provided by an independent testing lab hired by the OWNER. E/A shall coordinate with the testing lab and review all test results, but the costs of the geotechnical testing services are not a part of E/A's agreement.
 - E/A shall consider and evaluate the Contractor's suggestions for modifications in drawings or specifications and in consultation with the OWNER make modifications to the benefit of the project. E/A will prepare necessary construction control orders for approval of the OWNER and others on a timely basis.
 - E/A shall not be responsible for the acts or omissions of any Contractor, or of any subcontractor or supplier, or any of the Contractor(s) or subcontractor's or supplier's agents or employees or any other persons (except E/A's own employees and agents) at the site or otherwise furnishing or performing any of the Contractor's work.
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Project Close-Out

- Conduct a substantial completion walk through or Pre-Final Inspection which will identify any remaining work.
- Confirm remaining work is completed after the designated time.
- Once all work is complete, prepare and submit to the Contractor and the OWNER a notice of completion.
- Upon completion of the Work, E/A shall compile a reproducible set of Record Documents conforming to the marked-up prints, drawings and other data furnished to E/A by the Contractor. This set of Record Documents will show the reported location of the Work and significant changes made during the construction process. Because these Record Documents are based on unverified information provided by other parties, which will be assumed reliable, E/A cannot and does not warrant their accuracy. Two hard copies of the Record Documents will be provided.

PROFESSIONAL FEE AND TIME FRAME

E/A's services will be provided on a lump sum fee basis as follows:

Design Engineering Services	\$17,160
Construction Engineering Services	\$82,800

The fees include all labor, materials, travel and other reimbursable expenses incurred in the completion of the work. However, our fee does not include, and the Owner shall be responsible for all Federal, State and local permits, fees, and assessments, sales taxes, or use taxes applicable to the project. If additional services are requested, those services will be defined in a separate scope of services and will be negotiated separately. We will bill you at the completion of individual tasks for the project, or monthly based on the percent completion of each task if the duration of that task extends beyond a one-month time frame. Payments shall be due within 30 days of invoice, after which time a 1-½ % per month finance charge shall be applied to the outstanding balance.

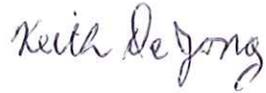
We propose to schedule our work upon authorization to perform the work. If there are protracted delays for reasons beyond our control or there are modifications to the Scope of Services, we would expect to negotiate an equitable adjustment of our compensation and/or time frame. We expect to schedule our services promptly after receipt of your acceptance of this proposal. It is our understanding that it is the City's desire to open bids for the project on a schedule that allows the project to be begin construction on May 15, 2013 and be completed by August 15, 2013.

Services will be rendered in the customary manner which, together with a general understanding applicable to our relationship with you, are set forth in the General Provisions which are attached hereto and made a part of this agreement. The obligations of both parties are set forth in the General Provisions.

This proposal, along with the General Provisions, represents your and our understanding with respect to this project. If this letter satisfactorily sets forth your understanding of our proposal, we would appreciate you signing both of the enclosed original documents in the space provided below and returning one original to us. This letter will then become our agreement. This proposal will be open for acceptance until September 15, 2012, unless changed by us in writing.

If you have any questions, please contact me as soon as possible. We look forward to working with you on this project.

Sincerely,
EISENBRAUN AND ASSOCIATES, INC.



Keith DeJong, PE
Project Manager

APPROVED:



Daniel D. Eisenbraun, PE & LS
President

ACCEPTED this ____ day of
_____, 2012.

City of Wayne, NE

By: _____

Title: _____

EISENBRAUN AND ASSOCIATES, INC.

GENERAL PROVISIONS

PROJECT INFORMATION. The firm is relying on the client to furnish us with full information as to his requirements including any special or extraordinary considerations for the Project, including budgetary limitations or special services needed, and also to make available all pertinent existing data at the start of the Project. If the Owner is providing data in electronic file form, he must warrant the accuracy, readability, and usability of the data, or pay all costs associated with making it so or resulting from the use of corrupt data.

STANDARD OF CARE. Services performed by the firm under this Agreement will be conducted in a manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing under similar conditions in the same locale. No other warranty is made or intended by the proposal for consulting services or by furnishing oral or written reports of the findings made.

ORAL INSTRUCTIONS. Both parties recognize that oral instructions may be necessary. The firm will comply with such oral instructions and, where such instructions involve modifications to the scope of services, the firm shall report in writing to the client. If no corrective communication is received within 15 days, the firm's report shall be deemed to be accepted.

