

AGENDA
CITY COUNCIL MEETING
September 20, 2016

1. [Approval of Minutes – September 6, 2016](#)

2. [Approval of Claims](#)

The City Council will be hearing public comments on the following agenda items: _____

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.

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 by Green Star Gasifiers — Tony Demir, CEO](#)

Background: Tony Demir presented the wood and cellulose gasification concept at the August 16th Council meeting. Since that meeting, he has prepared a proposal to Wayne and Northeast Nebraska Public Power District a 5MW gasification system generator in Wayne. That proposal is attached in this packet for your review. We would need further financial review of the proposal before action on final approval.

4. [Action on the request of Brad Wieland for a variance on his property at 1222 Pearl Street to install a privacy fence](#)

Background: Brad Wieland removed a full length row of shrubbery on the north terrace of his property at 1222 Pearl Street at the corner of 13th and Pearl to make room to install a higher fence to block the view of cars parked on the terrace on the north side of 13th Street. The shrubs were out on the terrace beyond his north lot line along 13th Street. Through a misunderstanding, Brad thought he would be allowed to put the fence where the shrubs were, but City Code does not permit private property owners to build fences out on the city right-of-way along the streets. Brad has requested a chance to amend the code or appeal the prohibition where he wants to build his fence on the terrace. An aerial photo with drawing is in the packet.

Recommendation: Even though the request seems reasonable because of the configuration at the site, the recommendation of Joel Hansen, Code Official, and Lowell Johnson, City Administrator, is to abide by the existing code, because we do not know of a way to differentiate this situation from other requests to install private fences on city terraces.

5. [Request to get a sense of the Council for Tax Increment Financing for Housing Development — Chad Sebade](#)

Background: Chad Sebade is not asking for Council action. He has prepared a housing development proposal to be built on property south of the O'Riley Auto Parts Store. He is proposing to purchase the site with TIF funds. The attorney fees for a simple TIF agreement are about \$5,000, and Chad asked if he could get a sense of the

Council about his project before we begin drafting a TIF agreement. Some concept drawings for the project are attached.

6. [Resolution 2016-62: Approving Memorandum of Understanding between the City and the Wayne Country Club, Inc.](#)

Background: The City of Wayne owns the front nine holes, and the Wayne Country Club (WCC) owns the back nine. WCC owns the clubhouse and parking lot and the land they are on. By existing agreement, WCC operates the entire golf course and clubhouse independently, with no funds changing hands except the annual cost of fertilizer for the front nine. WCC is proposing to donate the clubhouse to the City and to donate the funds to renovate it, in return for the first right-of-refusal to purchase if the City sells the clubhouse at a future date.

7. [Action on a request to amend the Wayne Municipal Code to eliminate the midnight to 5:00 a.m. parking ban on the west side of Logan Street between 8th and 9th Streets — Hilda Pearson](#)

Background: Hilda Pearson is proposing that overnight parking be allowed on the west side of Logan Street between 8th and 9th Streets. Betty and I requested that Hilda check with the neighboring property owners on both sides of the street to get their opinion. A signed petition is attached, with property owners signatures highlighted.

Recommendation: Joel Hansen, Street Superintendent and the Public Works crew recommend against the change because people tend to not move their cars for snow, and weeds and grass begin to grow in the brick streets around those cars that rarely move in the summer. Most non-college towns and some college towns allow cars to park on the streets overnight, so it can be done. If you choose to amend the parking ordinance to make the change as requested, Joel and I suggest that you include a future date after one or two years to review the results.

8. [Public Hearing: To consider the Planning Commission's Recommendation concerning a Use by Exception request in the B-3 Neighborhood Commercial District, specifically Sec. 90-425\(7\), Special Conditions and Conditions for Granting Exceptions. The Applicant, Power Wash USA, is seeking the request to add onto the existing structure located at 120 E. 7th Street \(Advertised Time: 5:30 p.m.\)](#)

Background: The addition to the Power Wash building is in a zone that requires a "Use by Exception" hearing by the Planning Commission and the City Council for this use to protect the neighbors.

9. [Resolution 2016-63: Approving the Use by Exception Request of Power Wash USA to add onto its existing structure located at 120 E. 7th Street](#)

Recommendation: The recommendation of the Planning Commission is to approve the permit, with the requirement to direct all exterior lighting in the back of the building to the ground and away from residences.

10. [Resolution 2016-64: Amending the Wage and Salary Schedule to add the position of "Lineman I"](#)

Background: This position was not included in the existing Wage and Salary Resolution for 2016, and we have an employee that is scheduled to move up into it as part of our training and advancement. The proposed amended schedule is in the packet.

11. [Resolution 2016-65: Approving Supplemental Agreement No. 1 to the Program Agreement between the City of Wayne and the State of Nebraska Department of Roads – Wayne Trail Phase II Project \(NDOR to assume Responsible Charge responsibilities and clarification that preliminary engineering is an eligible project expense\)](#)

Background: This is regarding the Phase II Trail Project. Because of the complexity of federally funded projects, a few years ago, NDOR began requiring that a local city employee be designated as the “Responsible Charge” and trained to manage the Federal funding, environmental review, and procurement requirements of the cities receiving Federal funds. Joel Hansen was designated as the Wayne RC and completed training. Now NDOR has committed to taking over these critical and complicated tasks as part of their duties in federally funded projects.

Recommendation: Joel and I believe this is a good idea and recommend Council approval.

12. [Resolution 2016-66: Amending the Schedule of Fees](#)

Background: The City owns a lot of equipment that contractors occasionally want to borrow, or have us work for them in an emergency or if nothing else is available. We occasionally need to have rental rates in place for the purpose of evaluating damage to public property when billing for insurance reimbursement (tornados, car wrecks that break poles and signs, etc.). We also need to have rates established for reimbursement of code enforcement costs. Our intent is to not rent any City equipment that is available privately or do private work.

Recommendation: The attached schedule (Equipment Rental, Materials & Labor) is intended to limit use of city equipment, but to have a rate established in the event we need to do reimbursable work.

13. [Action to direct City Attorney to begin foreclosure proceedings on the NAPA loan](#)

Background: The terms of the LB840 loans from sales tax funds require the borrowers to repay the loans if the conditions of the loan aren’t followed. That requires a due process that is spelled out in the loan documents.

Recommendation: The recommendation of Lowell Johnson, City Administrator, and Finance Director Nancy Braden is to authorize staff to follow the terms of the loan, as written, and begin a foreclosure process to restore the borrowed funds.

14. [Action on Change Order No. 6, which is an increase of \\$7,548.26 on the “Wayne Aquatic Center Project” to Christiansen Construction Co., LLC, for additional grading and concrete removal](#)

15. [Adjourn](#)

APPROVED AS TO FORM AND CONTENT:

Mayor

City Administrator

**MINUTES
CITY COUNCIL MEETING
September 6, 2016**

The Wayne City Council met in regular session at City Hall on Tuesday, September 6, 2016, at 5:30 o'clock P.M. Mayor Ken Chamberlain called the meeting to order with the following in attendance: Councilmembers Cale Giese, Rod Greve, Jon Haase, Nick Muir, Jason Karsky, Matt Eischeid and Jill Brodersen; City Attorney Amy Miller; City Administrator Lowell Johnson; and City Clerk Betty McGuire. Absent Councilmember Jennifer Sievers.

Notice of the convening meeting was given in advance by advertising in the Wayne Herald on August 25, 2016, 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 Haase made a motion, which was seconded by Councilmember Brodersen, whereas, the Clerk has prepared copies of the Minutes of the meeting of August 16, 2016, 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, with the exception of Councilmember Sievers who was absent, the Mayor declared the motion carried and the Minutes approved.

The following claims were presented to Council for their approval:

VARIOUS FUNDS: AARON SAGE, SE, 171.56; AERO-MOD, INC., SU, 611.33; ALL-AMERICAN PUBLISHING, SE, 244.00; AMAZON.COM, SU, 1404.87; AMERICAN RED CROSS, RE, 20.00; AMERITAS, SE, 5078.45; AMY K. MILLER, SE, 5416.67; APPEARA, SE, 278.60; ARNIE'S FORD, SE, 401.46; BACKFLOW APPARATUS, SU, 81.80; BEIERMANN ELECTRIC, SE, 900.00; CITY EMPLOYEE, RE, 554.30; BIG T ENTERPRISES, SU, 95.95; BLACK HILLS, SE, 2238.82; BLUE CROSS BLUE SHIELD, SE, 33840.45; BOMGAARS, SU, 1648.18; BSN SPORTS, SU, 89.94; C. H. GUERNSEY & CO, SE, 11487.00; CARHART LUMBER CO, SU, 360.15; CENTURYLINK, SE, 416.35; CERTIFIED TESTING SERVICES, SE, 333.00; CHEMQUEST, SU, 1787.50; CITY OF WAYNE, RE, 250.00; CITY OF WAYNE, PY, 155002.37; CITY OF WAYNE, RE, 122.50; CITY OF WAYNE, RE, 691.67; COMMUNITY HEALTH, RE, 8.00; JACK'S UNIFORMS, SU, 498.40; DANKO EMERGENCY EQUIP, SU, 83.00; DAS STATE ACCTG, SE, 448.00; DEARBORN NATIONAL LIFE, SE, 116.96; CITY EMPLOYEE, RE, 93.42; EAKES OFFICE, SU, SE, 1033.35; ED. M FELD EQUIPMENT, SE, 699.75; ERIKSEN CONSTRUCTION, SU, 1,122.00; EVELINE W THOMPSON, RE, 50.00; FIREGUARD INC, SU, 2490.44; FIRST CONCORD

GROUP, SE, 3072.97; FLOOR MAINTENANCE, SU, 598.92; GALE GROUP, SU, 173.48; GERHOLD CONCRETE, SU, 1810.45; GROSSENBURG IMPLEMENT, SU, 241.17; HACH COMPANY, SU, 118.53; HAUFF MID-AMERICAN SPORTS, SU, 839.40; HAWKINS, INC, SU, 3068.79; HD SUPPLY WATERWORKS, SU, 597.26; CITY EMPLOYEE, RE, 43.68; HEIKES AUTOMOTIVE, SU, 36.00; HOMETOWN LEASING, SE, 412.86; HYDRAULIC EQUIPMENT, SU, 49.16; ICMA, SE, 15236.32; IRS, TX, 54369.39; ISLAND SPRINKLER SUPPLY, SU, 242.64; JEO CONSULTING GROUP, SE, 7072.25; JIM GRANQUIST, SU, 14.70; CITY EMPLOYEE, RE, 82.14; KATHLEEN A LAUGHLIN, RE, 486.00; KAUP SEED & FERTILIZER, SU, 800.00; L.G. EVERIST, SU, 636.59; CITY EMPLOYEE, RE, 193.55; LOGAN VALLEY FOOTBALL, FE, 100.00; LOVE SIGNS, SU, 77.23; MCCROMETER, SU, 1645.55; MCLAURY ENGINEER, SE, 6312.50; METERING & TECHNOLOGY SOL., SU, 2907.50; MICHAEL TODD & CO, SU, 745.56; MISS MOLLY'S COFFEE CO, SE, 180.00; MURPHY TRACTOR & EQUIPMENT, SE, 542.54; NATP, FE, 85.00; NE DEPT OF ENVIRONMENTAL QUALITY, FE, 500.00; NE DEPT OF LABOR, SE, 140.00; NE DEPT OF REVENUE, TX, 7310.75; NE HARVESTORE, SU, 740.00; NE MOSQUITO, FE, 50.00; NE PUBLIC HEALTH, SE, 382.00; NE SAFETY COUNCIL, SE, 9.70; NNPPD, SE, 7,098.89; NORTHEAST NE RC&D, FE, 200.00; ONE CALL CONCEPTS, SE, 82.80; PICK EQUIPMENT & CHOPPING, SE, 300.00; PLUNKETT'S PEST CONTROL, SE, 91.14; PROGRESSIVE PROPERTIES, RE, 5921.25; PROGRESSIVE PROPERTIES, SE, 45646.55; PUMP HOOK & PLACEMENT, SU, 611.00; QUILL, SU, 409.95; R.J. THOMAS MFG., SU, 294.00; REHAB SYSTEMS, SE, 42719.35; RESCO, SU, 88.73; SEBADE HOUSING, RE, 1000.00; SKARSHAUG TESTING LAB, SE, 283.59; STAPLES, SU, 97.46; STATE NEBRASKA BANK, RE, 133.99; TYLER TECHNOLOGIES, FE, 200.00; UNITED WAY, RE, 10.00; US BANK, SU, 8778.66; VAN DIEST SUPPLY, SU, 115.04; VERIZON, SE, 99.79; VIAERO, SE, 219.16; WAED, SE, 7445.66; WAYNE COUNTY COURT, RE, 400.00; WESCO, SU, 5996.28; WESTERN RIDGE III, RE, 2512.19; WISNER WEST, SU, 34.71; AMERICAN BROADBAND, SE, 990.00; CDS INSPECTIONS, SE, 199.68; CHARTWELLS, SE, 4842.05; CITY OF WAYNE, RE, 100.00; CITY OF WAYNE, SE, 300.00; CITY OF WAYNE, RE, 42.00; CITY OF WAYNE, RE, 1350.31; DAVE'S DRY CLEANING, SE, 72.00; DUTTON-LAINSON, SU, 6178.18; FRANK SHEDA JR., SE, 202.50; GAMBLE LANDSCAPING, SE, 2217.00; GILL HAULING, SE, 170.50; HAWKINS, SU, 529.20; HD SUPPLY WATERWORKS, SU, 413.16; IOWA PUMP WORKS, SE, 4126.60; IZABEL CHAVEZ, SE, 90.00; KTCH, SE, 298.00; CITY EMPLOYEE, RE, 346.05; MATHESON TRI-GAS, SU, 18.60; PLUNKETT'S PEST CONTROL, SE, 96.30; QUALITY FOODS, SU, 28.84; VIAERO, SE, 132.53; WAYNE COUNTY CLERK, FE, 76.00; WAYNE HERALD, SE, 1675.26; WAYNE SWIM TEAM, RE, 161.69; WAYNE VETERINARY CLINIC, SE, 56.00; WAPA, SE, 27064.31; ZIMCO, SU, 1250.00

Councilmember Haase made a motion, which was seconded by Councilmember Greve, to approve the claims. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Sievers who was absent, 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.

Christen Dalaviris, Director of Student Activities at Wayne State College, was present requesting Council consideration to allowing them to have a fireworks display behind the football stadium for “Family Day” on Saturday, September 10, 2016.

Phil Monahan, Fire Chief, expressed his concerns about the proposed area to have the display, the dryness of that area and the amount of dead foliage. Unless there is a significant amount of rain, he could not sign off on the permit. Jordan Widner, Asst. Fire Chief, was also present.

After discussion, Councilmember Giese made a motion, which was seconded by Councilmember Greve, approving the request of Christen Dalaviris, Director of Student Activities at Wayne State College, to have the fireworks display at Wayne State College after the “Family Day” football game on Saturday, September 10, 2016, pending the sign-off of the Fire Chief. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Sievers who was absent, the Mayor declared the motion carried.

Mayor Chamberlain declared the time was at hand for the public hearing on the Application for Community Development Block Grant – Phase I Funds to conduct a planning study in the northwest and southeast quadrants, as well as a small area in the southwest quadrant of Wayne.

The City is requesting \$26,400 of CDBG Comprehensive Development Phase I Funds, of which \$23,400 will be used to conduct a planning study and \$3,000 will be used for the general administration of the grant. Local matching funds of \$12,600 will be provided by the City of Wayne. Leverage of \$12,600 is also required. The total project cost is \$39,000. All activities will be conducted within the LMI target area. All CDBG Funds will benefit low-to-moderate income persons in the community, and no persons will be displaced as a result of this project.

Jan Merrill, Community Planner with Northeast Nebraska Economic Development District, was present to answer questions. Ms. Merrill noted the dollar amounts have changed slightly since the newspaper publication.

City Clerk McGuire had not received any comments, for or against, this public hearing.

There being no further comments, Mayor Chamberlain closed the public hearing.

Councilmember Eischeid introduced Resolution No. 2016-59 and moved for its approval; Councilmember Muir seconded.

RESOLUTION NO. 2016-59

A RESOLUTION AUTHORIZING CHIEF ELECTED OFFICIAL TO SIGN AN APPLICATION FOR COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS.

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Sievers who was absent, the Mayor declared the motion carried.

Mayor Chamberlain declared the time was at hand for the public hearing on the proposed FY 2016-2017 budget.

The total of the FY 2016-2017 budget is \$35,676,936. The property tax proposal for the General Fund operation is \$751,837.50, which compares to the 2015 tax asking of \$723,481. Pursuant to State Law, the maximum levy for a municipality is \$0.45 per \$100 of property valuation. When combined with the debt service asking, the combined amount for the proposed budget year is \$854,337.50 or \$.409303 per \$100 of property valuation. The valuation in the community, as reported by the County Assessor for 2016 is \$208,729,770, which is up \$6,817,814 from last year.

Finance Director Nancy Braden stated these numbers are based on the final numbers set at the budget work session. With the changes Council made, the General Fund reserves were increased by \$127,081. The mill levy is slightly down about .0003 from last year.

Mayor Chamberlain noted that he had asked that the field drag for the recreation department be added back into the budget - \$16,000. He does not like using a private organization's equipment to do maintenance on city fields.

City Clerk McGuire had not received any communication for or against this public hearing.

There being no further comments, Mayor Chamberlain closed the public hearing.

Councilmember Eischeid introduced Resolution 2016-60, and moved for its approval; Councilmember Giese seconded

RESOLUTION NO. 2016-60

A RESOLUTION TO ADOPT THE 2016-2017 BUDGET FOR THE CITY OF WAYNE.

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Sievers who was absent, the Mayor declared the motion carried.

Mayor Chamberlain declared the time was at hand for the public hearing regarding the tax asking/property tax levy.

To support the proposed general operating and debt service budgets for the City and the Airport Authority, a total property tax levy of \$.44995 per hundred dollars of property value is included. The levy equates to a tax request of \$939,274. Last year's tax levy was \$.398927 per hundred dollars of valuation; this year it is \$.409303, excluding the airport.

City Clerk McGuire had not received any communication for or against this public hearing.

There being no further comments, Mayor Chamberlain closed the public hearing.

The following Resolution would approve the final property tax request of \$854,337.50. This Resolution does not include the airport levy.

Councilmember Brodersen introduced Resolution 2016-61, and moved for its approval; Councilmember Muir seconded.

RESOLUTION NO. 2016-61

A RESOLUTION APPROVING FINAL PROPERTY TAX REQUEST FOR FY 2016-2017.

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Sievers who was absent, the Mayor declared the motion carried.

Finance Director, Nancy Braden, reviewed the sales tax projects and potential projects funded by the city sales tax that were discussed at the budget work session.

Councilmember Giese made a motion, which was seconded by Councilmember Greve, approving the capital project's city sales tax budget. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Sievers who was absent, the Mayor declared the motion carried.

Councilmember Giese introduced Ordinance 2016-14, and moved for its approval; Councilmember Greve seconded.

ORDINANCE NO. 2016-14

AN ORDINANCE TO ADOPT THE BUDGET STATEMENT TO BE TERMED THE ANNUAL APPROPRIATION BILL; TO APPROPRIATE SUMS FOR NECESSARY EXPENSES AND LIABILITIES; TO PROVIDE FOR AN EFFECTIVE DATE.

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Sievers who was absent, the Mayor declared the motion carried.

Councilmember Giese made a motion and Councilmember Greve seconded to suspend the statutory rules requiring ordinances to be read by title on three different days. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Sievers who was absent, the Mayor declared the motion carried.

Councilmember Giese made a motion and Councilmember Greve seconded to move for final approval of Ordinance No. 2016-14. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Sievers who was absent, the Mayor declared the motion carried.

The base year started in 1998. The restricted funds are the property taxes, payments in lieu of property taxes, local option sales taxes, motor vehicle taxes, state aid, transfers of surpluses from any user fee, and any funds excluded from restricted funds for the prior year because they were budgeted for capital improvements, but which were not spent and are not expected to be spent for capital improvements. Cities are given the opportunity to increase the base limitation of the restricted funds budget by 1%. The State Auditor is also recommending that entities pass this 1% increase. This increases our base number we can use for our restricted fund revenues.