ACCESS TO SITES, PERMITS, AND APPROVALS. Unless otherwise agreed, the client will furnish the firm with right-of access to the site. While the firm will take all reasonable precautions to minimize any damage to the property, it is understood by the client that in the normal course of work some damage may occur, the restoration of which is not part of this Agreement. Unless otherwise agreed, the client will secure all necessary approvals, permits, licenses and consents necessary to the performance of the services hereunder.

NOTIFICATION. The client shall give prompt written notice to the firm whenever the client observes or otherwise becomes aware of any development that affects the scope or timing of the firm's services, or any defect or nonconformance in the work of any Contractor.

INSURANCE. The firm carries workers compensation and employers liability insurance and has coverage under public liability and property damage insurance policies. Certificates for all such policies of insurance will be provided to client upon request. Within the limits and conditions of such insurance, the firm agrees to indemnify and save client harmless from and against any loss, damage, injury or liability arising from any negligent acts of the firm, its employees, agents, subcontractors and their employees and agents. The firm shall not be responsible for any loss, damage or liability beyond the amounts, limits and conditions of such insurance. The firm shall not be responsible for any loss, damage or liability arising from any acts by a client, its agents, staff, consultants employed by others, or other third parties who are not employees of the firm.

COMPENSATION TERMS. All compensation shall be due the firm within 30 days of billing. If required payment is not made, the firm may, 1) after seven days notice, suspend services and/or 2) choose to assess a finance charge of 1-1/2 % per month on the unpaid balance. Client will also be responsible for all costs of collection incurred by the firm.

LIMITATION OF LIABILITY. The client agrees to limit the firm's liability to the client and all construction contractors and subcontractors on the project arising from professional acts, errors, or omissions or breach of contract or other cause of action, such that the total aggregate liability of the firm to all those named shall not exceed total fee for the services rendered on this project and client hereby releases the firm from any liability above such amount. The client further agrees to require of any contractor and his subcontractors an identical limitation of liability for damages suffered by the contractor or the subcontractor arising from the firm's performance of services.

OWNERSHIP OF DOCUMENTS. All reports, plans, specifications, contract documents, field data, field notes, laboratory test data, calculations, estimates, electronic files, and other documents prepared by the firm as instruments of service, shall remain the property of the firm unless there are other contractual agreements. Documents are copyrighted by the firm. The firm will choose the method of document preparation and keeps electronic media for 30 days only.

COST OPINIONS. Opinions of probable construction cost, economic analyses of alternate solutions, etc. will be made on the basis of the firm's experience and represent our best judgment. The firm does not have control over the cost or over market conditions furnished by others. Any utilitarian evaluation of work to be performed on the basis of the Project Cost Opinion must of necessity be speculative. Accordingly, the firm does not guarantee that proposals, bids, or actual costs will not vary from opinions submitted by the firm.

THE FIRM AS INTERPRETER. The firm shall act as initial interpreter of the requirements of any prepared Contract Documents and judge of the acceptability of the work thereunder. The firm shall not be liable for the results of any such interpretations or decisions rendered in good faith.

PAYMENT APPROVALS. By recommending any payment, the firm will not thereby be deemed to have represented that exhaustive reviews have been made by the firm to check the quality or quantity of any Contractor(s) work. The firm's recommendation will also not impose responsibility on the firm to ascertain what purposes any Contractor has used the moneys paid or to determine that title to any of the work has passed to the client free and clear or that there may not be other matters at issue between client and Contractor that might affect the amount that should be paid.

ACTS OR OMISSIONS OF OTHERS. The firm shall not be responsible for the acts or omissions of any Contractor, subcontractor or supplier, or their agents or employees or any other persons except the firm's own employees.

DELAYS. Neither party shall hold the other responsible for damages or delay in performance caused by acts of God, strikes, lockouts, accidents, or other events beyond the control of the other or the other's employees and agents.

SUBPOENAS. The client is responsible, after notification, for payment of time charges and expenses resulting from the required response by the firm to subpoenas issued by any party other than the firm in conjunction with work performed under this Agreement. Charges are based on fee schedules in effect at the time the subpoena is served.

TERMINATION. This Agreement may be terminated by either party by seven days written notice in the event of substantial failure to perform in accordance with the terms of this Agreement by the other party through no fault of the terminating party. If this Agreement is terminated, the firm shall be paid for services performed to the termination notice date including Reimbursable Expenses due and Termination Expense. Termination expenses are defined to be expenses resulting from the reassignment of personnel and schedules and all direct costs to the firm to complete records necessary to complete its files and may include a report on the services performed to the date of termination.

PRECEDENCE. These terms and conditions shall take precedence over any inconsistent or contradictory provisions contained in any proposal, contract, purchase order, requisition, notice to proceed, or like document regarding the firm's services. Nothing herein shall be construed to give any rights or benefits hereunder to anyone other than client and the firm.

SEVERABILITY. If any of the provisions contained in this Agreement are held illegal, invalid, or unenforceable, the enforceability of the remaining provisions will not be impaired. Services and work products shall be developed within the framework of controlling regulations current at the time of acceptance of this proposal and the time frame for bringing claims under this agreement shall expire one year after project completion.

ASSIGNS. Neither the client nor the firm may delegate, assign, subwrite or transfer its duties or interest in this Agreement without the written consent of the other party.

DISPUTE RESOLUTION. Client and the firm agree that they shall first submit any and all unsettled claims, counterclaims, disputes and other matters in question between them arising out of or relating to this Agreement or the breach thereof ("disputes"), to mediation by a mutually agreed upon recognized and sanctioned mediator. After a written demand for non-binding mediation, which shall specify in detail the facts of the dispute, and within 30 days from the date of delivery of the demand, the matter shall be submitted to the mediator for consideration. The Mediator shall hear the matter and provide an informal opinion and advice, none of which shall be binding upon the parties, but is expected by the parties to help resolve the dispute. Said informal opinion and advice shall be submitted by the Mediator to the parties within 30 days following his acceptance of the assignment. If the dispute has not been resolved, the matter may then be submitted to other methods of dispute resolution.

ATTACHMENT NO. 1

10th Street, Main to Windom Reconstruction Project

*A Listing of Duties, Responsibilities and Limitations of Authority of the
Resident Project Representative*

ENGINEER shall furnish a part-time Resident Project Representative (RPR), assistants and other field staff to assist ENGINEER in observing performance of the work of Contractor.

Through more extensive on-site observations of the work in progress and field checks of materials and equipment by the RPR and assistants, ENGINEER shall endeavor to provide further protection for OWNER against defects and deficiencies in the work of CONTRACTOR; but, the furnishing of such services will not make ENGINEER responsible for or give ENGINEER control over construction means, methods, techniques, sequences or procedures or for safety precautions or programs, or responsibility for CONTRACTOR's failure to perform the Work in accordance with the Contract Documents.

The duties and responsibilities of the RPR are limited to those of ENGINEER in ENGINEER's agreement with the OWNER and in the construction Contract Documents, and are further limited and described as follows:

A. General

RPR is ENGINEER's agent at the site, will act as directed by and under the supervision of ENGINEER, and will confer with ENGINEER regarding RPR's actions. RPR's dealings in matters pertaining to the on-site work shall in general be with ENGINEER and CONTRACTOR keeping OWNER advised as necessary. RPR's dealings with subcontractors shall only be through or with the full knowledge and approval of CONTRACTOR. RPR shall generally communicate with OWNER with the knowledge of and under the direction of ENGINEER.

B. Duties and Responsibilities of RPR

1. *Schedules:* Review the progress schedule, and schedule of Shop Drawing submittals prepared by CONTRACTOR and consult with ENGINEER concerning acceptability.
2. *Conference and Meetings:* Attend meetings with CONTRACTOR, such as preconstruction conferences, progress meetings, job conferences and other project-related meetings.
3. *Liaison:*
 - a. Serve as ENGINEER's liaison with CONTRACTOR, working principally through CONTRACTOR's superintendent and assist in understanding the intent of the Contract Documents; and assist ENGINEER in serving as OWNER's liaison with CONTRACTOR when CONTRACTOR's operations affect OWNER's on-site operations.
 - b. Assist in obtaining from OWNER additional details or information, when required for proper execution of the Work.
4. *Review of Work, Rejection of Defective Work, Inspections and Tests:*