Councilmember Brodersen made a motion, which was seconded by Councilmember Muir, approving the allowable 1% increase in base limitation of the restricted funds budget. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Sievers who was absent, the Mayor declared the motion carried.

Mayor Chamberlain stated that the Wayne Community Redevelopment Authority is, again, requesting Council consideration to transferring the unallocated portion of the 1.85% of electric revenues dedicated to economic development to the Wayne Community Redevelopment Authority for their use. As electric rates increased, as well as usage over the years, and because WAED has not increased their asking from this fund, there is approximately \$44,906.00 left in this account. That has all created a reserve that the CRA Board is suggesting be used for business incentives and site development and acquisition. This money is earmarked for economic development. The CRA prefers not to ask for a tax levy, which they can do, but this would in lieu of a tax asking.

Councilmember Eischeid suggested having this money available for owner-occupied housing improvement programs, and that it should be available to everyone, not just the low-to-moderate income.

Councilmember Giese made a motion, which was seconded by Councilmember Eischeid, approving the request to transfer the unallocated portion of the 1.85% dedicated to economic

development (\$44,906.00) to the Wayne Community Redevelopment Authority, as well as any future overages. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Sievers who was absent, the Mayor declared the motion carried.

Steve Rames with McLaury Engineering, Inc., gave a report on an impact study he did to determine whether or not there would be any negative effects if Todd Luedeke would extend a water main from the water line in the Muhs' Acres Subdivision to his subdivision, known as Tuffern Blue Estates. City Administrator Johnson also asked Olsson Associates, who originally engineered the water line project to the Muhs' Acres Subdivision, to provide an opinion on the matter. In both instances, both engineers concluded that this water main extension would have no significant effect on the Muhs' Acres subdivision water pressure or flow.

Discussion took place on how and where the extension might take place. No action was taken on the matter.

Roger Protzman of JEO Consulting Group, Inc., presented Application for Payment No. 14 for the "2016 Wayne Aquatic Center Project" for \$267,273.36 to Christiansen Construction Co., LLC. They have found the work to date completed in accordance with the plans and specifications and recommend approval of the same.

Councilmember Eischeid made a motion, which was seconded by Councilmember Giese, approving Application for Payment No. 14 for \$267,273.36 to Christiansen Construction Co., LLC, for the "2016 Wayne Aquatic Center Project." Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Sievers who was absent, the Mayor declared the motion carried.

Roger Protzman of JEO Consulting Group, Inc., presented Application for Payment No. 13 for the "2015 Wastewater Treatment Facility Improvement – Phases 3, 4, & 5 Project" for \$109,685.62 to Eriksen Construction, Co., Inc. They have found the work to date completed in accordance with the plans and specifications and recommend approval of the same.

Councilmember Brodersen made a motion, which was seconded by Councilmember Eischeid, approving Application for Payment No. 13 for \$109,685.62 to Eriksen Construction, Co., Inc., for the “2015 Wastewater Treatment Facility Improvement – Phases 3, 4, & 5 Project.” Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Sievers who was absent, the Mayor declared the motion carried.

Councilmember Giese made a motion, which was seconded by Councilmember Eischeid, approving the “Certificate of Substantial Completion” for the “2015 Wastewater Treatment Facility Improvement – Phases 3, 4, & 5 Project.” Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Sievers who was absent, the Mayor declared the motion carried.

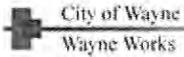
Roger Protzman of JEO Consulting Group, Inc., requested Council consideration to the Amendment to Agreement for the “2015 Wastewater Treatment Facility Improvement – Phases 3, 4, & 5 Project.” This is for additional services that were rendered during the months of July and August on the project. The contract amount for this project was \$64,900, and they are presently at \$67,855. They anticipate that there will be some follow-up services before finalization. The hourly not-to-exceed amount is \$7,500. The project is substantially complete, and the contractor is working through the various punch lists developed as part of the project.

Councilmember Brodersen made a motion, which was seconded by Councilmember Eischeid, approving the Amendment to Agreement for the “2015 Wastewater Treatment Facility Improvement – Phases 3, 4, & 5 Project” to increase the budget for a one time, not to exceed amount of \$7,500. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Sievers who was absent, the Mayor declared the motion carried.

Councilmember Brodersen made a motion, which was seconded by Councilmember Giese, approving the revisions regarding the Municipal Code Update made to Chapter XV – Land

Usage. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Sievers who was absent, the Mayor declared the motion carried.

Councilmember Giese made a motion, which was seconded by Councilmember Greve, to adjourn the meeting. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Sievers who was absent, the Mayor declared the motion carried and the meeting adjourned at 6:59 p.m.



Vendor	Payable Description	Payment Total
ADAMSON, TOM	BOOK	8.00
AMERICAN BROADBAND NE COMM	TELEPHONE CHARGES	1,464.50
AMERICAN PUBLIC POWER ASSOCIATION	POWER PLANT DUES	1,399.25
AMERICAN RED CROSS	RED CROSS DEDUCTION	10.00
AMERITAS LIFE INSURANCE	POLICE RETIREMENT EMPL DON	72.00
AMERITAS LIFE INSURANCE	AMERITAS ROTH	58.91
AMERITAS LIFE INSURANCE	POLICE RETIREMENT PERCENT	127.56
AMERITAS LIFE INSURANCE	POLICE RETIREMENT	2,614.60
APPEARA	FOAM FRESH	304.72
ASP ENTERPRISES	STRAW BLANKET	958.00
BAKER & TAYLOR BOOKS	BOOKS	12.25
BAKER & TAYLOR BOOKS	BOOKS	886.50
BAKER, ALLISON	UTILITY REFUND	89.54
BARONE SECURITY SYSTEMS	INSPECTION/MONITORING FEE	138.00
BID RED RENOVATORS	CIS-MOBILE HOME REMOVAL	2,500.00
BLUE DEVIL BOOSTER CLUB	SPORTS PROGRAM AD	85.00
BOK FINANCIAL	POOL TAX REVENUE	-94,030.63
BOK FINANCIAL	POOL TAX REVENUE	94,030.63
BOLINGER, LISA	UTILITY REFUND	15.06
BSN SPORTS, INC	KICK BALLS/RACK	118.69
BURSON, KASSIDI	UTILITY REFUND	36.16
CARROLL DISTRIBUTING	CUTTING BLADE	89.00
CHRISTIANSEN CONSTRUCTION	AQUATIC CENTER	267,273.36
CITY EMPLOYEE	MEDICAL REIMBURSEMENT	26.54
CITY EMPLOYEE	VISION REIMBURSEMENT	125.25
CITY EMPLOYEE	MEDICAL REIMBURSEMENT	64.62
CITY EMPLOYEE	VISION REIMBURSEMENT	108.00
CITY EMPLOYEE	MEDICAL REIMBURSEMENT	316.35
CITY EMPLOYEE	MEDICAL REIMBURSEMENT	277.54
CITY EMPLOYEE	MEDICAL REIMBURSEMENT	676.17
CITY EMPLOYEE	VISION REIMBURSEMENT	234.63
COMMUNITY HEALTH	HEALTH CHARITIES	3.00
COPY WRITE PUBLISHING	OFFICE SUPPLY/SHIPPING CHARGES	86.00
DAS STATE ACCTG-CENTERAL FINANCE	WSC INTERNET CHARGES	71.16
DEARBORN NATIONAL LIFE	LIFE/DISABILITY	2,112.54
DUTTON-LAINSON COMPANY	METER/LED BULB	1,701.11
EASYPERMIT POSTAGE	POSTAGE	1,755.60
ECHO GROUP INC JESCO	BALLAST	198.20
ED. M FELD EQUIPMENT CO INC	SPOT LIGHTS	447.50
ENGINEERED CONTROLS, INC	EXHAUST FAN REPAIR	384.00

Vendor	Payable Description	Payment Total
ERIKSEN CONSTRUCTION CO, INC	WWTP-BIOSOLIDS	109,685.62
FLOOR MAINTENANCE	PAPER TOWELS	458.46
FREDRICKSON OIL CO	TIRES	1,100.00
GEMPLER'S INC	GLOVES	85.00
GERHOLD CONCRETE CO INC.	CONCRETE	3,355.10
GRAPHIC CONTROLS ACQUISITION CORP	CHARTS	525.67
HARTNETT, DANIEL	UTILITY REFUND	300.00
HERITAGE HOMES	BUILDING PERMIT DEPOSIT REFUND	100.00
HERMAN, KELBY	BUILDING PERMIT DEPOSIT REFUND	100.00
HORIZON CONSTRUCTION	BUILDING PERMIT DEPOSIT REFUND	250.00
HUNDERTMARK CLEANING SYSTEMS	HEATED PRESSURE WASHER	6,865.00
ICMA RETIREMENT-FIRST NATL BANK -MARYLAND	ICMA RETIREMENT	7,612.84
INGRAM BOOK COMPANY	BOOKS	931.28
INVENTORY TRADING COMPANY	POLICE SHIRTS	508.00
IRS	MEDICARE WITHHOLDING	2,879.10
IRS	FICA WITHHOLDING	12,310.80
IRS	FEDERAL WITHHOLDING	11,286.64
JACK'S UNIFORMS	BODY ARMOR/CONCEALABLE CARRIER	770.00
JAY COLLIER	FOOTBALL REFUND	65.00
JOHN'S WELDING AND TOOL LLC	MANHOLE COVER REPAIR	944.94
KATHLEEN A LAUGHLIN, CHAPTER 13 TRUSTEE	PAYROLL DEDUCTION	243.00
KAUP SEED & FERTILIZER	GRASS SEED	640.00
KELSEA SIEBRANDT	AUDITORIUM DEPOSIT REFUND	150.00
KNIFE RIVER MIDWEST LLC	ASPHALT FOR PATCH HOLES	714.15
KRIZ-DAVIS COMPANY	LED LIGHT BULBS	1,436.43
KTCH AM/FM RADIO	RADIO ADS	556.00
L.G. EVERIST	CRUSHED ROCK	1,312.56
LUTT OIL	GASOLINE	4,398.95
MAIN STREET AUTO CARE	TOWING	100.00
MARCO INC	COPIER LEASE	126.36
MIDWEST LABORATORIES, INC	WASTE WATER ANALYSIS	1,112.50
MUNICIPAL SUPPLY INC	HYDRANT/COUPLING	1,033.23
NE DEPT OF REVENUE	STATE WITHHOLDING	3,791.77
NE SAFETY COUNCIL	SAFETY MEETING	147.79
NEBRASKA PUBLIC POWER DIST	ELECTRICITY	394,129.77
NORFOLK DAILY NEWS	FALL SPORTS AD	75.00
OVERHEAD	SPRINGS	517.00
PAC N SAVE	SUMMER PROGRAM SUPPLIES	286.08
PAUL DANGBERG	ENERGY INCENTIVE	500.00
PEERLESS WIPING CLOTH CO	WASH TOWELS	320.00
PENGUIN RANDOM HOUSE LLC	CD'S	102.00
PITNEY BOWES INC	FOLDER LEASE	1,497.56
PROGRESSIVE PROPERTIES	BUILDING PERMIT DEPOSIT REFUND	250.00
PROGRESSIVE PROPERTIES	BUILDING PERMIT DEPOSIT REFUND	250.00
PROGRESSIVE PROPERTIES	BUILDING PERMIT DEPOSIT REFUND	250.00
PROGRESSIVE PROPERTIES	BUILDING PERMIT DEPOSIT REFUND	250.00

Vendor	Payable Description	Payment Total
PROGRESSIVE PROPERTIES	BUILDING PERMIT DEPOSIT REFUND	250.00
PRONUNCIATOR	PRONUNCIATOR ANNUAL LIBRARY SUBSCRIPTION	450.00
QUALITY 1 GRAPHICS	DECALS FOR HELMETS	150.00
QUALITY FOOD	COFFEE	11.30
RECYCLE ACROSS AMERICA	LABELS	184.90
RESCO	ELBOW ARRESTER	835.19
SCHNEIDER ELECTRIC	DASHBOARD SERVICES	1,157.00
SCHULTZ, STEVEN	UTILITY REFUND	25.20
SHARER, MATT	BUILDING PERMIT DEPOSIT REFUND	100.00
SHOPKO	JARS/WIPES/MARKERS/NAPKINS/CUPS/BATTERIES	156.01
SPARKLING KLEAN	JANITORIAL SERVICE	2,839.91
SPARKLING INSTRUMENTS, INC.	METER MODULE-BOOSTER PUMP	1,225.36
STAPLES CONTRACT & COMMERCIAL, INC.	OFFICE SUPPLIES	299.79
STATE NEBRASKA BANK & TRUST	POOL TAX REVENUE	94,055.63
STATE NEBRASKA BANK & TRUST	SERIES 2011 PRINCIPAL & INTEREST	77,212.50
STEFFEN INC.	BOSS PLOW INSTALLED	8,041.88
THRASHER	BUILDING PERMIT DEPOSIT REFUND	100.00
UNITED RENTALS	SCISSOR LIFT RENTAL	598.24
UNITED WAY	UNITED WAY DEDUCTION	5.00
VAKOC CONSTRUCT	WOOD FOR FLATBED	41.02
WAYNE COUNTY COURT	BOND	150.00
WAYNE HERALD	JUNK IN THE TRUNK ADS	15.95
WESCO DISTRIBUTION INC	CONDUIT/WIRE	528.58
WISNER WEST	FD GASOLINE	27.01
	Grand Total:	1,049,633.38



Summary of Green Star Renewable Energy's
Economic Development Project
&
Value Proposition in Wayne, NE

CONFIDENTIAL

September 1st, 2016

Prepared for:
City of Wayne, Nebraska
Mr. Lowell Johnson, City Administrator

Prepared by:
Green Star Gasifiers, LLC

Executive Summary

On August 16th, Green Star Gasifiers (“Green Star”) presented to the City of Wayne’s City Council an opportunity to form a Public-Private Partnership with the City of Wayne (“Wayne”) and collaboratively cultivate a substantial economic development project (“Project”) targeting the following objectives:

1. Replace Wayne’s fossil fuel driven power with renewable energy that also solves local and statewide waste problems effectively and responsibly while joining Nebraska’s “green” movement towards a safe and sustainable energy future
2. Offer significant electricity cost savings to Wayne and its residents compared to its current all-in electricity cost
3. Create skilled local jobs with above average Nebraska wages that lead to careers
4. Provide a continuous income source for Wayne via newly assessed property taxes

The Project is a 3-5MW renewable energy power plant located in Wayne and totaling a minimum capital investment of \$17 million over the next 18 months and the creation of 19-30 direct jobs and 250 indirect jobs resulting from the construction of the power plant and its facility.

Project	Direct Jobs	Indirect Jobs	Completion Time
3-5MW Power Plant	19-30	250	18 months

Green Star is prepared to enter into a Power Purchase Agreement (“PPA”) with Wayne via the sale of its full capacity of 3-5MW base load station of the generated electric power from its power plant with a minimum reliability factor of 95%.

Green Star Value Proposition

- Significant economic development in Wayne, Nebraska (“Wayne”)
- Relocation of Green Star headquarters and operations from Bowling Green, Kentucky to South Sioux City, Nebraska (close by)
- Minimum capital investment of \$17 million over the next 18 months
- Zero investment dollars required by Wayne
- Total of 19-30 direct jobs (depending on 3 or 5 MW power plant) with above average Nebraska wages
- 250 indirect jobs through the construction and development of its power plant and facility by utilizing over 90% of local resources
- Total combined property taxes for Wayne within full 20 year cycle is \$1,200,000 (based on 2% yearly property taxes)
- Continuous annual property taxes of \$60,000 after full 20 year cycle
- Total of 3-5MW base load power station capacity with 95% reliability which would eliminate demand charges and potential transmission fees
- Secure, clean and affordable renewable energy
- Wayne all-in electricity cost is **4.50 cents per kWh** compared to its current all-in cost of 6.25 cents per kWh

This provides an annual savings of 28% which translates into \$728,175 per year in cost savings while receiving all value streams from above

- Wayne all-in electricity cost after all tax adjustments (total of 20 years) is **4.36 cents per kWh** compared to its current all-in cost of 6.25 cents per kWh

This provides an annual savings of 30.24% (\$786,429) after 20 years of tax adjustments

- Wayne receives a 28-30% savings compared to NPPD's pricing, including all applicable fees (all-in cost)
- Assist Wayne in obtaining certain state and/or federal grants for providing jobs
- Provide an effective solution to Wayne's and Nebraska's wood, agricultural and municipal waste problems by utilizing these sources as fuel
 - Green Star has joined the Nebraska Statewide Energy Team with the Nebraska Forest Service
- Provide additional custom and turn-key power solutions to Wayne in the future if possible

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Financial Highlights

SUMMARY BREAKDOWN	TOTAL COST via GREEN STAR	TOTAL COST via NPPD	Savings
Wayne's Total Electricity Cost per Year (5MW Only)	\$1,872,450	\$2,600,625	\$728,175
Total Electricity Cost after 20 Years (Life of the PPA)	\$37,449,000	\$52,012,500	\$14,563,500
Wayne's Average All-In Electricity Cost	4.50 cents/kWh	6.25 cents/kWh	1.75 cents/kWh (28%)
Green Star Annual Property Taxes due	\$60,000	\$0	N/A
Total Green Star Property Taxes Accumulated after 20 Years	\$1,200,000	\$0	N/A
20 Year Total Electricity Cost to Wayne after Tax Adjustment	\$36,249,000	\$52,012,500	\$15,763,500 (30%)
Wayne's Average All-In Electricity Cost after Tax Adjustment	4.36 cents/kWh	6.25 cents/kWh	1.89 cents/kWh

Note:

- All financial highlights are based on Wayne executing a PPA and purchasing 5MW of power at \$45.00 per MWh for 20 years (4.50 cents/kWh)
- Electricity calculations are based on 95% reliability (8,322 hours per year)
- Total property taxes (2%) are based on an established assessed value of \$3,000,000 for real property
- All calculations are based on Wayne's current all-in electricity cost of 6.25 cents per kWh; data provided by City of Wayne

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NPPD Prices Compared to Green Star's
Economic Development Project

Value Add to Wayne Residents	NPPD	Green Star
All-In Electricity Cost (including demand charges)	6.25 cents/kWh	4.50 cents/kWh
Reliability	✓	✓
Savings Compared to NPPD		✓
Significant Economic Development		✓
Capital Investment in Wayne		✓
Skilled Jobs in Wayne		✓
Advanced Job Training to Wayne Residents		✓
Yearly Property Taxes to Wayne		✓
On Site Power Station in Wayne		✓
Wayne Waste Solution		✓
Available Grants		✓
Local Business Collaborations (possibly employee housing)		✓

Wayne's all-in electricity cost above ("Net Electricity Cost") includes demand charges and all other applicable fees. The net electricity cost determinations for NPPD are based on information and data provided by Wayne.

Green Star has no such fees or charges compared to NPPD due to the fact that the power plant will be located in Wayne and directly interconnected to the utility. Green Star's base load power generation of 5MW is below SPP's 10MW threshold requirement. All the resulting savings are being passed on to Wayne under Green Star's proposal.

12 Months NPPD Power and Transmission Statement Analysis

Time Period	Demand Charges	Energy Used	Energy Charges	Energy Credits	Total Charges	Average All-In Cost
May 2015	\$137,679.32	4,247,208 kWh	\$113,720.64	\$0.00	\$251,399.96	5.92 cents/kWh
June 2015	\$194,580.60	4,923,322 kWh	\$146,433.24	\$162.75	\$340,851.09	6.92 cents/kWh
July 2015	\$201,339.12	5,651,718 kWh	\$167,648.62	\$867.00	\$368,120.74	6.51 cents/kWh
August 2015	\$201,213.28	5,384,038 kWh	\$159,691.65	\$0.00	\$360,904.93	6.70 cents/kWh
September 2015	\$206,445.62	5,287,113 kWh	\$156,552.19	\$362.75	\$362,635.06	6.89 cents/kWh
October 2015	\$142,475.72	4,477,268 kWh	\$121,422.44	\$592.20	\$263,305.96	5.88 cents/kWh
November 2015	\$140,164.52	4,279,960 kWh	\$114,147.56	\$708.75	\$253,603.33	5.93 cents/kWh
December 2015	\$148,497.68	4,756,144 kWh	\$127,389.18	\$8,760.15	\$267,126.71	5.62 cents/kWh
January 2016	\$175,341.47	5,471,033 kWh	\$150,669.29	\$141.75	\$325,869.01	5.96 cents/kWh
February 2016	\$155,934.23	4,696,094 kWh	\$130,882.71	\$3,563.70	\$283,253.24	6.03 cents/kWh
March 2016	\$150,459.71	4,335,179 kWh	\$121,429.01	\$1,504.65	\$270,384.07	6.24 cents/kWh
April 2016	\$144,225.95	4,036,312 kWh	\$113,972.48	\$799.05	\$257,399.38	6.38 cents/kWh
TOTAL	\$1,998,357.22	57,545,388 kWh	\$1,623,959.01	\$17,462.75	\$3,604,853.48	N/A
AVERAGE	\$166,529.77 per month	4,795,449 kWh per month	\$135,329.92 per month	\$1,455.23 per month	\$300,404.57 per month	6.25 cents/kWh

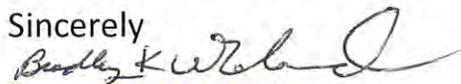
[Back to Top](#)

I would like to ask the Wayne City Council for a variance on my property at 1222 Pearl Street. The property line on the north side of my house on 13th Street is 19 foot from the curb and I would like to put a privacy fence up 15 foot from the curb. I was planning on going from the corner of my house to the end of my deck which would provide me some privacy from the apartments from across the street. I started working on this project in April of 2015 when I had Joel Hanson explain to me about where I could build my garage. I told Joel that my plans included tearing out bushes on the south, west, and north side of my house and replacing the bushes with a privacy fence.

I purchased my privacy fencing from Lowe's two months ago and they were going to install it the first week in September. I called Joel on September 1st to make sure that I was far enough off the street when the property line dispute began. I told Joel that we had this conversation in April of 2015 but he did not remember it. I explained to him that I wouldn't have torn out my bushes and spent \$1200 just for the north side bushes if he would have told me then. I would have come to the Council in 2015 to try to solve this problem before ordering and paying for the installation and now be faced with this issue.

I am trying to improve my property by adding the garage and privacy fencing so that maybe someday another family can enjoy the house as much as I have and all previous families before me. Four years ago I could look across the street and see Rice Auditorium and property going north but now it's nothing but apartments. I once had a beautiful view of our college but now only have a mess across the street to look at. I also have tried to do everything the right way which means going thru the proper channels to make sure that I did everything right. I have lived here 41 years and have always promoted the Wayne Community and I am just trying to improve my property.

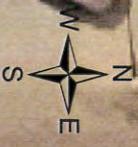
Sincerely



Bradley K Wieland

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SEP - 7 2016

BY: (B)



Brad wants to put a fence here where his bushes used to be



Brad's property line is here.

Pearl Street

W. 13th Street

1221

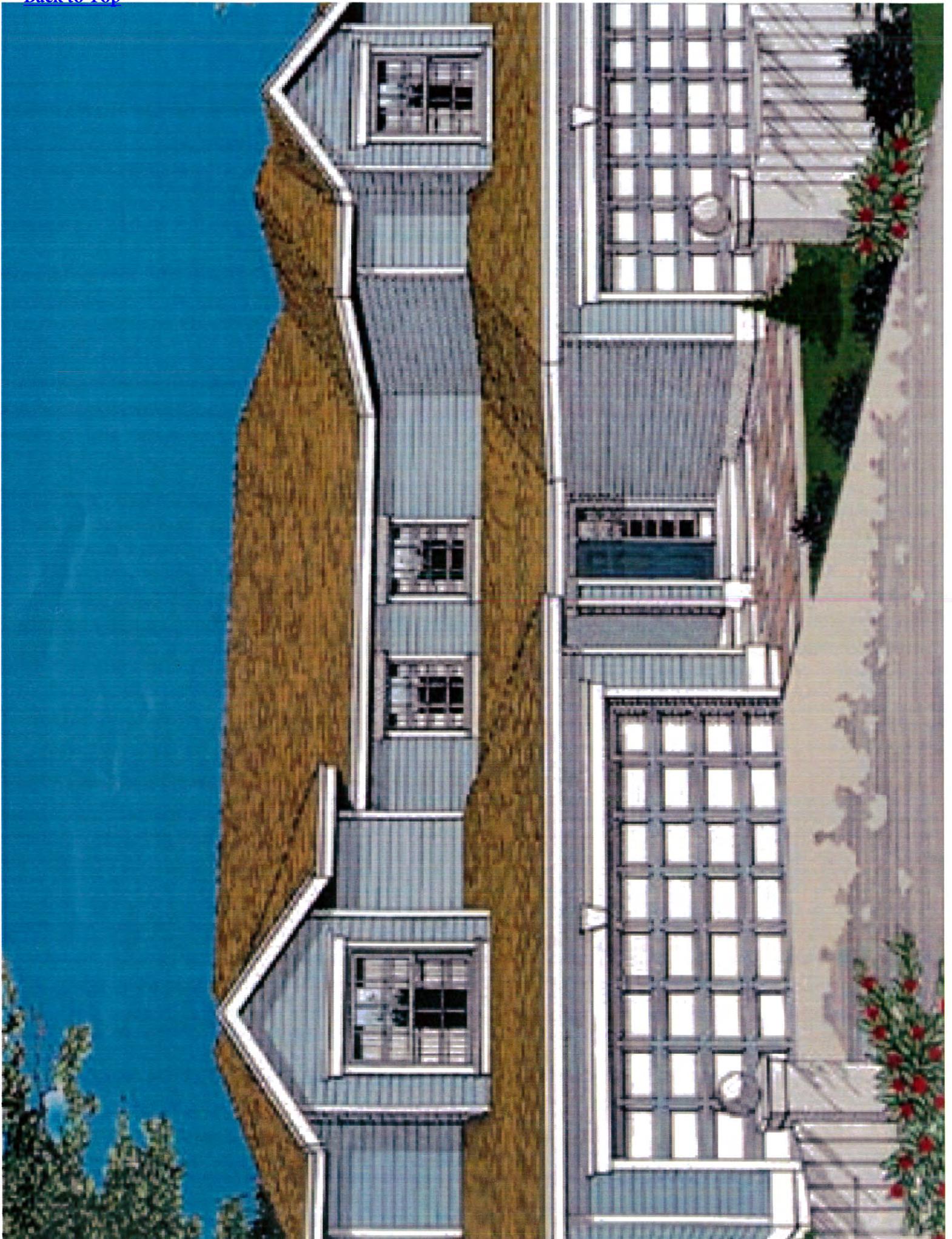
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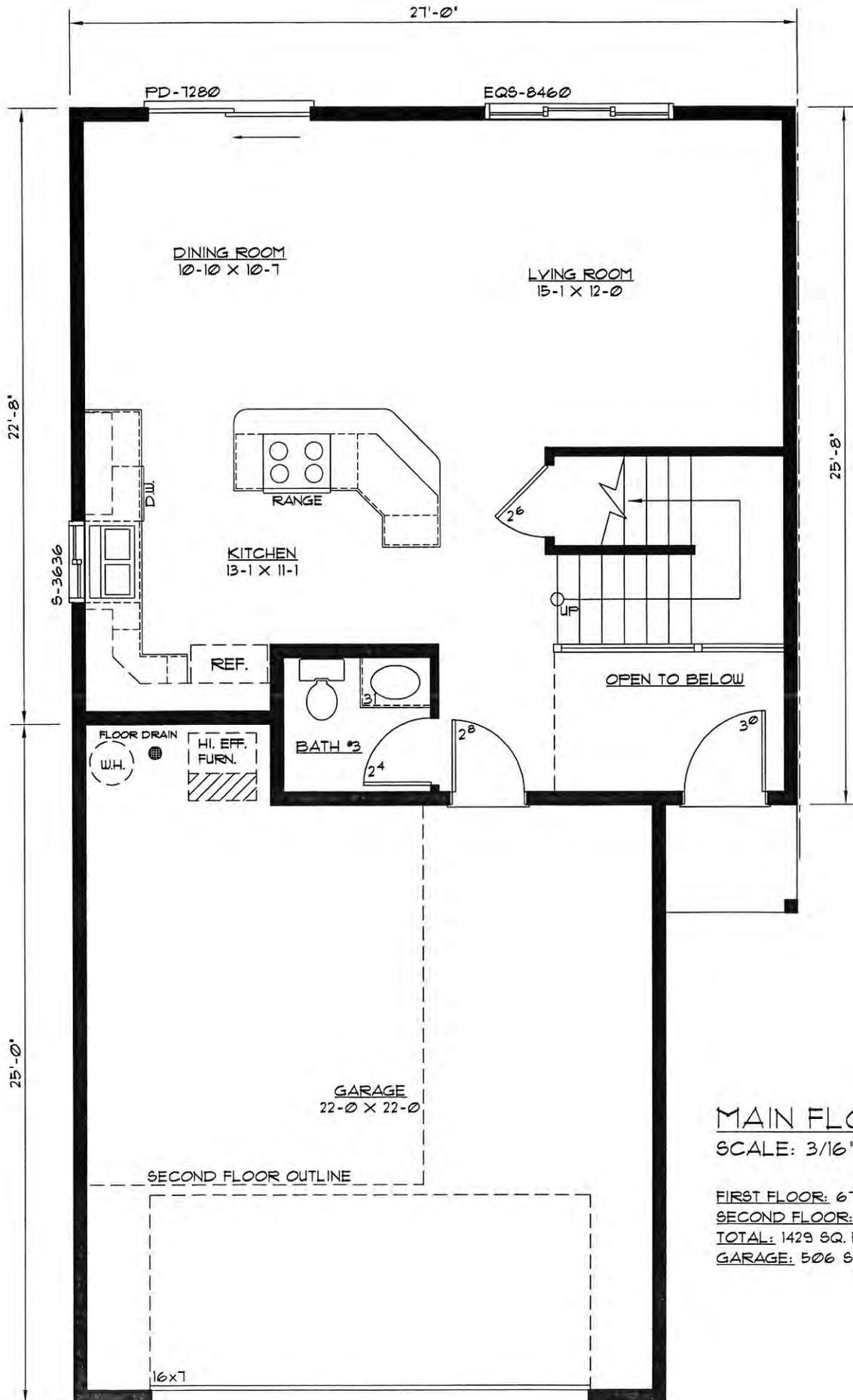
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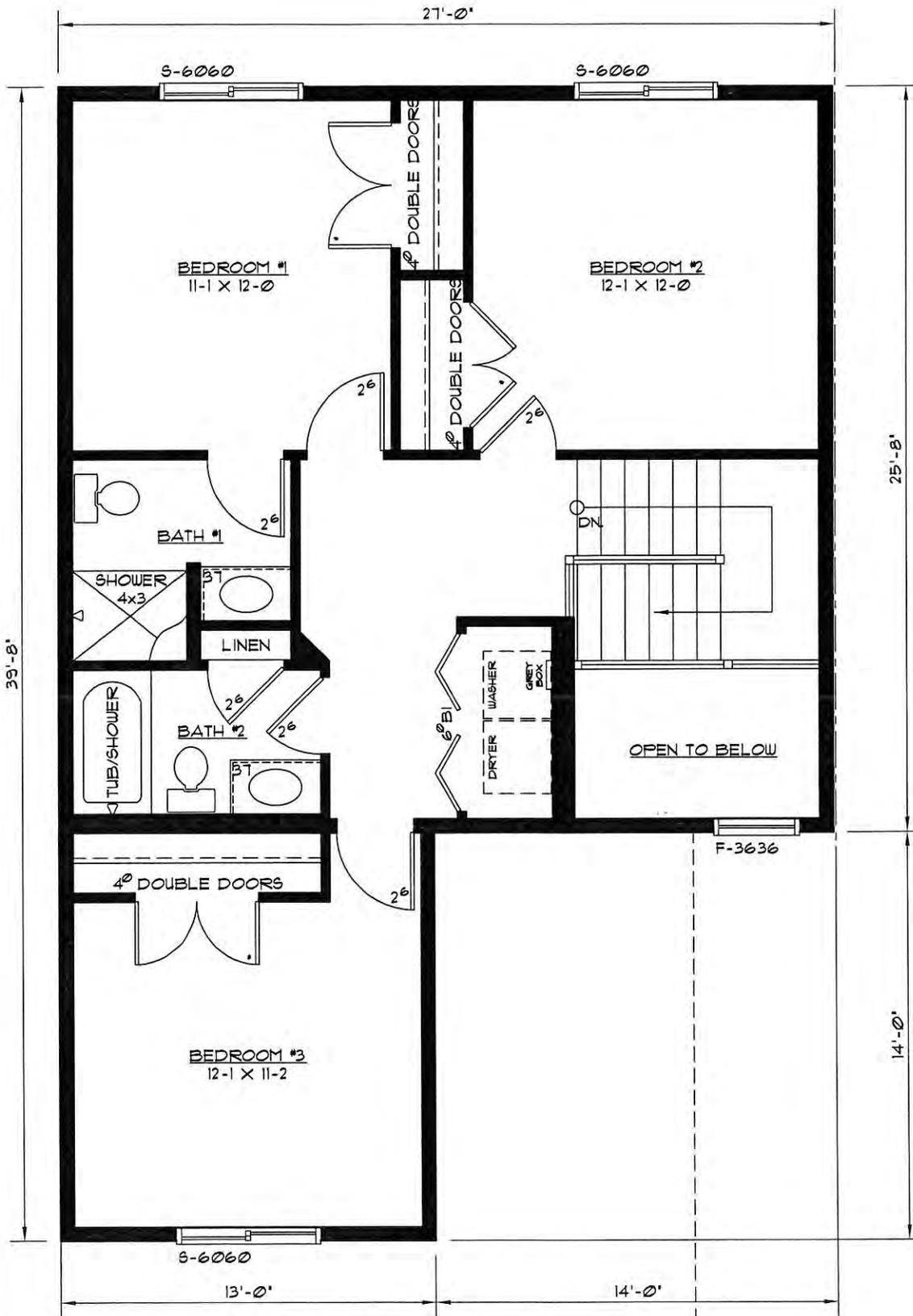
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MAIN FLOOR PLAN
 SCALE: 3/16" = 1'-0"

FIRST FLOOR: 671 SQ. FT.
 SECOND FLOOR: 758 SQ. FT.
 TOTAL: 1429 SQ. FT.
 GARAGE: 506 SQ. FT.



SECOND FLOOR PLAN
 SCALE = 3/16" = 1'-0"

SECOND FLOOR: 758 SQ FT

RESOLUTION NO. 2016-62

**A RESOLUTION APPROVING MEMORANDUM OF UNDERSTANDING
BETWEEN THE CITY OF WAYNE AND THE WAYNE COUNTRY CLUB,
INC.**

WHEREAS, the City of Wayne (City) is desirous of entering into a Memorandum of Understanding with the Wayne Country Club, Inc., (Country Club) wherein the Country Club is willing to transfer the clubhouse to the City and seek donations to help fund the clubhouse renovation under certain terms and conditions; and

WHEREAS, a copy of the proposed Memorandum of Understanding is attached hereto and incorporated herein by reference.

NOW, THEREFORE BE IT RESOLVED, by the Mayor and City Council of the City of Wayne, Nebraska, that the Memorandum of Understanding between the City and the Country Club is hereby approved, and the Mayor is hereby authorized to execute the same.

PASSED AND APPROVED this 20th day of September, 2016.

THE CITY OF WAYNE, NEBRASKA,

By _____
Mayor

ATTEST:

City Clerk

MEMORANDUM OF UNDERSTANDING

This agreement is made this ____ day of _____, 2016 by and between Wayne County Club, Inc., a Nebraska Corporation (“Country Club”), and the City of Wayne, Nebraska, a Nebraska Political Subdivision (“City”).

WHEREAS, the City owns the “Front Nine” holes of the Country Club and has an interest in seeing the Country Club clubhouse renovated for the betterment of the community of Wayne; and

WHEREAS, the Country Club is willing to transfer the clubhouse to the City and seek donations to help fund the clubhouse renovation.

NOW, THEREFORE, the parties acknowledge, understand, and generally agree on the following:

1. Country Club Fundraising. The Country Club will seek pledged donations to assist in the costs associated with the clubhouse renovation. The Country Club’s goal will be secure \$300,000.00 in pledged donations within one year of the date of this Memorandum.
2. Real Estate Transfer to City. If the Country Club is able secure its goal in pledged donations, the Country Club will sell and transfer the real property on which the clubhouse sits to the City; the City will then be the legal owner of this real property. The specific real property to be transferred will be surveyed prior to the transfer. Any costs associated with said survey will be paid by the Country Club. The City will purchase and accept this real property. Any costs associated with this transfer will be paid by the Country Club.
3. City Ownership. While under City ownership, the City will lease the clubhouse to the Country Club on a year-to-year basis, with automatic renewals unless one party wishes to terminate the lease. During the lease, the Country Club will pay rent to the City, as well as utilities, insurance premiums, and any other costs associated with the lease of the clubhouse.
4. Right of First Refusal. If the City ever decides to sell the real property upon which the clubhouse sits, the County Club shall have a right of first refusal to purchase this real property.
5. Subsequent Agreement. This Memorandum of Understanding constitutes a general agreement amongst the parties. Nothing herein shall be construed as meaning that the items contained herein are not negotiable or that each of the parties are permanently bound to the terms stated herein. Parties further agree a subsequent agreement outlining specific obligations

of the parties shall be prepared and executed by the parties in the event the Country Club raises \$300,000.00 in pledged donations. This Memorandum does not constitute an agreement for sale of any property and neither party is obligated to perform the terms and conditions stated herein. The purpose of the Memorandum is to agree on certain general concepts so as to facilitate further agreements and transactions.

Dated: _____, 2016.

WAYNE COUNTRY CLUB, INC.,
a Nebraska Corporation

By _____
Lowell Heggemeyer, Director

ATTEST:

Kevin Peterson, Secretary

CITY OF WAYNE, a Nebraska Political
Subdivision

By _____
Ken Chamberlain, Mayor

ATTEST:

Betty McGuire, City Clerk

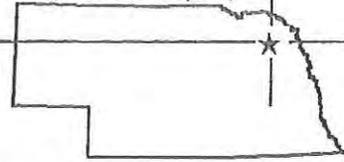
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City of Wayne

306 Pearl • P.O. Box 8
Wayne, Nebraska 68787

(402) 375-1733
Fax (402) 375-1619

BY:
Incorporated - February 2, 1884



REQUEST FOR FUTURE AGENDA ITEM

If you have a specific topic that you would like the City Council to discuss at a future meeting, please list your name, address, telephone number, and the specific topic. If you have additional documentation which would be beneficial to the topic, please attach to this form. The item will be reviewed and possibly scheduled for a future meeting, or forwarded to City staff for appropriate action.

Event insurance is required for anyone wishing to use city right-of-way (e.g. block off streets for block parties, block off sidewalks and/or alleys).

Name: Hilda M. Pearson

Address: 816 Logan St.
Wayne, Ne. 68787

Telephone No.: 402-833-1321 / 307-214-0612 e

Date of Request: 08/21/16

Description of Requested Topic: _____

Removal of the two signs
located on the west side of
8th + Logan that read: No
Parking from Midnight til
5:00 A.M.



AMENDMENT REQUEST

We, the undersigned, residing at 8th and Logan St., Wayne, Nebraska, Wayne County, are requesting the city code be amended to eliminate the Midnight to 5:00 A.M. parking ban on our block and that the two No Parking, Midnight to 5:00 parking signs located on the west side of Logan Street may be removed.