- a. Conduct on-site observations of the Work in progress to assist ENGINEER in determining if the Work is in general proceeding in accordance with the Contract Documents.
 - b. Report to ENGINEER whenever RPR believes that any Work is unsatisfactory, faulty or defective or does not conform to the Contract Documents, or has been damaged, or does not meet the requirements of any inspection, test or approval required to be made; and advise ENGINEER of Work that RPR believes should be corrected or rejected or should be uncovered for observation or requires special testing, inspection or approval.
 - c. Verify that tests, equipment and systems startups and operating and maintenance training are conducted in the presence of appropriate personnel, and that CONTRACTOR maintains adequate records thereof; and observe, record and report to ENGINEER appropriate details relative to the test procedures and startups.
 - d. Accompany visiting inspectors representing public or other agencies having jurisdiction over the Project, record the results of these inspections and report to ENGINEER.
6. *Interpretation of Contract Documents:* Report to ENGINEER when clarifications and interpretations of the Contract Documents are needed and transmit to CONTRACTOR clarifications and interpretations as issued by ENGINEER.
 7. *Modifications:* Consider and evaluate CONTRACTOR's suggestions for modifications in Drawings or Specifications and report with RPR's recommendations to ENGINEER. Transmit to CONTRACTOR decisions as issued by ENGINEER.
 8. *Records*
 - a. Keep a diary or log book, recording CONTRACTOR hours on the job site, weather conditions, data relative to questions of Work Directive Changes, Change Orders or changed conditions, list of job site visitors, daily activities, decisions, observations in general, and specific observations in more detail as in the case of observing test procedures; and send copies to ENGINEER.
 - b. Record names, addresses and telephone numbers of all CONTRACTORS, subcontractors and major suppliers of materials and equipment.
 9. *Reports:*
 - a. Consult with ENGINEER in advance of scheduled major tests, inspections or start of important phases of the Work.
 - b. Draft proposed Change Orders and Work Directive Changes, obtaining backup material from CONTRACTOR and recommend to ENGINEER Change Orders, Work Directive Changes, and Field Orders.
 - c. Report immediately to ENGINEER and OWNER upon the occurrence of any accident.
 10. *Payment Requests:* Review applications for payment with CONTRACTOR for compliance with the established procedure for their submission and forward with recommendations to ENGINEER, noting particularly the relationship of the payment requested to the Work completed and materials and equipment delivered at the site but not incorporated in the Work.
 11. *Certificates, Maintenance and Operation Manuals:* During the course of the Work verify that certificates, maintenance and operation manuals and other data required to be assembled and furnished by CONTRACTOR are applicable to the items actually installed and in accordance with

the Contract Documents, and have this material delivered to ENGINEER for review and forwarding to OWNER prior to final payment for the Work.

12. *Completion:*

- a. Before ENGINEER issues a Certificate of Substantial Completion, submit to CONTRACTOR a list of observed items requiring completion or correction.
- b. Conduct final inspection in the company of ENGINEER, OWNER, and CONTRACTOR and prepare a final list of items to be completed or corrected.
- c. Observe that all items on final list have been completed or corrected and make recommendations to ENGINEER concerning acceptance.

C. Limitations of Authority

Resident Project Representative:

1. Shall not authorize any deviation from the Contract Documents or substitution of materials or equipment, unless authorized by ENGINEER.
2. Shall not exceed limitations of ENGINEER's authority as set forth in the Agreement or the General Provisions to the Contract Documents.
3. Shall not undertake any of the responsibilities of CONTRACTOR, subcontractors or CONTRACTOR's superintendent.
4. Shall not advise on, issue directions relative to or assume control over any aspect of the means, methods, techniques, sequences or procedures of construction unless such advice or directions are specifically required by the Contract Documents.
5. Shall not advise on, issue directions regarding or assume control over safety precautions and programs in connection with the Work.
6. Shall not accept Shop Drawing or sample submittals from anyone other than CONTRACTOR.
7. Shall not authorize OWNER to occupy the Project in whole or in part.
8. Shall not participate in specialized field or laboratory tests or inspections conducted by others except as specifically authorized by ENGINEER.

WAYNE REVOLVING LOAN FUND

Northeast Nebraska Economic District has reviewed some of our files and recommends we return the cash funds to the Nebraska Department of Economic Development (DED).

At the League of Municipalities Finance Conference, DED stated it is their intention to eliminate all local RLF programs.

What are our options for our existing loans?

1. We can continue collecting on the loans and remitting the funds to the Nebraska Department of Economic Development.
2. We can reassign the outstanding loans to DED.
 - a. While DED will allow a local government to direct their borrowers with current loans to direct their payments to DED, DED will NOT take assignment of any Notes, Deeds of Trust, UCC Financing Statements or any security interest on any outstanding loan. DED is not requiring legal reassignment of outstanding loans. Each community can decide if they want to keep the security interest on the loan or release the security interest
3. The community can also, as the lender, restructure the loan to a deferred, forgivable loan thus suspending payments for the business. This option would create taxable revenue in the year the forgiveness takes place for the borrower.