	ADDRESS	Resident/Owner	Date Signed
921 Neb	x816 Logan	Jason A. Buelme	7-8-16
	816 Logan	Justin Ell	7-8-16
921 Neb	816 Logan	[Signature]	7/24/16
	816 Logan	Terra Moses	7-7-16
	816 Logan	Hilda Pearson	06/22/16
Landlord	820 Logan	Joel Lipp	6/27/16
	820 Logan	Wynne Nespor	6/27/16
	820 Logan	Imbler Clark Taylor Clark	6/27/16
	820 Logan	Skylor Roberts	6/27/16
	820 Logan	Alliegh Glaser	6/29/16
	812 Logan	Chris Hansen	7-21-16
	812 Logan	Elizabeth Connealy	7-12-16
	812 Logan	Michael Marston	9/20/16
	810 Logan	Angela Gilbert Vaughan	6/29/16
	802 Logan	Jim Malv	6-29-16
	801 Logan	Matt Risinger	6-29-16
	809 Logan	Angela Sievers	6-29-16
Landlord	815 Logan	Ben Klameth	8-1-16
	815 Logan	[Signature]	6-29-16
	815 Logan	Ben Klameth	6-29-16
815 Logan	[Signature]	[Signature]	8-20-16
	812 ^{1/2} Logan	Estela Lopez	8-21-16
	812 ^{1/2} Logan	Ramon H Ruiz	8-21-16

**CITY OF WAYNE
INTEROFFICE MEMORANDUM**

DATE: September 13, 2016

TO: Mayor Chamberlain
Wayne City Council

FROM: Wayne Planning Commission
Joel Hansen, Staff Liaison



At their meeting held on September 13, 2016 the Wayne Planning Commission made recommendations on the following public hearing; the result of those recommendations are as follows:

Public Hearing: Use by Exception Request for B-3 of the Municipal Code, Specifically Section 90-425(7) Special Conditions and Conditions for Granting Exceptions, Applicant – Power Wash USA

The Planning Commission took evidence and testimony from the public and thereafter reviewed the information and evidence presented. After deliberation and discussion, motion was made by Commissioner Meisenbach and seconded by Commissioner Sorensen to approve and forward a recommendation of approval to the City Council approving the Use by Exception request for B-3 of the Municipal Code, specifically Section 90-425(7) Special Conditions and Conditions for Granting Exceptions, with the applicant being Power Wash USA, with the findings of fact being consistency with the Comprehensive Plan, the current and future land use maps, staff's recommendation and that the north exterior lighting to be facing down. Chair Melena stated the motion and second. All were in favor, motion carried to approve.

JJH:cb

RESOLUTION NO. 2016-63

A RESOLUTION APPROVING THE APPLICATION OF POWER WASH USA FOR A ZONING USE BY EXCEPTION PERMIT TO ADD ONTO THEIR EXISTING STRUCTURE LOCATED AT 120 E. 7TH STREET.

WHEREAS, the Planning Commission has considered an application for a zoning use by exception permit submitted by Power Wash USA to add onto their existing structure located at 120 E. 7th Street; and

WHEREAS, the Planning Commission, subsequent to a public hearing held on September 12, 2016, recommended approval of the use by exception permit request under Section 90-425(7) to add onto their existing structure located at 120 E. 7th Street, subject to the following "Findings of Fact:"

- Consistency with the current and future land use maps;
- Staff's recommendation; and
- That the north exterior lighting be facing down.

WHEREAS, the City Council considered the aforesaid application subsequent to a public hearing held on September 20, 2016.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Wayne, Nebraska, that the Council accepts the recommendation of the Planning Commission and approves the application, subject to the above-stated "Findings of Fact."

PASSED AND APPROVED this 20th day of September, 2016.

THE CITY OF WAYNE, NEBRASKA,

By _____
Mayor

ATTEST:

City Clerk

RESOLUTION NO. 2016-64

WHEREAS, the City of Wayne desires to amend Resolution No. 2016-29, a standard wage and salary schedule which was effective April 19, 2016;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Wayne, Nebraska, that the City of Wayne Wage & Salary Schedule shall be as follows:

CITY OF WAYNE
NON-EXEMPT WAGE AND EXEMPT SALARY SCHEDULES
Effective September 20, 2016

NON-EXEMPT WAGE SCHEDULE

<u>JOB CLASSIFICATION</u>	<u>HOURLY RANGE</u>		
Part-Time Employees (Lifeguards, Senior Center Activities Aid)	9.00	-	11.02
Recreation – Leisure Services Assistant I	9.00	-	11.66
Senior Center Operations Assistant	9.00	-	11.66
Custodian	9.68	-	12.88
Handi-Van Driver	10.69	-	14.23
Assistant Librarian I	11.22	-	15.30
Assistant Pool Manager	12.00	-	
Heavy Equipment Operator I	12.98	-	17.28
Pool Manager	13.50	-	15.00
Heavy Equipment Operator II	13.63	-	18.58
Administrative Assistant	13.63	-	18.58
Librarian I	13.63	-	18.58
Water/Sewer Operator I	14.34	-	19.08
Light Plant Operator II	14.34	-	19.08
Account Clerk II	14.34	-	19.08
Accountant/Assistant Treasurer	14.34	-	19.08
Dispatchers	14.43	-	19.26

Mechanic	15.06	-	20.53
Dispatch Supervisor	15.39	-	20.54
Water/Wastewater Operator II	15.76	-	21.18
Assistant Street Foreman	15.76	-	21.18
Class A Licensed Electrician	15.76	-	21.18
Apprentice Lineman	15.76	-	21.18
Power Plant Foreman	17.03	-	22.67
Street Foreman	17.81	-	23.70
Patrolman	17.81	-	24.72
Water/Wastewater Operator III	18.19	-	24.20
Lineman I	18.61	-	26.11
Chief of Electric Production	19.11	-	27.09
Technology Support Specialist	20.42	-	27.55
Building Inspector/Planner/Street Superintendent	20.61	-	28.11
Lineman II	20.61	-	28.11
Water/Wastewater Foreman	21.01	-	28.11
Police Sergeant	21.43	-	28.16
Senior Lineman	22.25	-	29.61
Water Supervisor	22.25	-	31.11
Electric Line Supervisor	26.41	-	35.37

EXEMPT SALARY SCHEDULE

JOB CLASSIFICATION

Recreation Services Director	15.69	-	25.50
Community Activity Center Director	15.69	-	25.50
Sr. Citizens Center Coordinator	13.77	-	20.94
Library Director	21.03	-	28.32

Ex-Officio Treasurer for Airport	500.00		
Public Buildings Manager	300.00		
Third Party Administrator MRP	250.00		
City Clerk	24.74	-	34.76
Finance Director	25.90	-	35.38
Electric Superintendent – Production	26.41	-	34.98
Police Chief	29.45	-	38.93
Electric Superintendent - Distribution	19.87	-	36.98
City Administrator			50.33

BE IT FURTHER RESOLVED that upon satisfactory evaluation, the progression through the exempt salary schedule and the labor grade steps shall be at least twelve (12) months, unless otherwise deemed warranted and appropriate by the City Administrator.

BE IT FURTHER RESOLVED that employees receiving wage rates less than rates scheduled herein above shall have their wage rates adjusted only upon satisfactory evaluation.

PASSED AND APPROVED this 20th day of September, 2016.

THE CITY OF WAYNE, NEBRASKA

By _____
Mayor

ATTEST:

City Clerk

City of Wayne 2016 wage Scale

	P	A	B	C	D	E	F	G	H	I	J
	0/6 mo	6 mo/1 yr	1 - 2 yr	2 - 3 yr	3 - 4 yr	4 - 5 yr	5 - 6 yr	6 - 7 yr	7 - 8 yr	8 - 9 yr	9 yr & beyond
Part time employees; Life guards, Senior Center Activities Aide	\$ 9.00	\$ 9.19	\$ 9.38	\$ 9.58	\$ 9.78	\$ 9.99	\$ 10.20	\$ 10.41	\$ 10.63	\$ 10.85	\$ 11.02
Rec Leisure Service Asst; Senior Center Operations Assistant	\$ 9.00	\$ 9.23	\$ 9.47	\$ 9.72	\$ 9.97	\$ 10.23	\$ 10.50	\$ 10.77	\$ 11.05	\$ 11.34	\$ 11.66
Custodian	\$ 9.68	\$ 9.96	\$ 10.25	\$ 10.55	\$ 10.85	\$ 11.17	\$ 11.49	\$ 11.82	\$ 12.17	\$ 12.52	\$ 12.88
Handi Van Driver	\$ 10.69	\$ 10.95	\$ 11.27	\$ 11.61	\$ 11.96	\$ 12.32	\$ 12.69	\$ 13.07	\$ 13.46	\$ 13.87	\$ 14.23
Asst. Librarian 1	\$ 11.22	\$ 11.57	\$ 11.93	\$ 12.30	\$ 12.68	\$ 13.07	\$ 13.48	\$ 13.89	\$ 14.32	\$ 14.77	\$ 15.30
Heavy Equip Op I	\$ 12.98	\$ 13.36	\$ 13.75	\$ 14.15	\$ 14.56	\$ 14.98	\$ 15.41	\$ 15.86	\$ 16.32	\$ 16.79	\$ 17.28
Pool manager	\$ 13.50	\$ 13.66	\$ 13.80	\$ 13.94	\$ 14.08	\$ 14.22	\$ 14.36	\$ 14.50	\$ 14.65	\$ 14.79	\$ 15.00
Heavy Equip Op II	\$ 13.63	\$ 14.06	\$ 14.50	\$ 14.96	\$ 15.43	\$ 15.91	\$ 16.41	\$ 16.93	\$ 17.46	\$ 18.01	\$ 18.58
Admin. Assistant	\$ 13.63	\$ 14.06	\$ 14.50	\$ 14.96	\$ 15.43	\$ 15.91	\$ 16.41	\$ 16.93	\$ 17.46	\$ 18.01	\$ 18.58
Librarian 1	\$ 13.63	\$ 14.06	\$ 14.50	\$ 14.96	\$ 15.43	\$ 15.91	\$ 16.41	\$ 16.93	\$ 17.46	\$ 18.01	\$ 18.58
Water/Sew Operator I	\$ 14.34	\$ 14.76	\$ 15.19	\$ 15.63	\$ 16.08	\$ 16.54	\$ 17.02	\$ 17.52	\$ 18.03	\$ 18.55	\$ 19.08
Light Plant Op II	\$ 14.34	\$ 14.76	\$ 15.19	\$ 15.63	\$ 16.08	\$ 16.54	\$ 17.02	\$ 17.52	\$ 18.03	\$ 18.55	\$ 19.08
Account Clerk II	\$ 14.34	\$ 14.76	\$ 15.19	\$ 15.63	\$ 16.08	\$ 16.54	\$ 17.02	\$ 17.52	\$ 18.03	\$ 18.55	\$ 19.08
Account/Asst. Treas	\$ 14.34	\$ 14.76	\$ 15.19	\$ 15.63	\$ 16.08	\$ 16.54	\$ 17.02	\$ 17.52	\$ 18.03	\$ 18.55	\$ 19.08
Dispatchers	\$ 14.43	\$ 14.85	\$ 15.28	\$ 15.73	\$ 16.18	\$ 16.65	\$ 17.13	\$ 17.63	\$ 18.14	\$ 18.67	\$ 19.26
Mechanic	\$ 15.06	\$ 15.53	\$ 16.02	\$ 16.53	\$ 17.05	\$ 17.59	\$ 18.14	\$ 18.71	\$ 19.30	\$ 19.91	\$ 20.53
Dispatch Supervisor	\$ 15.39	\$ 15.84	\$ 16.30	\$ 16.77	\$ 17.26	\$ 17.76	\$ 18.27	\$ 18.80	\$ 19.35	\$ 19.91	\$ 20.54
W/W Operator II	\$ 15.76	\$ 16.23	\$ 16.72	\$ 17.22	\$ 17.74	\$ 18.27	\$ 18.82	\$ 19.38	\$ 19.96	\$ 20.56	\$ 21.18
Asst St Foreman	\$ 15.76	\$ 16.23	\$ 16.72	\$ 17.22	\$ 17.74	\$ 18.27	\$ 18.82	\$ 19.38	\$ 19.96	\$ 20.56	\$ 21.18
Licensed Electrician	\$ 15.76	\$ 16.23	\$ 16.72	\$ 17.22	\$ 17.74	\$ 18.27	\$ 18.82	\$ 19.38	\$ 19.96	\$ 20.56	\$ 21.18
Apprentice Lineman	\$ 15.76	\$ 16.23	\$ 16.72	\$ 17.22	\$ 17.74	\$ 18.27	\$ 18.82	\$ 19.38	\$ 19.96	\$ 20.56	\$ 21.18
Power Plant Foreman	\$ 17.03	\$ 17.52	\$ 18.03	\$ 18.55	\$ 19.09	\$ 19.65	\$ 20.22	\$ 20.80	\$ 21.41	\$ 22.03	\$ 22.67
Street Foreman	\$ 17.81	\$ 18.33	\$ 18.86	\$ 19.40	\$ 19.97	\$ 20.55	\$ 21.14	\$ 21.76	\$ 22.39	\$ 23.04	\$ 23.70
Patrolman	\$ 17.81	\$ 18.40	\$ 19.00	\$ 19.63	\$ 20.28	\$ 20.95	\$ 21.64	\$ 22.35	\$ 23.09	\$ 23.85	\$ 24.72
W/W Operator III	\$ 18.19	\$ 18.71	\$ 19.26	\$ 19.82	\$ 20.39	\$ 20.98	\$ 21.59	\$ 22.22	\$ 22.86	\$ 23.52	\$ 24.20
Lineman I	\$ 18.61	\$ 19.25	\$ 19.92	\$ 20.60	\$ 21.31	\$ 22.05	\$ 22.81	\$ 23.60	\$ 24.41	\$ 25.25	\$ 26.11
Chief EI Prod	\$ 19.11	\$ 19.80	\$ 20.52	\$ 21.25	\$ 22.02	\$ 22.81	\$ 23.63	\$ 24.48	\$ 25.37	\$ 26.28	\$ 27.09
Tech Support Specialist	\$ 20.42	\$ 21.04	\$ 21.68	\$ 22.35	\$ 23.03	\$ 23.73	\$ 24.45	\$ 25.20	\$ 25.97	\$ 26.76	\$ 27.55
Bldg Insp/Plan/St Supt	\$ 20.61	\$ 21.27	\$ 21.95	\$ 22.66	\$ 23.38	\$ 24.13	\$ 24.90	\$ 25.70	\$ 26.52	\$ 27.37	\$ 28.11
Lineman II	\$ 20.61	\$ 21.27	\$ 21.95	\$ 22.66	\$ 23.38	\$ 24.13	\$ 24.90	\$ 25.70	\$ 26.52	\$ 27.37	\$ 28.11
Water/Wastewater Foreman	\$ 21.01	\$ 21.62	\$ 22.27	\$ 22.94	\$ 23.63	\$ 24.34	\$ 25.07	\$ 25.82	\$ 26.59	\$ 27.39	\$ 28.11
Police Sergeant	\$ 21.43	\$ 22.03	\$ 22.65	\$ 23.28	\$ 23.93	\$ 24.60	\$ 25.29	\$ 26.00	\$ 26.73	\$ 27.48	\$ 28.16
Senior Lineman	\$ 22.25	\$ 22.89	\$ 23.56	\$ 24.24	\$ 24.94	\$ 25.66	\$ 26.41	\$ 27.17	\$ 27.96	\$ 28.77	\$ 29.61
Water Supervisor	\$ 22.25	\$ 23.01	\$ 23.79	\$ 24.60	\$ 25.43	\$ 26.30	\$ 27.19	\$ 28.12	\$ 29.07	\$ 30.06	\$ 31.11
Electric Line Supervisor	\$ 26.41	\$ 27.20	\$ 28.02	\$ 28.86	\$ 29.72	\$ 30.62	\$ 31.53	\$ 32.48	\$ 33.46	\$ 34.46	\$ 35.37

	Bottom Hourly Rate	Top Hourly Rate
City Administrator	\$ 50.33	\$ 50.33
City Clerk	\$ 24.74	\$ 34.76
Finance Director	\$ 25.90	\$ 35.38
Chief of Police	\$ 29.45	\$ 38.93
Recreation Services Director; Community Activity Center Director	\$ 15.69	\$ 25.50
Library Director	\$ 21.03	\$ 28.32
Public Works Director	\$ 20.27	\$ 37.71
Supt. - Electric Distribution	\$ 19.87	\$ 36.98
Electric Superintendent- Production	\$ 26.41	\$ 34.98
Sr. Citizens Center Coordinator	\$ 13.77	\$ 20.94

minimum wage \$9 as of 1/1/16

RESOLUTION NO. 2016-65

**A RESOLUTION APPROVING THE SIGNING OF PROGRAM AGREEMENT
SUPPLEMENT NO. 1 — FEDERAL-AID FUNDING.**

Whereas: The City of Wayne, Nebraska, (City) is proposing to develop and construct a transportation project for which it would like to obtain Federal funds; and

Whereas: The City of Wayne, Nebraska, understands that it must strictly follow all Federal, State and local laws, rules, regulations, policies and guidelines applicable to the funding of the Federal-aid project; and

Whereas: The City of Wayne, Nebraska, and the State of Nebraska, Department of Roads (State) wish to enter into an LPA Supplemental Program Agreement — Federal-Aid Funds which will out the various duties and funding responsibilities for the Federal-aid project; and

Whereas: the City of Wayne, Nebraska, wishes to designate its representative for this project.

Be It Resolved: by the City Council of the City of Wayne, Nebraska, that Ken Chamberlain, the Mayor of the City of Wayne, is hereby authorized to sign the attached LPA Supplemental Program Agreement — Federal-Aid Funds between the City of Wayne, Nebraska, and the State. The City of Wayne, Nebraska, hereby designates Joel Hansen to serve as the City's representative and Project Liaison (PL) with the State for this project.

The City of Wayne is committed to providing local funds for the project as required by the LPA Supplemental Program Agreement — Federal-Aid Funds.

NDOR Project Number: STPB-90(4)

NDOR Control Number: 31777

NDOR Project Name: Wayne Trail Phase II

PASSED AND APPROVED this 20th day of September, 2016, at Wayne, Nebraska.

THE CITY OF WAYNE, NEBRASKA,

By _____

Mayor

ATTEST:

City Clerk

**SUPPLEMENTAL LPA PROGRAM AGREEMENT- FEDERAL-AID
FUNDS INCLUDING NEW PROGRAM AGREEMENT**

CITY OF WAYNE, NEBRASKA
STATE OF NEBRASKA, DEPARTMENT OF ROADS
PROJECT NO. STPB-90(4),
STATE CONTROL NO. 31777
WAYNE TRAIL PHASE 2

WHEREAS, the Parties have been developing a local public agency (LPA) Federal-aid transportation project, and

WHEREAS, the Parties previously entered into a Program Agreement (the Existing Agreement) that governs the process and requirements for the development of this federal-aid LPA project, and

WHEREAS, the Existing Program Agreement required LPA to have a Responsible Charge (RC) who is required to oversee the day to day work of the project, and

WHEREAS, the State has recently revised its Federal-aid LPA project process and requirements including a revision of the standard Program Agreement language for federal-aid LPA projects (the New Program Agreement), and

WHEREAS, the New Program Agreement assigns to State, on behalf of LPA, many of the tasks that were required of LPA's under RC under the Existing Program Agreement, and

WHEREAS, LPA will select a Project Liaison (PL) to represent the LPA under the New Program Agreement; State will assign a Responsible Charge to represent the State under the New Program Agreement, and

WHEREAS, the Parties begin using the New Program Agreement for the upcoming phases of LPA's Federal-aid project, and

WHEREAS, the Existing Agreement will continue to apply to all completed or in-progress phases of the projects, and

WHEREAS, LPA's RC is expected to continue to manage the present and all prior phases of the project, and

WHEREAS, the LPA RC will act as the PL for future phases of the project, and

WHEREAS, the Parties are working on the Final Design phase, and

WHEREAS, pursuant to this Supplemental Agreement, the New Program Agreement will apply to future phases of this project beginning with the Final Design phase,

WHEREAS, the Existing Program Agreement will continue to apply to work completed up to the execution of this supplemental Program Agreement, and

WHEREAS, the Parties wish to supplement the Existing Program Agreement to clarify the funding obligation for this project.

NOW THEREFORE, in consideration of these facts, the LPA and State agree as follows:

For all phases of the development of this project, up to and including the portions of the Final Design phase, the Program Agreement signed by State on April 11, 2016, and any prior Supplemental Agreements, shall govern the rights and responsibilities of the Parties.

Beginning with the remaining work on the Final Design phase of this project, the New Program Agreement, and any applicable Supplemental Agreements, shall govern the rights and responsibilities of the Parties.

Further, the funding obligations of the parties is superseded by the language set out in the following sections, including but not limited to SECTION 14 FINANCIAL RESPONSIBILITY; any previous agreement between the Parties concerning funding for the project is null and void.

The Parties intend that the Existing Program Agreement and the New Program Agreement should be interpreted in harmony to the maximum extent possible, and should be read in a manner that will make the project eligible for Federal-aid funding. For any conflict in the language of the two Agreements that cannot be harmonized concerning upcoming phases or stages of the project, the New Program Agreement language shall govern, so long as the context does not otherwise require.

The following is the New Program Agreement to which the parties agree will be applicable as set out above:

NEW PROGRAM AGREEMENT- FEDERAL-AID FUNDS

THIS AGREEMENT is between the City of Wayne, Nebraska, a local public agency ("LPA"), and the State of Nebraska, Department of Roads ("State"), collectively referred to as the "Parties".

WITNESSETH:

WHEREAS, Federal-aid funds are available for transportation projects on eligible routes within the jurisdiction of Local Public Agencies under Title 23 of the United States Code and 23 Code of Federal Regulations, and

WHEREAS, federal law requires that the State act as a liaison for all Federal-aid local transportation projects, and

WHEREAS, LPA has a proposed project on an eligible route that LPA would like to seek Federal-aid funds to reimburse LPA for a percentage of the eligible and participating costs of the project, and

WHEREAS, LPA desires that this project, the location of which is shown on attached **Exhibit "A"**, be developed and constructed under the designation of Project No. STPB-90(4), as evidenced by the Resolution of the LPA dated the _____ day of _____, 2016, attached as **Exhibit "B"** and made a part of this agreement, and

WHEREAS, the project is described generally as follows:

A 3.6 mile long concrete and crushed limestone trail beginning at Henry Victor City Park at the end of the existing Phase 1 trail. The trail extends west and north passing by Wayne Public Schools and includes an underpass under Hwy 35. The trail ends at Wayne State College at approximately Hwy 15 and Lindahl Drive, and

WHEREAS, the Federal share payable on any portion of a local Federal-aid project will be a maximum of 80 percent of the eligible and participating costs; the LPA's share will be the

remaining 20 percent of the eligible and participating costs; and LPA will also be responsible for all other nonparticipating or ineligible costs of the project, and

WHEREAS, this Supplemental Agreement will also correct and clarify the original funding portion of the agreement, and

WHEREAS, regulations for implementing the provisions of the above mentioned act provide that the Federal share of the cost of those projects will be paid only to the State, and

WHEREAS, the regulations further allow and State requires that LPA use its own funds to match Federal Funds for the costs of local transportation projects, and

WHEREAS, State is willing to assist LPA in seeking Federal approval of the proposed project and use of Federal Funds to reimburse LPA for a percentage of the development and construction of the proposed improvement, with the understanding that LPA's project is not a State project and that no State Funds are to be expended on this project, and

WHEREAS, the LPA wishes and the State intends to act as the Responsible Charge (RC) for the project on the LPA's behalf, and

WHEREAS, State is willing to act as RC so long as the State is reimbursed for its costs and the parties understand that the project will be LPA's project and LPA will have ultimate responsibility for the development and construction of the project, and

WHEREAS, LPA understands that time is of the essence in the development of this project and LPA is willing to allow State to manage the schedule of the project and LPA commits to taking prompt action when requested by State so that this project will stay on schedule, and

WHEREAS, LPA understands that the State, on behalf of LPA, will advertise the project for bids, conduct a letting, make award recommendations to LPA and prepare a construction contract for LPA's execution and use, and

WHEREAS, the State will be responsible for paying directly the project construction contractor, preliminary and construction engineering providers, and any consultant related to Right-of-Way appraisal, appraisal review, negotiation and relocation assistance.

WHEREAS, it is understood that the State will act in two capacities for this project; (1) State will act as a liaison with Federal Highway Administration (FHWA) concerning issues about the eligibility of the project for Federal-aid funding; and (2) State will coordinate with the LPA to address any Federal-aid issues that have been identified with the project, and

WHEREAS, Federal Regulations provide that the LPA shall not profit or otherwise gain from local property assessments that exceed the LPA's share of project costs, and

WHEREAS, the funding for the project under this Agreement includes monies from the FHWA, therefore, if a non-federal entity expends \$750,000 or more in total federal awards in a fiscal year then the audit requirements of 2 CFR, Subtitle A, Chapter 2, Part 200, Subpart F, must be addressed as explained further in this Agreement, and

WHEREAS, the planning level DR 530 estimate of the cost of the project is \$1,965,793.00, but such costs may increase or decrease due to variations between the estimated and actual project costs, and

WHEREAS, LPA's share of the total project costs is estimated to be \$393,159.00. LPA has earmarked and has placed in its fiscal budget at least the amount of the local match indicated above. LPA's share of the project costs may increase or decrease due to variations between the estimated and actual project costs, and

SECTION 1. DEFINITIONS

For purposes of this agreement, the following definitions will apply:

"AASHTO" means American Association of State Highway and Transportation Officials.

"ADA" means the Americans with Disabilities Act.

"ASTM" means the American Society for Testing and Materials.

"CFDA" means Catalog of Federal Domestic Assistance.

"CFR" means the Code of Federal Regulations.

"DOT" means the United States Department of Transportation, Washington, D.C. 20590, acting through its authorized representatives.

"FHWA" means the Federal Highway Administration, United States Department of Transportation, Washington, D.C. 20590, acting through its authorized representatives.

"LPA" means the Local Public Agency that is sponsoring a Federal-aid transportation project.

"LPS" means the Local Projects Section at Nebraska Department of Roads, in Lincoln, Nebraska.

"NEB. REV. STAT" means the Nebraska Revised Statutes, which is the official compilation of Nebraska law.

"OMB" means the Federal Office of Management and Budget.

"RESPONSIBLE CHARGE" or "RC" means the State representative(s) assigned to oversee the development of the project. The RC will ordinarily be the State's Project Coordinator from the Local Projects Section of the Material and Research Division of the Nebraska Department of Roads.

"PROJECT MANAGER" means the employee or designee of the State who will manage the construction of the project on behalf of the LPA.

"STATE" means the Nebraska Department of Roads in Lincoln, Nebraska, its Director, or authorized representative. The State is a funding liaison between LPA and the United States Department of Transportation for LPA federally funded transportation projects.

"STATE CERTIFIED CONSULTANT" means a Consultant that has met the certification requirements of the Nebraska Department of Roads to provide professional services in certain work categories for federal and state funded work in Nebraska.

"PROJECT LIAISON" or "PL" means the officially designated employee of LPA who has been properly authorized to serve as LPA's representative and to be a liaison between LPA and the State and Federal government for LPA's Federal-aid transportation project.

SECTION 2. DURATION OF THE AGREEMENT (2-25-14)

2.1 *When Effective* --This Agreement is effective immediately on the date it is fully executed by the Parties.

2.2 *Renewal, Extension or Amendment* --This Agreement may be renewed, extended or amended by mutual agreement or as otherwise provided herein.

- 2.3 Identifying Date** – For convenience, this Agreement’s identifying date will be the date the State signed the agreement.
- 2.4 Duration**– The Agreement will expire upon completion of the LPA’s Federal-aid project and final financial settlement, except that any terms of this Agreement that contemplate long term activities of the LPA such as environmental, maintenance, and operational commitments, will remain in effect as long as required by law, NEPA document, permit or agreement.
- 2.5 Termination** – Further, State reserves the right to terminate the Agreement as provided herein. If the LPA determines that for any reason it will not continue with the development of this project as a Federal-aid project, the LPA shall notify the State and negotiate any necessary project termination conditions consistent with this Agreement.

SECTION 3. PURPOSE OF AGREEMENT

The LPA wishes to obtain Federal-aid funding for a Federal-aid transportation project on a street, highway, road, trail or other transportation related facility under LPA’s jurisdiction. The Federal Highway Administration (FHWA) will not provide funding directly to LPA for this project, but will provide Federal funding for eligible and participating project costs through the State. The State, pursuant to Neb. Rev. Stat. § 39-1305, will act under this agreement as a steward of Federal Funds and as a liaison between LPA and FHWA. Further, State will act as the RC on behalf of LPA. The purpose of this agreement is to set forth the understanding of the LPA and the State concerning their respective duties to enable the project to be eligible for federal-aid funding. The LPA agrees that it is ultimately responsible for complying with all Federal and State requirements and policies applicable to Federal-aid highway projects. This includes, but is not limited to, meeting all post-construction commitments, including but not limited to any maintenance and environmental document commitments. The LPA understands that failure of LPA or State to meet any eligibility requirements for Federal funding may result in the loss of all Federal funding for the project. In the event that FHWA finds that the project is ineligible for Federal funding, the LPA will repay the State all previously paid Federal Funds, as determined by the State, and any costs or expenses the State has incurred for the project, including but not limited to, any costs reimbursed for the time and expenses of the RC. LPA further agrees that LPA shall have no claim or right of action against the State under this agreement if FHWA determines that the project is not eligible, in whole or in part, for federal-aid funding except in the event that an error or omission of State proximately caused the project to be declared ineligible for federal funding in whole or in part, LPA’s sole remedy against State is that LPA shall not be required to repay State for State’s costs attributable to the part of the project in which the error or omission occurred. The following sections of this agreement include the program requirements and other conditions State believes in good faith that LPA must meet for this project to be eligible for federal funding.

LPA acknowledges that many conditions must be met for the transportation project contemplated by this agreement to be constructed and for project costs to be reimbursed with federal-aid funds. Those conditions include, but are not limited to, the unknown availability of federal-aid funds, the timely and satisfactory completion of all federal-aid funding requirements,

and the State's perceived priority of this project with other projects competing for limited federal-aid funds. Therefore, LPA agrees to assist in the development of this project in an effort to meet all federal and state eligibility requirements so the project may be determined eligible for federal-aid funding.

The parties further understand that the project plans and specifications shall be sealed, signed and dated by a professional licensed engineer in the State of Nebraska, and that estimates will be prepared and the construction will be observed by a professional engineer licensed in the State of Nebraska or a person under direct supervision of a professional engineer licensed in the State of Nebraska as required by Neb. Rev. Stat. § 81-3445.

SECTION 4. FEDERAL AID PROJECT REQUIREMENTS

For any work to be completed by LPA on this project, LPA agrees to comply with all Federal-aid project procedures and requirements applicable to this project, including federal laws, and when applicable, state and local laws, and the LPA Guidelines Manual for Federal-aid Projects.

4.1 The Applicable Legal and Contract Requirements.

- a. **Title 23 U.S.C., 23 CFR, and 49 CFR** - Title 23, Chapter I, of the United States Code contains most of the federal laws governing this Federal-aid transportation project.

Title 23 of the Code of Federal Regulations is a codification of the rules and regulations including provisions governing Federal-aid highway projects administered by the Federal Highway Administration, Department of Transportation. Title 49 of the Code of Federal Regulations, Parts 1-99, also includes regulations applicable to LPA's Federal-aid highway project. The Federal-aid highway program provisions of 49 CFR are found primarily in Parts 18, 19, 24, 26-29, 32, 37 and 38.

- b. **LPA Guidelines Manual** - LPA also agrees to strictly comply with the provisions of the LPA Guidelines Manual for Federal Aid Projects (The Manual), which is incorporated herein by this reference. The Manual is a document drafted in part, and formally approved, by the FHWA as a document setting out requirements for LPA projects funded with Federal-aid funds. A current version of The Manual can be found in its entirety at the following internet address:

<http://www.transportation.nebraska.gov/gov-aff/loa-guide-man.html>. In the event the LPA believes that The Manual does not clearly address a particular aspect of the project work, the LPA shall seek guidance or clarification from the State's Local Project Division Section Engineer or Project Coordinator, and shall make its best effort to comply with such guidelines or clarification.

- 4.2 Federal Oversight.** If the project has been designated as full federal oversight, then additional federal oversight and approvals will be required. It is the responsibility of the LPA to understand the additional requirements and ensure that the State and FHWA are provided timely notice for additional oversight and approvals.

SECTION 5 – GENERAL PROJECT DUTIES

5.1 State's Responsibilities.

This Project is LPA's project and LPA understands that State will be acting as LPA's representative in the development and construction of the project. The State will act as Responsible Charge (RC), on behalf of LPA, for this project. The State will also act as Project Manager and Project Inspector to oversee the construction of the project.

Except for the duties expressly delegated to LPA herein, the State shall be responsible for completing or overseeing all stages of the development of the Federal-aid project on **LPA's behalf** including planning, environmental, design, right-of-way, utilities, railroad, construction and construction engineering.

5.2 LPA's Responsibilities.

LPA will be responsible for confirming that the State's work on its behalf conforms to LPA's intentions and will keep the project eligible for federal-aid funds. LPA shall make its best efforts to provide approvals, sign documents, and to promptly do all things necessary to help State or the project consultant(s) with the development and construction of LPA's project. LPA's Project Liaison shall be responsible for safeguarding the interests of LPA in the project, for giving approvals as needed, and for obtaining formal LPA approval and authority when deemed necessary by the LPA. LPA shall also, when applicable, provide construction inspection services related to any LPA owned utility facility rehabilitation work included within the project construction contract.

SECTION 6 – LPA'S PROJECT LIAISON

LPA shall formally appoint an LPA employee, and provide the State with that employee's name, mailing address, email address and phone number, and shall authorize that employee to act as LPA's Project Liaison (hereinafter known as "LPA's Project Liaison" or "LPA's PL" or "PL"), to take all actions necessary for the project on behalf of LPA and to serve as a liaison between the State and LPA. LPA's PL shall be certified by a process developed by State to act as a PL for the project.

SECTION 7 – PROGRAMMING DOCUMENT

LPA has submitted to State the official project programming document, the DR Form 530 that specified the scope of the project and the estimated cost of the project. The State's Project Scheduling Division has approved the DR530. **LPA shall formally approve the signing of this Program Agreement.**

SECTION 8 – PROCUREMENT OF PROFESSIONAL SERVICES

LPA hereby authorizes the State to retain the Professional Services providers deemed necessary by the State for the development and construction of LPA's project. The typical Professional Services Providers used for a project of this type include but are not limited to project design and construction engineering; NEPA and other Environmental Specialists; Right-of-Way Appraisal, appraisal review, negotiation and relocation assistance; and construction

engineering. LPA authorizes the State to use State's qualification based selection process or a State "On-Call" Consultant for the selection of Engineering or Environmental Consultants, and to select a service provider from the State's list of Right-of-Way Service Providers. State is further authorized by LPA to select any other service providers deemed necessary by State for LPA's project using State processes for such selections. The State shall make the final decision as to which service provider(s) will be selected for LPA's project. The Consultant Agreement will specify that State will manage and administer the Agreement and enforce the terms and the progress of the work under the Agreement on behalf of LPA. Although, the Consultant Agreement will be three party agreement, the parties understand that the state will be solely responsible for the day-to-day scheduling and oversight of the progress of the work under the contract. **LPA agrees to promptly sign any service provider Agreements prepared by the State with the selected Consultant.** Further, LPA hereby authorizes State to issue a Notice-to-Proceed to the selected service provider as soon as State determines it is necessary, even if such date is prior to obtaining LPA's execution of the Agreement, unless LPA notifies the State in writing that the Agreement must be executed before work may begin.

SECTION 9 – PLAN DEVELOPMENT AND PROJECT ENVIRONMENTAL WORK

9.1 General

The plans, specifications and estimates for the construction of LPA's project are expected to be developed by a design consultant, but if State elects to not use a design consultant, State employees will design the project on LPA's behalf. LPA shall authorize its Project Liaison (PL) to carefully follow the development of the project plans so that PL will have a thorough understanding of the planned improvement and will ensure that the project design is acceptable to LPA. LPA shall immediately notify State when it has concerns or questions about the development of the plans. It is expressly understood that LPA is responsible for the completed design of this project as if LPA had designed the project itself.

9.2 Plan-in-Hand (PIH)

The State and the Design Consultant shall prepare for and hold a PIH meeting at the project site, and shall create a PIH report from the PIH meeting. LPA's Project Liaison shall attend the project PIH meeting and Project Liaison shall notify LPA's governing body of the conclusions of the PIH report. **LPA shall formally review and approve the project PIH plans and report.** State will continue with the development of the project based on the PIH report and plans unless LPA promptly notifies State that LPA's governing body objects to the plans or conclusion(s) of the report.

9.3 Project Environmental Work

The LPA hereby authorizes State to act as the agent for the LPA concerning all environmental issues on this project. LPA authorizes the State to select an Environmental Consultant to complete the development and writing of the environmental documents and permit applications. State will oversee and manage the development of the environmental documents and permit applications, as well as the schedule for the environmental work. **The LPA's PL shall promptly review and approve the project**

NEPA documents and the environmental commitments that will be associated with this project; LPA's PL shall communicate those commitments to LPA's governing body. LPA shall notify State immediately after review of such documents if LPA decides not to proceed with the project because of the environmental costs and commitments for the project. LPA will sign NEPA documents and permit applications and be responsible for meeting all environmental commitments as the owner of the transportation facility. **MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) PROGRAM.** If LPA's project is within an area that is subject to the federal Storm Water Phase II Regulatory Requirements of 40 CFR 122.34 (b), then project consultant will design, construct and maintain, as a part of this project, water quality facilities as required by LPA's National Pollutant Discharge Elimination system (NPDES) permitted Municipal Separate Storm Sewer System (MS4) program. If the LPA does not have an active construction storm water management and post construction storm water management program, the project consultant shall follow the State (NDOR) MS4 program.

9.4 90% Plans Stage

LPA shall review and give its formal approval to the construction plans at the "90% Plans" stage, including, when applicable, the right-of-way plans and the right-of-way cost estimates completed by the State or the project design consultant. After LPA's approval of the 90% plans, LPA shall also review and approve the utility rehabilitation plans developed from the 90% plans.

9.5 Coordinating Professional

As required by Neb. Rev. Stat. § 81-3437, if LPA's project involves more than one licensed professional engineer or architect, the State shall designate a Coordinating Professional for this project. The Coordinating Professional shall apply his or her seal and signature and the date to the cover sheet of all documents and denote the seal as that of the Coordinating Professional. The Coordinating Professional shall verify that all design disciplines involved in the project are working in coordination with one another, and that any changes made to the design are approved by the corresponding discipline. "Coordinating Professional" shall have the meaning set out in §81-3408 of the Nebraska Engineers and Architects Regulation Act (Neb. Rev. Stat. § 81-3401 et. seq.) The Coordinating Professional shall also comply with the provisions of the Act, including Neb. Rev. Stat. § 81-3437(3)(g), and the implementing Rules and Regulations, Title 110, NAC section 6.3, and when applicable, shall complete the duties of design coordination set out in Neb. Rev. Stat. § 81-3421.

9.6 Professional Performance

It is understood by the Parties that the LPA is solely responsible for the professional performance and ability of the LPA and the project consultant(s) in the planning, design, construction, operation and maintenance of this project. Any review or examination by the State, or acceptance or use of the work product of the LPA or the project consultant(s) will not be considered to be a full and comprehensive review or examination and will not be considered an approval, for funding or for any other purpose, of the work product of the LPA and the project consultant which would relieve the LPA

from any expense or liability that would be connected with the LPA's sole responsibility for the propriety and integrity of the professional work to be accomplished by the LPA for the project.

9.7 Public Involvement

Early in the planning of the project, the State's Public Involvement Coordinator will evaluate the project and decide what process is required for Public Involvement. State will coordinate all required public notice and public involvement Statewide Transportation Improvement Plan (STIP) questions. State and the project design consultant will facilitate all public involvement activities with assistance, when necessary, from the LPA. The LPA shall assist with the public involvement process and will be represented at public involvement activities that require attendance of LPA's representatives(s). The State's Public Involvement Coordinator will continue to oversee all project Public Involvement processes.

SECTION 10 – RIGHT-OF-WAY (ROW)

10.1 Governing Documents

The Federal law governing acquisition of additional property rights and relocation assistance on federally assisted projects is found in 23 CFR Part 710, and Public Law 91-646, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended, commonly called the Uniform Act (49 CFR Part 24). The Local Public Agency (LPA) shall comply with 23 CFR part 710, the Uniform Act, the State's "Right-of-Way Acquisition Guide for Local Public Agencies" and the State's "Right-of-Way Manual".

The Uniform Act applies whenever Federal dollars are used in any phase of a project, such as planning, engineering, environmental studies, or construction. **The Uniform Act must be followed even if there is NO Federal funding in the Right-of-Way phase.** The State's Relocation Assistance Act, Neb. Rev. Stat. §§ 76-214 to 76-1238 applies on all projects.

10.2 LPA Authorization for State to Act on LPA's Behalf

This Section applies when the State determines that property rights need to be acquired for the construction of LPA's project. When additional property rights are needed for the project, the State shall complete or provide oversight of the Right-of-Way activities, which are defined as appraisal, appraisal review process, acquisition process and, when necessary, relocation assistance. LPA hereby authorizes State to complete the ROW activities for the project on LPA's behalf, and authorizes State to complete the ROW activities for the project using State selected Right-of-Way service providers.

10.3 Right-of-Way Cost Estimate

The State will complete an estimate of the costs of acquiring the additional property rights. The State shall notify LPA of the aggregate estimated right-of-way costs. The parties understand that the estimate is preliminary and used primarily for planning and establishing the Federal ROW obligation. LPA shall review the right-of-way cost estimate and notify State immediately if LPA decides to not proceed with the project

because of these costs. Withdrawing the project by LPA will require LPA to repay (1) all Federal-aid funds used for the project to date and (2) all costs incurred by State arising out of State's work under this agreement.

10.4 Condemnations

LPA authorizes State to acquire the necessary ROW by voluntary conveyance from property owners; however, LPA understands and agrees that sometimes properties must be acquired by condemnation action. The State cannot complete condemnation actions for LPA's project. Therefore, the LPA shall be solely responsible for filing and handling condemnation actions to acquire the ROW from property owners when State, in its sole discretion, determines a condemnation action is necessary. LPA understands that it must file condemnation actions, hold hearings, and cause the amounts of the condemnation awards to be paid into County Court before State will advertise LPA's project for bid letting. If LPA does not promptly complete the condemnation of the properties needed for the project, the project will not be constructed. In the event the project will not be constructed for this reason, LPA will be subject to (1) the loss of federal-aid funds for the entire project, and (2) repayment to State in full of all Federal-aid funds used on the project and all costs incurred by State arising out of State work under this agreement.

10.5 Encroachments

Federal law requires that the right-of-way for a Federal-aid project must be dedicated exclusively to the transportation use for which the project is to be constructed. The State will not advertise for, or hold, a bid letting for LPA's project until the existing ROW has been cleared of all encroachments. The LPA, at no cost to the project, shall clear the entire existing ROW of this project of any private or non-LPA uses or occupancy of the area above, below, or on the existing ROW. LPA agrees to take all necessary actions, including but not limited to (1) bringing appropriate legal proceedings to remove encroachments if the owner has no right to occupy the public ROW, (2) to acquire and pay for the removal of encroachments when the owner's right to occupy public ROW is clear, or (3) to litigate or otherwise resolve all disputed claims to State's satisfaction at LPA's sole cost. LPA understands that after the project is completed, LPA shall keep the project ROW free of future public or private encroachments or uses. LPA shall communicate regularly with State about the status of LPA's efforts to remove all encroachments identified on the project.

10.6 Land Corners

The LPA shall fully cooperate with State and the project Consultants to locate and reference or have located and referenced all section corners, quarter section corners and subdivision lot corners that may be affected by the construction of the proposed project in accordance with Section 39-1708 et. seq., R.R.S. 1943 as amended.

10.7 Special Assessments

Prior to initiating a special assessment on a Federal-aid project, the LPA shall notify the State of LPA's proposed assessment. A special assessment levied as part of this Federal-aid project shall be conducted as described in this section.

The LPA is required to provide to State documentation for each of the four points noted below. LPA is also required to follow all the terms of the Uniform Act in the acquisition of right-of-way for this Federal-aid project.

"When federal funds participate in a project, an LPA may not levy a *special assessment*, solely against those property owners from whom acquisitions are made for the public improvement, for the primary purpose of recovering the compensation paid for the real property. This recapture of compensation would constitute a form of forced donation, which is coercive and thus not permitted under the Uniform Act. However, an LPA may levy an assessment to recapture funds expended for a public improvement, provided the assessment is levied against all properties in the taxation area or in the district being improved and provided it is consistent with applicable local ordinances."

The LPA needs to confirm there is no Uniform Act violation by documenting the following:

- The affected property owners will be provided just compensation for their property as required by the Federal and State Constitutions and reiterated in the Uniform Act.
- The acquisition costs will be paid by the LPA and property owners made aware they will not be assessed the cost to acquire their property needed for the project.
- The purpose of the special assessment is not to recover the acquisition costs.
- The assessment will not be arbitrarily imposed on selected property owners in the special improvement district in response to their demand for just compensation or that the assessment will be implemented in a way that differs from the way other like assessments have been imposed under similar circumstances.

The project files must contain documentation affirming the above bulleted items.

10.8 Reimbursement of LPA's Right-of-Way

LPA is not expected to incur any reimbursable ROW costs for this project. However eligible ROW expenses include appraisal fees, title research fees, ROW Consultant fees, tract acquisition costs, reasonable relocation assistance costs, condemnation awards and Board of Appraisers fees. Additional expenses for condemnation proceeding or District Court Trial may be reimbursed to the LPA on a case-by-case basis.

All required documentation of Chapter 7 of the State's Right-of-Way Manual must be submitted to and approved by the State Right of Way Division in order for the LPA's ROW expenses to be reimbursed. All requests for ROW reimbursement should be submitted to State on ROW Form AP-23, along with supporting documents. One form needs to be completed for each property tract on the project.

10.9 Confidentiality of certain Right-of-Way

LPA understands that the State will manage the right-of-way design, appraisal and acquisition phase of this project. LPA understands that State will keep each individual property acquisition confidential until the State has completed the acquisition or turned

the file over to LPA for condemnation. LPA will safeguard all right-of-way acquisition information consistent with State's practice.

SECTION 11 – RAILROAD PROPERTY ON LPA'S PROJECT

The Section applies when State determines that LPA's project includes work to be completed on property owned by a Railroad Company or Railroad Companies. For grade separation projects, LPA and State shall enter into a separate funding and crossing closure agreement with Railroad specifying the funding commitments for the project. **The State, with assistance from LPA, shall when required by Railroad, develop a Construction Agreement for LPA to formally approve and sign with each applicable Railroad Company.** The State shall assist LPA, when required by railroad, in acquiring the property rights using documents developed or approved by the State for each applicable Railroad Company. LPA shall promptly meet any requirements of State or Railroad deemed necessary by State to construct the project or to be allowed to occupy railroad property.

SECTION 12 – UTILITY REHABILITATION WORK

12.1 Overview

This Section applies when State determines that LPA's project includes utility facilities that serve the public interest, owned by LPA or by another entity, which may be affected by the Construction of LPA's project. LPA shall assist State in determining what, if any, public or private utility facilities that serve a public interest are located along, over, under or across the project route. Utility facilities installed, relocated or rehabilitated within the Right-of-Way for this project must be completed in accordance with the provisions of Federal-aid Highway Policy Guide, 23 C.F.R § 645A, "Utility Relocations, Adjustments and Reimbursement", and Federal-Aid Policy Guide, 23 CFR §645B, "Accommodation of Utilities" issued by the U.S. Department of Transportation, Federal Highway Administration, and the State's "Policy for Accommodating Utilities on State Highway Right-of-Way." Further, LPA utility work shall be performed in conformance with the Buy America provisions found at 23 U.S.C § 313 and applicable regulations in 23 C.F.R § 635.410. LPA's project utility work shall also follow the current "Policy for Accommodating Utilities on State Highway Right-of-Way" and the LPA manual.

12.2 Eligible Costs

All eligible non-betterment municipally owned and operated utility rehabilitation costs within the corporate limits of the LPA will become a project cost. Outside the corporate limits, the non-betterment portion of utility rehabilitation costs will become a project cost for facilities occupying private property. Further, there will be no Federal reimbursement for utility facilities if they are located on existing public Right-of-Way, unless a right to future reimbursement was retained in a prior project; however, non-betterment costs of privately owned and operated utilities that serve a public interest will be reimbursed if they exist on private property and it becomes necessary to rehabilitate the utilities due to this project. All such reimbursements will be based on items and actual costs submitted

by the utility and approved by the LPA and the State up to the amount of federal funding obligation obtained by the State.

12.3 LPA Owned Utilities

12.3.1 Waterlines and Sanitary Sewer Lines – Along and under the project route

The transportation project design consultant will be responsible for designing the location within the new project of any waterlines or sewer lines that are located along and under the transportation project route. LPA shall cooperate with and provide the design consultant with the non-location design items, such as type, size and needed accessories, for any lines of these types.

12.3.2 All other Utility Facilities – Along or crossing the project

The eligible non-betterment costs of the necessary rehabilitation of all other LPA owned utility facilities shall be a project cost. No LPA owned utility rehabilitation work shall be performed by LPA prior to State obtaining Federal authorization and receipt of a Notice to Proceed; any work performed by LPA prior to receipt of Notice to Proceed will not be eligible for Federal-aid. **LPA shall develop the rehabilitation plan for the other LPA owned facilities affected by the project and submit the plan to State for review and approval.** The State may either (1) allow LPA to separately construct the other LPA owned utility rehabilitation plan, or (2) incorporate the other LPA owned utility rehabilitation plan into the plans for the transportation project to be constructed by the project construction contractor. When LPA separately constructs the other LPA owned utility rehabilitation, LPA shall submit to State its final invoice for the utility rehabilitation for State's review and reimbursement of actual eligible costs.

12.4 Non-LPA Owned Utilities

The State, with assistance from LPA, shall develop a Utility Rehabilitation Agreement for LPA to approve and sign with each non-LPA owned Utility Company that has utility facilities that may be affected by the project construction. **LPA shall formally approve and sign all Utility Rehabilitation Agreements with non-LPA owned utilities.** The agreements will require the owner of the utility facilities to develop a plan and schedule the completion of a project for the necessary rehabilitation of each facility caused by the project. The State will reimburse the eligible non-betterment rehabilitation costs incurred by the non-LPA owned utility. LPA shall take all actions State deems necessary to comply with any utility rehabilitation agreement(s) on this project, including enforcing the utility rehabilitation work schedule to avoid to the maximum extent possible any conflict with the project construction contractor's schedule.

12.5 State Highway Right-of-Way

Any project utility work to be completed within a State Highway ROW will require LPA to obtain approval and a form of a letter of authorization or a permit from the State. The State shall assist LPA with contacting the State's local District Engineer or Permits Officer to determine if a permit or permits are needed for the project and to make application for any needed permits to the District Engineer.

SECTION 13. FINAL PLANS, BID LETTING AND CONSTRUCTION

13.1 General

The construction of the project will be completed by a Contractor selected through the State's competitive bid process. LPA authorizes State to provide the construction project management and Inspection services on LPA's behalf. LPA shall authorize its PL to carefully follow the construction of the project so that PL will thoroughly understand the progress of the work to ensure that the construction will be acceptable to LPA. LPA shall immediately notify State when it has concerns or questions about the construction of the project. The parties understand that LPA is responsible for the conformance of the work of the construction contractor to the plans and specifications as if LPA had overseen the construction itself.

13.2 Plans, Specifications and Estimates (PS&E)

The State or the project design consultant will complete plans, specifications and estimates (the PS&E Package) for LPA's project. State shall simultaneously submit the PS&E Package to: (1) LPA for review and approval, and (2) State's Contract Lettings Section within the Construction Division, for final preparation of the PS&E Package for a bid letting. When the PS&E Package is finalized by State, and formal approval received from LPA, the State will advertise the project for a bid letting. **LPA will be requested to ratify any revisions made by the State in the final PS&E package when LPA approves the award of contract to the lowest responsible bidder on the project.** LPA agrees to not unreasonably withhold its ratification of PS&E package.

13.3 Bid Letting and Award of Construction Contract

The State, on behalf of the LPA, will provide the State's standard notice to bidders and will conduct a bid letting for LPA's Federal-aid project following the State's bid letting and award procedures. The State will recommend, for LPA's review and approval, its determination of the apparent low bidder for the project, except when the State rejects all bids. **LPA shall promptly review and formally approve the State's recommendation as to the lowest responsible bidder for LPA's project**, unless LPA has a compelling reason to withhold its approval. In the event that LPA withholds its approval, LPA shall provide State with its explanation of the reason for withholding approval and will make its best efforts to promptly resolve the dispute with State. If the parties are not able to promptly resolve the dispute, State shall reject all bids and at State's sole discretion, State may either re-let the project or terminate this Agreement. The LPA must provide a resolution concurring with the selection of the low bidder before the State will issue the construction contract for signing. LPA shall sign the construction contract with the selected contractor and will issue all applicable purchasing agent appointments and tax exempt certificates for this project.

13.4 Construction Oversight

LPA hereby authorizes the State to oversee the construction of LPA's project, including providing project management and inspection as necessary under the Construction Contract. LPA's PL shall be available to be present at the project site at all reasonable times during the construction of the project to act as a liaison and to represent the interests of LPA in the construction of the project.

13.5 Change Orders

The State will prepare any change orders to the project deemed necessary by the State. LPA hereby authorizes State to approve on its behalf, change orders deemed by State to be necessary for the construction of the project. **State reserves the right to seek formal approval from LPA for any change order.** When State seeks LPA's approval, the LPA shall make its best efforts to promptly respond so that contractors work will not be delayed. State shall provide copies of all change orders to LPA's PL. LPA shall hold State harmless, indemnify and defend the State against damages suffered by the State related to delay in approval of the change orders for the project.

13.6 Tentative and Final Acceptance

LPA hereby authorizes State to determine when the project is ready for tentative acceptance under the terms of the construction contract. At that time, the PL shall meet with the State's Project Manager and shall review the work of the project to confirm that the project has been constructed according to the contract. Unless the PL promptly objects in writing, LPA authorizes State to notify contractor in writing that the project has been tentatively accepted.

The State will notify the LPA's PL when the project is ready for final acceptance. LPA shall promptly review and act on the State's recommendation that the project is ready for final acceptance. **LPA shall formally approve the State's recommendation or provide a written explanation of why LPA cannot approve the State's recommended finding that the project is ready for final acceptance.** LPA shall make its best efforts to resolve any dispute it has with the State concerning final acceptance of the project.

13.7 Final Audit

LPA shall cooperate fully with State and shall provide any relevant information necessary to complete the final audit of the project. LPA shall take any actions necessary to resolve any issues involved with the audit of the project.

13.8 Maintenance and Environmental Commitments

LPA accepts sole responsibility for maintenance of the project after tentative acceptance of the project. LPA shall provide all future maintenance of the project consistent with the requirements for a Federal-aid project. LPA also accepts responsibility for meeting all project environmental and other commitments and responsibilities required by contract, permit, and environmental document or by federal or state law. The LPA will release and hold harmless the State and FHWA from any suits brought against the State arising out of the LPA's operation and maintenance of or related to the project.

13.9 Miscellaneous

LPA shall make its best efforts to provide approvals, sign documents, and do all things necessary to help State with the development and construction of LPA's project.

SECTION 14. FINANCIAL RESPONSIBILITY

14.1 General

LPA intends that its project be developed so that the project costs will be eligible for partial reimbursement with Federal-aid funds. The parties understand that no State funds will be used to finance the costs of LPA's project. The LPA understands that payment for the costs of this project, whether they be services, engineering, ROW, utilities, material or otherwise, are the sole responsibility of the LPA when Federal participation is not allowable or available or if the project is subsequently determined to be ineligible for Federal-aid funding. Therefore, if the Federal government declines to participate in the project or any portion of the project, the LPA is responsible for full project payment with no cost or expense to the State in the project or in the ineligible portion of the project. Should the project be abandoned before completion by the LPA, the LPA shall pay or repay the State for all costs incurred by the State or reimbursed with Federal-aid funds prior to such abandonment.

14.2 Total Project Costs and Funding Commitments

The total cost of the project is currently estimated to be \$1,965,793.00 which is detailed in the table below:

ESTIMATED PROJECT FUNDING (Attach supporting documentation for estimates)						
	FFY of TIP/STIP	Federal	Local Match	Nonparticipating	Other	Total
PE Phase						
PE		\$126,254.00	\$31,564.00			\$157,818.00
NEPA						
Final Design						
RC						
NDOR		\$14,800.00	\$3,700.00			\$18,500.00
PE Subtotal		\$141,054.00	\$35,264.00			\$1,554,364.00
ROW						
Utilities						
Construction		\$1,243,491.00	\$310,873.00			\$1,554,364.00
CE Phase						
CE		\$174,089.00	\$43,522.00			\$217,611.00
RC						
NDOR		\$14,000.00	\$3,500.00			\$17,500.00
CE Total		\$188,089.00	\$43,522.00			\$235,111.00
TOTAL		\$1,572,634.00	\$393,159.00			\$1,965,793.00

The parties wish to clarify some of the funding provisions set out in the original program agreement. The tenth and eleventh recital in the agreement had incorrect funding amounts, blank information and indicated that the project will include Preliminary Engineering as a project cost. In **Section 13 Preliminary Engineering**, in the body of the agreement, the agreement states that preliminary engineering is not eligible for the project. Therefore the parties agree to amend the original agreements as follows:

- a) The 10th recital of the agreement had a drafting error, and the amount for total project cost was not typed into the document. The correct dollar amount was

handwritten in and initialed by LPA. The state accepts and agrees to the amount handwritten and initial by LPA.

b) The 11th recital included an incorrect dollar amount which is intended to state the LPA funding responsibility. That dollar amount was typed into the agreement was incorrect and was crossed out and the correct share was handwritten in to the agreement and apparently initialed by LPA. The state accepts and agrees to the amount handwritten and initialed by LPA.

c) It states in **Section 13 Preliminary Engineering** of the original agreement said "Any preliminary engineering services to be performed by the LPA, State or by the Consultant will be funded solely with LPA funds and will not be eligible for Federal participation". This statement is in correct. The parties agree that Preliminary Engineering costs **are** eligible for reimbursement as a part of this project.

Both the LPA and State recognize the above estimate is preliminary and the final cost is likely to be higher as the project goes through the development and design process.

14.3 Authority of State

LPA hereby authorizes State to pay project consultants and the construction contractor directly on LPA's behalf. LPA authorizes State to include State's costs for overseeing the development and construction of the project as a reimbursable cost of the project. Generally, the cost of LPA and its PL will not be eligible for reimbursement with Federal-aid funds for this project. The following costs of LPA will be reimbursable with Federal-aid funds at the applicable percentage when State determines, in its sole discretion that the costs are proper and eligible for reimbursement under Federal and State Law:

- a. LPA's cost of the non-betterment rehabilitation of LPA owned utility facilities as described elsewhere in this agreement,
- b. LPA's costs to file and handle any condemnation proceeding needed for this project including the costs of the property rights acquired as described elsewhere in this agreement.

The criteria contained in Part 31 of the Federal Acquisition Regulations System (48 CFR 31) will be applied to determine whether the costs incurred by the LPA are allowable under this agreement.

14.4 State-Incurred Costs

The costs incurred by State employees to perform tasks on behalf of LPA related to the development and construction of this project will be part of the cost of the project. The LPA shall be responsible for such costs as charged by State employees; however, these costs may be eligible for Federal-aid participation up to the amount for which federal funds have been obligated.

LPA shall be solely responsible for any State incurred costs 1) exceeding the Federal share of the obligated funds, 2) not eligible for reimbursement for any reason, or 3) for which an obligation is not obtained.

14.5 LPA Project Budget and Invoicing by the State

The LPA will earmark and place in its fiscal budget an amount sufficient to fund LPA's project commitments as shown in subsection 14.1 above.

At times determined by the State, and after execution of this agreement, the State will invoice the LPA for some or LPA's entire share of the State incurred project costs. After execution of a professional services agreement for this project, the State will invoice the LPA their share of the total agreement amount.

Upon award of the construction contract, the State will send an invoice to the LPA requesting LPA to pay its share of (1) the costs of construction, based on the construction contract, (2) contingencies, (3) the costs of construction engineering (includes audit costs), and (4) any unbilled preliminary engineering expenses, unless other arrangement have been agreed upon in writing by the Parties. The LPA shall pay the State within 30 calendar days of receipt of invoice from State.

14.6 Audit and Final Cost Settlement

Final reimbursement requests must be made within 60 days after the filing of the State DR Form 299. Any invoices submitted after the 60 calendar day deadline will be ineligible for reimbursement.

The final settlement between the State and the LPA will be made after final funding review and approval by the State and after an audit, if deemed necessary, has been performed to determine eligible actual costs.

14.7 Project Withdrawal

If the LPA withdraws the project for any reason, LPA shall (a) repay State all Federal-aid funds that have been expended for the project and (b) pay State for all of State's costs associated with the project that have not been reimbursed by LPA.

SECTION 15. SUSPENSION OR TERMINATION

15.1 Suspension

The State, in its sole discretion, reserves the right to suspend LPA's project when the State determines that there are issues related to responsiveness, quality, project monitoring, eligibility or compliance with the terms of this agreement that must be corrected by LPA. Suspension of the project may include, but is not limited to, the State declaring LPA's continued work on the project ineligible for reimbursement and State discontinuing assistance with and review of LPA's work on the project. The State shall provide LPA with notice of the suspension including (1) a description of the reason(s) for

the suspension, (2) a timeframe for LPA to correct the deficiencies, and (3) a description of the actions that must be taken for the State to revoke the suspension.

A suspension may also be imposed by the State for any of the reasons listed in the Termination subsection below. Failure to correct the deficiencies identified in a suspension will be grounds for the loss of eligibility for federal funding for the project and for termination of this agreement.

15.2 Termination

This agreement may be terminated as follows:

- a. The State and the LPA, by mutual written agreement, may terminate the agreement at any time.
- b. The State may terminate this agreement for the following reasons:
 1. A decrease or shift in available federal-aid funding that will, in the sole discretion of the State, make it unlikely or impossible for this project to be prioritized to receive federal-aid funding.
 2. When LPA's project has not been properly advanced as evidenced by the occurrence of any of the following events:
 - a) LPA has failed to replace the Project Liaison (PL) with a PL approved by the State within 30 days during the design stage or 10 days during the project letting or construction stages, from when the PL leaves, or is removed from the project for any reason.
 - b) LPA either (1) informs the State that it is unwilling to use condemnation to acquire any of the property interests needed to construct the project, or (2) does not move promptly to acquire the needed property rights.
 - c) LPA has failed to take any action deemed necessary by State for the project to be ready for the targeted letting date within the year specified in the STIP.
 - d) LPA has not included the project or project phases within the LPA's one or six year plans or, when applicable, within the LPA's Transportation Improvement Program (TIP), in the correct fiscal year.
 3. LPA's failure to meet the requirements for Federal-aid local projects found in federal, state, or local law or policy, or the requirements of the LPA Guidelines Manual.
 4. A notice or declaration of FHWA or the State that any part of the project is or has become ineligible for federal funding.
 5. LPA's failure to sign any State requested project documents in a timely manner.
 6. LPA's failure to pay in full the local share specified in any agreement within 30 days after receipt of an invoice from the State.
 7. LPA's breach of a provision of this agreement.
- c. The LPA may terminate the agreement upon sixty (60) days written notice of termination to the State, subject to the LPA meeting the conditions of paragraph (e) below.
- d. Prior to the State terminating this agreement, the State shall provide written notice to the LPA of the basis for termination and, when determined applicable by State, provide the LPA sixty (60) days to properly resolve all issues identified by the State.

- e. Whenever the project is terminated for any reason, LPA shall (a) repay State all Federal-aid funds that have been expended for the project and (b) pay State for all of State's costs associated with the project that have not been reimbursed under 5.(a). Further, the LPA will thereafter be solely responsible for all costs associated with LPA's project.

SECTION 16. FEDERAL AUDIT REQUIREMENT

- 16.1 The funding for the project under this Agreement includes federal monies from the FHWA. According to the Single Audit Act Amendments of 1996 and the implementing regulations contained in 2 CFR, Subtitle A, Chapter 2, Part 200, Subpart F (hereinafter Part 200), the Part 200 Audit is required if the non-federal entity expends \$750,000 or more in total federal awards in a fiscal year. Non-federal entity means state and local governments and non-profit organizations.
- 16.2 The LPA shall comply with this Single Audit mandate as described in Section 16.1. Any federal funds for LPA projects paid directly to contractors and consultants by State, on behalf of the LPA, will be reported on State's schedule of expenditures of federal awards (SEFA) and need not be reported by LPA (as per FHWA's February 16, 2012 letter and State's February 24, 2012 letter). If a Part 200 audit is necessary, the expenditures related to the federal funds expended under this project should be shown in the report's Schedule of Expenditures of the Federal Awards (SEFA).
- 16.3 If necessary, the Federal award information needed for the SEFA includes:
- Federal Grantor:** U.S. Department of Transportation – Federal Highway Administration
 - Pass-Through Grantor:** Nebraska Department of Roads
 - Program Title:** Highway Planning and Construction (Federal-Aid Highway Program)
 - CFDA Number:** 20.205
 - Project Number:** STPB-90(4)
- 16.4 If a Part 200 Audit is submitted by the LPA, the LPA shall notify the Nebraska Department of Roads, Highway Audits Manager, at P.O. Box 94759, Lincoln, NE 68509-4759 when the audit reporting package and the data collection form have been submitted to the Federal Audit Clearinghouse (FAC) website.

SECTION 17. COMMITMENT TO CONTINUED USE OF TRANSPORTATION FACILITY

LPA has requested Federal-aid funds for this project based on a specific need for the construction or improvement of a street, road, highway, bridge, trail, or other transportation facility. If the project is constructed, LPA commits to use the project facility to meet the specific need that was the basis for the expenditure of Federal-aid funds. LPA shall submit to the State, for review and approval, any proposed changes to the LPA routes which affect the function or operation of the project facility either during construction or after the project is completed.

SECTION 18. INDEMNITY

The LPA agrees to hold harmless, indemnify, and defend the State and FHWA against all liability, loss, damage, or expense, including reasonable attorney's fees and expert fees, that

the State and/or FHWA may suffer as a result of claims, demands, costs, or judgments arising out of LPA's project and the terms of this agreement.

SECTION 19. TRAFFIC CONTROL

LPA shall assist State in the development, installation, and monitoring of the traffic control plan for the project, and for project related detours, before, during and after construction. Traffic control must conform to the current adopted Manual on Uniform Traffic Control Devices. LPA's PL shall monitor the construction work zone to confirm that the traffic control devices remain in conformance with the traffic control plan. LPA shall certify that all permanent traffic control devices on the completed project have been properly installed.

SECTION 20. CONFLICT OF INTEREST LAWS

The LPA shall review the Conflict of Interest provisions of 23 CFR 1.33 and 49 CFR 18.36(b)(3) and agrees to comply with all the Conflict of Interest provisions (including applicable State and local provisions) in order for the project to remain fully eligible for Federal funding. LPA should review, understand and follow the instructions provided in the **NDOR CONFLICT OF INTEREST GUIDANCE DOCUMENT FOR LPA OFFICIALS, EMPLOYEES & AGENTS FOR LOCAL FEDERAL-AID TRANSPORTATION PROJECTS** located on the State website at the following location:

<http://www.roads.ne.gov/gov-aff/lpa/chapter-forms/coi/coi-guidance-doc-lpa.pdf>

The LPA must also complete and sign the **NDOR CONFLICT OF INTEREST DISCLOSURE FORM FOR LPAS FOR LOCAL FEDERAL-AID TRANSPORTATION PROJECTS**, for each project. This form is located on the State website at the following location: <http://www.roads.ne.gov/gov-aff/lpa/chapter-forms/coi/coi-disclosure-doc-lpa.pdf>

Consultants and Subconsultants providing services for the project, or submitting proposals for services, shall submit a Conflict of Interest Disclosure Form for Consultants. Consultants and Subconsultants shall submit a revised form for any changes in circumstances, or discovery of any additional facts that could result in someone employed by, or who has an ownership, personal, or other interest with Consultant or Subconsultant having a real or potential conflict of interest on an LPA federal-aid transportation project.

SECTION 21. DRUG FREE WORKPLACE

The LPA shall have an acceptable and current drug-free workplace policy on file with the State.

SECTION 22. RECORDS RESPONSIBILITY

The LPA shall keep a project file for this project and keep and maintain all correspondence, files, books, documents, and papers related to LPA's involvement in the project. LPA shall make such material available at its office at all reasonable times during the contract period and for at least three years from the date of project completion; such records must be available for inspection by the State and the FHWA or any authorized representatives of the Federal government, and the LPA shall furnish copies to those mentioned in this section when requested to do so.

The State shall provide LPA with copies of the letting plans and specifications and all change orders. The State will also provide LPA with as-built plans after the conclusion of the project. LPA shall be given reasonable access upon request to State's project files.

SECTION 23. FAIR EMPLOYMENT PRACTICES

If the LPA performs any part of the work on this project, the LPA shall abide by the provisions of the Nebraska Fair Employment Practices Act as provided by Neb. Rev. Stat. §§ 48-1101 to 48-1126, and all regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation, Title 49 CFR, Parts 21 and 27 as set forth in the SECTION 30. TITLE VI NONDISCRIMINATION CLAUSES of this agreement. The reference to "Contractor" in this section also means the "LPA".

SECTION 24. DISABILITIES ACT

The LPA agrees to comply with the Americans with Disabilities Act of 1990 (P.L. 101-366), as implemented by 28 CFR 35, which is hereby made a part of and included in this agreement by reference.

SECTION 25. LAWFUL PRESENCE IN USA AND WORK ELIGIBILITY STATUS PROVISIONS

The LPA agrees to comply with the requirements of Neb. Rev. Stat. §§ 4-108 to 4-114 with its Federal-aid project, including, but not limited to, the requirements of § 4-114(2) to place in any contract it enters into with a public contractor a provision requiring the public contractor to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska.

SECTION 26. DISADVANTAGED BUSINESS ENTERPRISES (DBE)

26.1 Policy

The LPA shall ensure that disadvantaged business enterprises as defined in 49 CFR Part 26 shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal Funds under this agreement. Consequently, the DBE requirements of 49 CFR Part 26 are hereby made a part of and incorporated by this reference into this agreement.

26.2 Disadvantaged Business Enterprises (DBEs) Obligation

The LPA and State shall ensure that disadvantaged business enterprises as defined in 49 CFR Part 26 have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal Funds provided under this agreement. In this regard, the LPA shall take all necessary and reasonable steps in accordance with 49 CFR Part 26 to ensure that disadvantaged business enterprises have the maximum opportunity to compete for and perform contracts. The LPA shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of FHWA assisted contracts.

The LPA, acting as a sub-recipient of Federal-aid funds on this project shall adopt the disadvantaged business enterprise program of the State for the Federal-aid contracts the LPA enters into on this project.

Failure of the LPA to carry out the requirements set forth above shall constitute breach of contract and, after the notification of the FHWA, may result in termination of the agreement or contract by the State or such remedy as the State deems appropriate.

SECTION 27. TITLE VI NONDISCRIMINATION CLAUSES

During LPA's performance of the work under this agreement, the LPA, for itself, its assignees and successors in interest agrees as follows:

27.1 Compliance with Regulations:

The LPA shall comply with the Regulations of the Department of Transportation relative to nondiscrimination in federally assisted programs of the Department of Transportation (Title 49, Code of Federal Regulations, Parts 21 and 27, hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this agreement.

27.2 Nondiscrimination

The LPA, with regard to the work performed by it after award and prior to completion of the contract work, shall not discriminate on the basis of disability, race, color, sex, religion or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The LPA shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix "A," "B," and "C" of Part 21 of the Regulations.

27.3. Solicitations for Subcontracts, Including Procurements of Materials and Equipment:

In all solicitations either by competitive bidding or negotiation made by the LPA for work to be performed under a subcontract, including procurements of materials or equipment, each potential subcontractor or supplier shall be notified by the LPA of the LPA's obligations under this agreement and the Regulations relative to nondiscrimination on the basis of disability, race, color, sex, religion or national origin.

27.4. Information and Reports:

The LPA shall provide all information and reports required by the Regulations, or orders and instructions issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the State or the FHWA to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the LPA shall so certify to the State, or the FHWA as appropriate, and shall set forth what efforts it has made to obtain the information.

27.5. Sanctions for Noncompliance:

In the event of the LPA's noncompliance with the nondiscrimination provisions of this agreement, the State will impose such contract sanctions as it or the FHWA may determine to be appropriate, including but not limited to,

- a. Withholding of payments to the LPA under this agreement until the LPA complies, and/or
- b. Cancellation, termination or suspension of this agreement, in whole or in part.

27.6 Incorporation of Provisions:

The LPA shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, order, or instructions issued pursuant thereto. The LPA shall take such action with respect to any subcontract or procurement as the State or the FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that, in the event a contractor becomes involved in or is threatened with litigation with a subcontractor or supplier as a result of such direction, the LPA may request the State join in such litigation to protect the interests of the State, and in addition, the LPA may request the United States join in such litigation to protect the interests of the United States.

SECTION 28. ENTIRE AGREEMENT

This Agreement embodies the entire agreement of the Parties. There are no promises, terms, conditions, or obligations other than contained herein, and this Agreement supersedes all previous communications, representations, or other agreements or contracts, either oral or written hereto.

IN WITNESS WHEREOF, the Parties hereby execute this agreement pursuant to lawful authority as of the date signed by each party.

EXECUTED by the LPA this ____ day of _____, 2016.

WITNESS:
Betty A. McGuire

CITY OF WAYNE
Ken Chamberlain

LPA Clerk

Mayor

EXECUTED by the State this ____ day of _____, 2016.

STATE OF NEBRASKA
DEPARTMENT OF ROADS
Mick Syslo, P.E.

Materials & Research Engineer

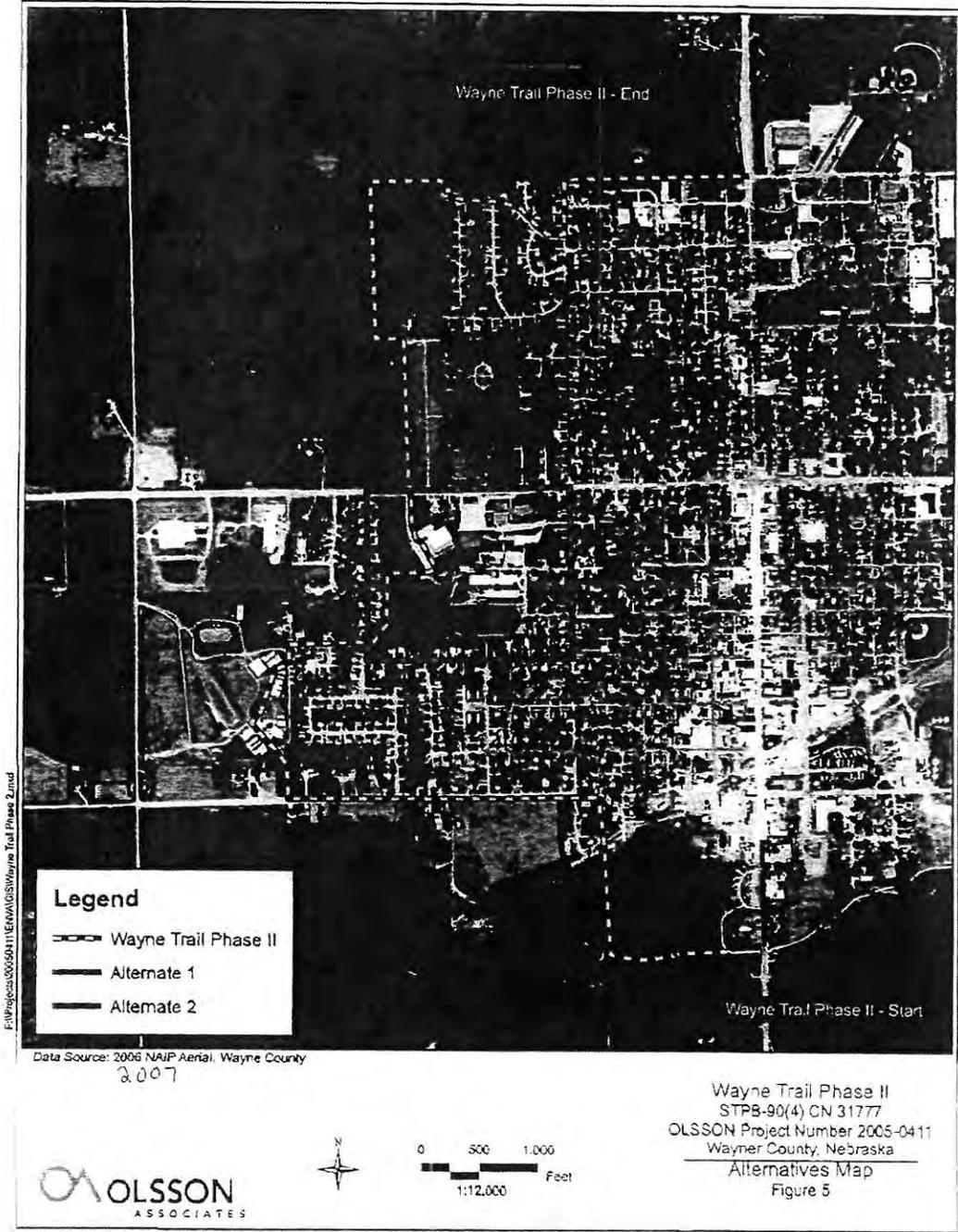


EXHIBIT "A"

RESOLUTION NO. 2016-66

A RESOLUTION AMENDING SCHEDULE OF FEES AND CHARGES.

WHEREAS, the City Council, by and through the City Code and as a matter of general policy, establish certain rates, fees and charges for purposes of raising operating revenue and covering costs.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and the Council of the City of Wayne, Nebraska, that the attached schedule of rates, fees and charges are hereby amended and the same shall, if not already in effect, become effective upon the passage and approval of this Resolution.

PASSED AND APPROVED this 20th day of September, 2016.

THE CITY OF WAYNE, NEBRASKA

By _____
Mayor

ATTEST:

City Clerk

CLERK/POLICE

	2016
Utility Deposits	
Electric	\$ 150.00
Water	\$ 75.00
Sewer	\$ 75.00
Reconnect Fees	\$ 75.00
Overtime Rate	\$ 100.00
Bad Checks	\$ 50.00
Vendor's Permit	\$ 25.00
Route Vendor	\$ 100.00
Copies	\$ 0.25
Color	\$ 1.00
CAD Maps (24" wide)	\$ 15.00
CAD Maps (36" wide)	\$ 20.00
CAD Maps (42" wide)	\$ 25.00
Digital Scan per page	\$ 10.00
Electronic Media (i.e. CD's)	\$25.00
Faxes (per page)	\$ 2.00
International Faxes (per page)	\$ 6.00
Clearing Snow and Ice (per hr w/ min. of 1 hr)	\$ 75.00
Mowing (per hr w/ min. of 1 hr)	\$ 300.00
Water/Sewer Hook-ups	
Residential	\$ 250.00
Commercial	\$ 500.00
Well Permit Fee	
Non-Domestic - over 100 gpm	200 + Engineering Fee
Domestic - less than 100 gpm	
Meter Testing	
Residential	\$ 30.00
Non-Residential	\$ 50.00
Specially Req. Bldg Inspect.	\$ 30.00
Garbage Haulers	
Class A Permit	\$ 400.00
Class B Permit	\$ 30.00
Plumber Permits	
New	\$ 100.00
Renewal	\$ 50.00

CLERK/POLICE

Electrician Permits

New \$ 100.00
Renewal \$ 50.00

Pawnbroker Permit \$ 50.00

ATV & Utility Vehicle Permit \$ 75.00

ATV & Utility Vehicle Operator's Permit \$ 25.00

Vehicle Storage (Per Day Outside) \$ 10.00

(Per Day Inside) \$ 25.00

Impounded Vehicle \$ 150.00

Parking Fines:

Paid within first five days \$ 15.00

Paid between 6-15 days \$ 30.00

Paid after 15 days \$ 45.00

Police Reports \$5.00 up to 6 pgs

Dog License \$ 6.00

Fingerprints \$ 20.00

Firearms Purchase Permit \$ 5.00 permit

Lamination (optional) \$ 2.00

Campground Parking Fee (per day) w/ 10 day limitation \$15 Effect 8/1/16

BUILDING/PLANNING

2016

Excavation Permit	\$	25.00
Annual Fee	\$	250.00

Moving Permit		
Primary	\$	200.00
Accessory	\$	50.00

Razing Permits		
Residential & Commercial	\$	75.00
Accessory Structures (includes garages)	\$	25.00

Plan Review Fee (non-refundable)

1. Inspections outside of normal business hours; \$35 plus \$25/hour after first hour and expenses at actual cost.
2. Reinspections fees assessed under the provisions of Sec. 305(g), \$35 plus \$25/hour after first hour and expenses at actual cost.
3. Inspections for which no fee is specifically indicated; \$35 plus \$25/hour after first hour and expenses at actual cost.
4. Additional plan review required by changes, additions, or revisions to approve plans; \$35 plus \$25/hour after first hour and expenses at actual cost.
5. Inspections for Property Maintenance Code - \$35 plus \$25/hour after first hour and expenses at actual cost.

Sidewalk	\$	25.00
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Property Maintenance Fees

Initial Code Complaint Inspection; \$35 plus \$25/ hour after first hour and expenses at actual cost

Final Inspection to Verify Compliance	\$	-
Failure to Meet 1st Notice Compliance Deadline	\$	300.00
Failure to Meet 2nd Notice Compliance Deadline	\$	300.00

Driveway/Apron Cons. Permit	\$	35.00
Plus Bond/Deposit		

Zoning Regulation		
Amendment Text	\$	100.00
Amendment District/Map	\$	200.00

Variance Application (Board of Adjustment)	\$	200.00
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Use by Exception Application	\$	200.00
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Subdivision		
Preliminary Plat	\$	100.00
Final	\$	200.00
Variance	\$	150.00

Lot Split/Admin. Subdivision	\$	150.00
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RENTALS

2016

Auditorium

Rental	\$	250.00
State Registered	\$	100.00
Youth	\$	35.00

North Meeting Room	\$	75.00
State Registered	\$	45.00
Breakfast/Lunch Mtgs	\$	45.00

Damage Deposit	\$	150.00
With Sound System	\$	200.00

Library/Sr Center Mtg Rm	\$	25.00
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Senior Center Rental	\$	150.00
Damage Deposit	\$	150.00

Fire Hall Rental	\$	200.00
Damage Deposit	\$	200.00

OCCUPATION TAXES/FRANCHISE FEES

2016

Occupation Taxes:

Telephone & Telecommunication		5%
Hotel		5%
Cable		5%
Fireworks	\$	100.00
Natural Gas Companies		
Residential		\$4.00 per month
Commercial		\$7.00 per month
Industrial		\$50.00 per month
Utility Franchise Fees:		
Electric		10.50%
Water		8.00%
Sewer		7%
Alcoholic Liquors		2x License Fee
Non-Profit Class C		\$150
Special Designated Liquor Permits w/o a Catering License	\$	40.00

POOL AND COMMUNITY ACTIVITY CENTER

Pool		Non-Member
Family Ticket	\$ 105.00	\$ 125.00
Individual Ticket	\$ 60.00	\$ 80.00
Daily Admissions - Ages 13 - over	\$ 5.00	
Ages 6 - 12	\$ 4.00	
Age 5 - under	\$ 3.00	
Swimming Lessons	\$ 35.00	
Swimming Parties	\$ 100.00	per hour
 Activity Center		
Family	\$ 330.00	
Adult Married Couple	\$ 255.00	
Single Adult	\$ 185.00	
Senior Married Couple	\$ 120.00	
Single Senior	\$ 95.00	
College		
Year	\$ 130.00	
9-months	\$ 110.00	
Semester	\$ 75.00	
Summer	\$ 70.00	
College Married Couple	\$ 205.00	
High School (Grades 9-12)	\$ 110.00	
Middle School (Grades 5-8)	\$ 90.00	
Elementary School (Grades K-4)	\$ 70.00	
Punch Card (10 visits)	\$ 36.00	
Punch Card (5 visits)	\$ 24.00	
 CORPORATE RATES		
Family		
6 - 25 Members	\$ 275.00	
26+	\$ 260.00	
Adult Couple		
6 - 25 Members	\$ 215.00	
26+	\$ 210.00	
Adult Single		
6 - 25 Members	\$ 160.00	
26+	\$ 150.00	
Daily Admissions - 18 and Older	\$ 5.00	
17 and Under	\$ 4.00	
Family Day Pass	\$ 10.65	

POOL AND COMMUNITY ACTIVITY CENTER

6 - Month Billing

Family	\$	220.00
Adult Married Couple	\$	140.00
Adult Single	\$	110.00
Senior Married Couple	\$	75.00
Senior Single	\$	55.00
College	\$	17.44
College Married Couple	\$	27.69
High School	\$	65.00
Middle School	\$	55.00
Elementary	\$	50.00

6 - Month Corporate Rates

Family 6-25	\$	50.00
Family 26+	\$	47.50
Adult Married Couple 6-25	\$	39.17
Adult Married Couple 26+	\$	38.33
Adult Single 6-25	\$	29.17
Adult Single 26+	\$	27.50

Locker Rentals (Annual)

Large	\$	35.00
Medium	\$	25.00
Small	\$	15.00

Community Room (per hour)

Member	\$	20.00
Non-Member	\$	40.00

Youth Center (per hour)

Member	\$	20.00
Non-Member	\$	40.00

Gym Court Space

1/4 gym floor	\$25/Hr
1/2 gym floor	\$50/hr

Gym Rental Rate (per day)

Non-Profit	\$250.00
For Profit	\$ 350.00

Full Gym/Facility Rental

\$ 100.00 per hr/min 6 hrs

Yoga (monthly)

with Membership	\$50
without Membership	\$75

Weight Watchers (monthly)

\$117.36

Personal Training

5 - day punch card	\$ 70.00	Member
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POOL AND COMMUNITY ACTIVITY CENTER

	\$	95.00	Non-Member
10 - day punch card	\$	130.00	Member
	\$	180.00	Non-Member
20 - day punch card	\$	240.00	Member
	\$	340.00	Non-Member

Introduction to Yoga

Single Class	\$	5.00	Member
	\$	6.00	Non-Member
10 punch card	\$	35.00	Member
	\$	40.00	Non-Member

Summer Club

Individual Days	\$	20.00	Member
	\$	25.00	Non-Member
10 - day punch card	\$	180.00	Member
	\$	230.00	Non-Member

Kids After School Program

Individual Day	\$	5.00	Member
	\$	7.00	Non-Member
10 - day punch card	\$	45.00	Member
	\$	65.00	Non-Member
2:00 Dismissal	\$	9.00	Member
	\$	14.00	Non-Member
All Day (7 a.m. to 6 p.m. - only offered when no school)	\$	24.00	Member
	\$	34.00	Non-Member

Kids Drop-In Daycare

10 punch card	\$	25.00	Member
	\$	45.00	Non-Member

Merchandise

Replacement ID Cards	\$	1.07
Rec Sport T-Shirts	\$	12.00
CAC T-Shirts	\$	12.78
Accu-Measure	\$	15.92
Padlocks	\$	5.01
Pedometer	\$	5.33
Copies	\$	0.25

Leagues

Co-Ed Dodgeball - per team	\$	75.00	Member
	\$	100.00	Non-Member
Co-Ed Volleyball - per team	\$	100.00	Member
	\$	125.00	Non-Member
Women's Volleyball - per team	\$	75.00	Member
	\$	100.00	Non-Member
Men's Slow Pitch - per team	\$	300.00	
Chicken Days Slow Pitch Tournament - per team	\$	150.00	Class D
Chicken Days Slow Pitch Tournament - per team	\$	125.00	Class E

POOL AND COMMUNITY ACTIVITY CENTER

Personal Training

Personal Training Session - per hour	\$	15.00	Member
Personal Training Session - per hour	\$	20.00	Non-Member
Personal Training - 5 punch card	\$	70.00	Member
Personal Training - 5 punch card	\$	95.00	Non-Member
Personal Training - 10 punch card	\$	130.00	Member
Personal Training - 10 punch card	\$	180.00	Non-Member
Personal Training - 20 punch card	\$	240.00	Member
Personal Training - 20 punch card	\$	340.00	Non-Member
Buddy Training Session	\$	20.00	Member
Buddy Training Session	\$	25.00	Non-Member
Buddy Training - 5 punch card	\$	95.00	Member
Buddy Training - 5 punch card	\$	120.00	Non-Member
Buddy Training - 10 punch card	\$	180.00	Member
Buddy Training - 10 punch card	\$	230.00	Non-Member
Buddy Training - 20 punch card	\$	340.00	Member
Buddy Training - 20 punch card	\$	440.00	Non-Member
Body Composition	\$	5.00	
Individualized Workout	\$	25.00	Member
Individualized Workout	\$	30.00	Non-Member

EQUIPMENT RENTAL, MATERIALS AND LABOR

Service call after hours & holidays (includes man & vehicle)	1/2 hr min - \$30 1 hr - \$42
Service call regular hours (includes man & vehicle)	1/2 hr min - \$25 1 hr - \$35
Labor charge for extra man (Greater of overtime @ \$27 or actual hourly rate x 1.40 benefits factor)	\$18 per hr
Vehicles leaving town	\$1.25 per mile
*Street Sander	\$125 per hr (1 hr min)
*Air Compressor (in City limits)	\$100 first hr \$25 each add hr
Air Compressor Tools	\$135 per day
Backhoe (minimum charge - \$60)	\$135 per hr
Concrete Saw (minimum charge - \$40)	\$50 per ft
Dump Truck, with driver (minimum charge - \$60)	\$90 per hr
Street Sweeper	\$125 first hr \$65 each add hr
Street Flusher	\$125 per 1500 gal load
*Two-yard Loader, with driver (minimum charge - \$130)	\$130 per hr
*Two-yard Loader and Snow Blower, with driver	\$150 per hr
Tractor and Mower (minimum charge - \$300)	\$300 per hr
Push Mower, Weed Eater, or Hand Sprayer (minimum charge - \$300)	\$300 per hr
Loading & hauling snow from pile (minimum charge - \$70)	\$140 per hr
Genie Lift (plus city employee labor)	\$100 per hr
2" Water Pump	\$50 first hr \$15 each add hr
3" Water Pump	\$60 first hr \$25 each add hr
3" Hydraulic Pump (minimum charge - \$25)	\$60 first hr \$25 each add hr

EQUIPMENT RENTAL, MATERIALS AND LABOR

4" Water Pump	\$90 first hr \$35 each add hr
Parts and Materials	Cost plus 40%
*Sewer Jet (greater of minimum charge or footage charge)	
With City limits (minimum charge)	\$80 per hr
Outside City limits & mileage (minimum charge)	\$120 per hr
Footage charge	\$.60/ft (0-300') \$.50/ft (over 300')
*Jet/Vac Trailer	\$150 per hr
*Digger and Bucket Trucks	\$150 per hr
*Trenching	\$90 per hr
*Vibrator	\$50 per hr
*Skid Loader	\$100 per hr
*Plus Operator	

Date of Issuance: **September 9, 2016** Effective Date: **August 2, 2016**
 Owner: **City of Wayne** Owner's Contract No.:
 Contractor: **Christiansen Construction Co., LLC** Contractor's Project No.:
 Engineer: **JEO Consulting Group, Inc.** Engineer's Project No.: **141213**
 Project: **2016 Wayne Aquatic Center** Contract Name: **2016 Wayne Aquatic Center**

The Contract is modified as follows upon execution of this Change Order:
 Description: **Add/change additional site grading as directed by the City.**

Attachments: **CO forms # 10 from Christiansen and Meyer Construction**

CHANGE IN CONTRACT PRICE	CHANGE IN CONTRACT TIMES <i>[note changes in Milestones if applicable]</i>
Original Contract Price: \$ <u>2,659,000.00</u>	Original Contract Times: _____ Substantial Completion: _____ Ready for Final Payment: _____ days or dates
[Increase] [Decrease] from previously approved Change Orders No. 1 to No. 5 : \$ <u>(16,511.94)</u>	[Increase] [Decrease] from previously approved Change Orders No. to No. : Substantial _____ Ready for Final Payment: _____
Contract Price prior to this Change Order: \$ <u>2,642,488.06</u>	Contract Times prior to this Change Order: Substantial Completion: _____ Ready for Final Payment: _____ days or dates
[Increase] [Decrease] of this Change Order: \$ <u>7,548.26</u>	[Increase] [Decrease] of this Change Order: Substantial Completion: _____ Ready for Final Payment: _____ days or dates
Contract Price incorporating this Change Order: \$ <u>2,650,036.32</u>	Contract Times with all approved Change Orders: Substantial Completion: _____ Ready for Final Payment: _____ days or dates

RECOMMENDED: By: <u>Dale E. Bokac</u> Engineer	ACCEPTED: By: _____ Owner (Authorized Signature)	ACCEPTED: By: <u>[Signature]</u> Contractor (Authorized Signature)
Title: <u>Project Engineer</u>	Title: _____	Title: <u>PM</u>
Date: <u>9-15-2016</u>	Date: _____	Date: <u>9-14-16</u>

CHRISTIANSEN CONSTRUCTION CO. LLC



P.O. Box 339
Pender, Nebraska 68047

(402) 385-3027
FAX: (402) 385-3020

CO Proposal # 10

To: JEO Consulting Group	From: Forrest Kramer
Atten: Dave Henke	Date: 9/6/16
Project: Wayne Aquatic Center	Re: Grading

Per Owner's Request for additional grading and concrete removal:

Grading & Concrete removal per Steve Meyer, (see invoices attached):	\$ 6,727.50
OH&P	\$ 672.75
Subtotal	\$ 7400.25
Bond & Ins.	\$ 148.01
Total Add	\$ 7,548.26

The Total Add for this change is: Seven-Thousand Five-Hundred Forty-Eight Dollars & ²⁶/₁₀₀ (\$ 7,548.26)

Exclusions: Any other material or labor not listed above.

Respectfully Submitted,


ES.

INVOICE

Milo Meyer Construction, Inc.
1002 Industrial Road
Wayne NE 68787
(402) 375-3440

Invoice Number 160210
Invoice Date 08/26/16

Page 1

SOLD Christiansen Const.
TO PO Box 339
Pender NE 68047



TYPE	QUANTITY	DESCRIPTION	PRICE	UOM	AMOUNT	TAX
CAT320E	8.0000	320E Cat Excavator on 8/25	160.00	hrs	1,280.00	
TK	7.0000	Dump Truck	85.00	hrs	595.00	
SD	7.0000	Side Dump	105.00	hrs	735.00	
		Change Order to remove concrete and dispose off-site				

Federal Tax ID 47-0614752

Subtotal	2,610.00
*Sales Tax	0.00
Invoice Total	2,610.00
Payments	0.00
Net Due	2,610.00

INVOICE

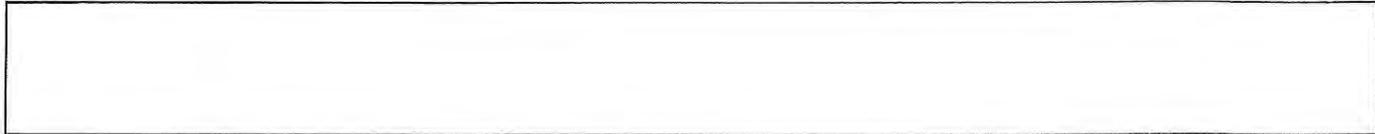
Milo Meyer Construction, Inc.
1002 Industrial Road
Wayne NE 68787
(402) 375-3440

Invoice Number 160217

Invoice Date 08/31/16

Page 1

SOLD Christiansen Const.
TO PO Box 339
Pender NE 68047



TYPE	QUANTITY	DESCRIPTION	PRICE	UOM	AMOUNT	TAX
85E	0.5000	85E Challenger-Scraper on 8/29	180.00	hrs	90.00	
772GP	6.0000	772GP Blade on 8/31	140.00	n/a	840.00	
85E	1.0000	85E Challenger-Scraper	180.00	hrs	180.00	
762B	3.5000	JD 762B II Scraper	140.00	n/a	490.00	
VP	1.0000	Vibratory Packer Work on CHANGE ORDER #2 Move Extra dirt to attain drainage and build road & sidewalk The work was NOT in the original contract	140.00	hrs	140.00	

Federal Tax ID 47-0614752

Subtotal	1,740.00
* Sales Tax	0.00
Invoice Total	1,740.00
Payments	0.00
Net Due	1,740.00

INVOICE

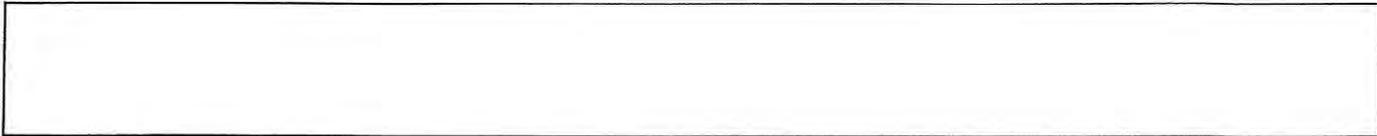
Milo Meyer Construction, Inc.
 1002 Industrial Road
 Wayne NE 68787
 (402) 375-3440

Invoice Number 160218

Invoice Date 08/31/16

Page 1

SOLD Christiansen Const.
 TO PO Box 339
 Pender NE 68047



TYPE	QUANTITY	DESCRIPTION	PRICE	UOM	AMOUNT	TAX
772	3.5000	772 JD Blade on 9/1	140.00	hrs	490.00	
772GP	3.0000	772GP Blade	140.00	n/a	420.00	
SL	0.5000	Skid Loader	85.00	hrs	42.50	
762B	3.0000	JD 762B II Scraper	140.00	n/a	420.00	
772	4.0000	772 JD Blade on 9/2	140.00	hrs	560.00	
762B	1.0000	JD 762B II Scraper	140.00	n/a	140.00	
VP	0.7500	Vibratory Packer	140.00	hrs	105.00	
TK	1.0000	Dump Truck	85.00	hrs	85.00	
SL	0.5000	Skid Loader	85.00	hrs	42.50	
LD	0.5000	Loader	105.00	hrs	52.50	
DIRT	20.0000	Imported dirt (WR) TAX EXEMPT	1.00	n/a	20.00	

Completion of CHANGE ORDER #2 - move extra dirt to attain drainage and build road and sidewalk.

Federal Tax ID 47-0614752

Subtotal	2,377.50
* Sales Tax	0.00
Invoice Total	2,377.50
Payments	0.00
Net Due	2,377.50