

(*Amended: 7/16/10)

AGENDA
CITY COUNCIL MEETING
July 20, 2010

5:30 Call to Order

1. Approval of Minutes – July 6, 2010

2. Approval of Claims

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

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

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

3. Presentation/Report from Gary Folkert of NPPD on Energy Audit Services

Background: Our thought process is this - With future energy costs rising and a shortage of available cash to do building energy improvements, it seems important to do those improvements first that return the biggest savings. Since most of us don't know that much about the air infiltration, R values, U values, heat convection and conduction of our home or business, the best way to find out what needs to be done first is to conduct an energy audit using a certified inspector that can physically measure where your house loses or gains heat.

We have been using Gary Folkert from NPPD to do energy audits of our public and commercial buildings in the past two years. We are finding serious energy savings improvements to do. Gary provides us with a printed energy audit for each building and a prioritized list of projects to do. Most of these have a 10-year pay back or less.

NPPD does not do energy audits on residential properties, but there are private firms that do that for a fee. If there is interest by the Mayor and Council, I think it would be helpful to our utility customers to add a new cost-share incentive to our existing energy incentive program for residential energy audits. If there is interest we can add this to our budget proposal.

4. Action on Application for Stimulus Funding for a Well Head Protection and Water Source Sustainability Plan and Retain JEO Consulting Group as Engineer on the Project

Background: Garry Poutre and Roger Protzman recently found a source of stimulus funding to pay up to \$75,000 of an estimated \$90,000 cost to prepare a well-head protection plan and long-term drinking water sustainability plan for five of the City of Wayne wells we are using. You will see in the attachment that

the deadline for this application is August 6th. Completion of a wellhead protection plan is one of the Council's 2010 goals.

Recommendation: The recommendation of the Supt. of Public Works and Utilities and the City Administrator is to apply for the funding and retain JEO to write the plan if the application is approved.

5. Action on Recommendation from Jeff Zeiss, Recreation-Leisure Services Director, to Rebuild the Infield on the Southwest Field of the Summer Sports Complex before the District High School Softball Tournaments this Fall - \$15,500.00

Background: In our budget proposal for 2011, there will be a recommendation to tear out and rebuild the southwest softball infield with new red clay conditioner. We were approached last week to speed up the schedule and do the work this September before the district high school softball tournaments that are held here in October. Several of us have prepared an accelerated proposal for you to consider to fund the work this September as follows:

| | |
|----------------------------|---------|
| Wayne Community Schools | \$3,000 |
| City of Wayne Recreation | \$6,500 |
| Wayne Softball Association | \$3,000 |
| Private Donations | \$3,000 |

At this time, we are contacting these entities to determine their interest and ability to participate and will have an answer by Tuesday night's Council meeting.

This infield has always been a problem when it rains. A softball field construction expert was called to evaluate the field, and he determined the original composition of the mix of the infield material was installed with excessive clay soil in the mix and needs to be replaced.

Recommendation: Recommendation of Recreation Director Jeff Zeiss is to approve the project for September work if the funding can be committed.

6. Resolution 2010-46: Accepting Bid and Awarding Contract for HVAC System for City Hall — Zach Cooling & Heating

Background: One of the key recommendations in the NPPD energy audit of the City Hall building was to replace the 50+ year old GE central air conditioner with a heat pump and back up electric heat ventilation system. In June, we advertised for bids using specifications designed for this building and using NPPD recommendations. No bids were submitted on the bid opening date. Zach Cooling & Heating submitted a quote that met our specifications prior to the bid advertisement and bid opening, but we elected to bid out the specs.

Recommendation: No bids were received, and Zach has agreed to do the work for their original price, so we are recommending Council approval of the Zach quote that is enclosed.

7. Resolution 2010-47: Amending Policy regarding Public Access to Employee Use of Cell Phones, Computers and Texting

Background: The enclosed policy has been prepared for League of Municipality members to give documented notice to all public employees using public communication devices. If approved, we will require all employees to read and sign statements that they acknowledge public access to the communications equipment they are using. We currently have in place a memorandum from me to staff similar to this, but this will convert it to Council policy and update the terms.

Recommendation: The recommendation of the City Administrator and special legal counsel with the Harding Law Firm in Lincoln is to approve the policy for the protection of the city and its employees.

8. Resolution 2010-48: Approving Amendment No. 3 to Communication Tower and Real Estate Agreement

Recommendation: This amendment simply updates the 10-year lease agreement Alltel has to locate their cell phone antennae on the city communications tower and use one room in the basement of City Hall. The agreement represents a 5% increase in rental payment for the next 12 months. The recommendation of the Finance Director and City Administrator is to approve the amendment. In recent surveys of city cellular phone rental agreements for city towers, this rate is towards the top of the range of rates in Nebraska.

9. Resolution 2010-49: Authorizing the Allocation of Property Taxes to the Wayne Airport Authority

Background: Until 2002, Airport Boards in Nebraska and Rural Fire Districts levied their own real estate property tax rates and had their own budgets. In 2002, the Nebraska Legislature forced the airport taxes into the city budgets and the rural fire district taxes into the county budgets. That required the City of Wayne to relinquish about \$60,000 in real estate tax revenues per year for other city programs and allocate it to the airport. We have accommodated that transition pretty well over time by reducing other spending and have still maintained a quality airport.

Recommendation: This is the same amount of funding request we have received for that past several years, and the recommendation of the City Administrator is to approve the same amount again.

10. Resolution 2010-50: Approving Windom Street Engineering Agreement with Kirkham Michael

Background: In the long-range plan for streets, we have scheduled Windom Street to be torn out between 3rd and 7th Streets and repaved with new storm drain installed. The total estimated cost of this project is \$590,000. Wayne has been approved for \$472,000 in STP cost-share funding for this project from the Nebraska Department of Roads. By this engineering agreement, the engineering cost will be \$95,985, including construction oversight. KMA was selected as the project engineer in compliance with the NDOR procurement guidelines, and this agreement was prepared by NDOR. 80% of the engineering costs will be paid by the STP funding.

Recommendation: This project is on our long-range plan for probable construction in 2012. Recommendation of Cert. Street Supt. Joel Hansen and

Supt. of Public Works & Utilities Garry Poutre is to approve the agreement with KMA.

***11. Resolution 2010-51: Authorizing Chief Elected Official to Request Grant Funds**

Background: This action is necessary to allow Council President Doug Sturm to sign the necessary grant documents in the absence of Mayor Shelton.

***12. Resolution 2010-52: Authorizing Extension of Contract End Date for NAHTF Grant #07-TFHP-5044 - Western Ridge Subdivision**

Background: This request to extend the grant contract end date is due to the weather and contractor delays in Western Ridge.

13. Report on New NDEQ Requirements for Sludge Lagoon

Background: In 1995, our 26-acre sludge lagoon operation was reviewed by the EPA, and a directive was issued to the City to either operate the sludge lagoon as a temporary sludge repository and remove the sludge and land apply it every 2-3 years or to operate it as a permanent surface sludge storage facility and install monitoring wells around it, and establish a plan to protect the ground water beneath it and the area around it.

The awareness of this directive was lost, and neither of the above options was elected, nor were the required practices carried out. The amount of stable sludge that has accumulated since that time is minimal, but that does not mitigate our requirement to follow the 1995 EPA directive. During that time, the Nebraska Department of Environmental Quality has inspected and renewed our discharge permit for the lagoon three times.

Last November, while JEO was submitting the final design for the new wastewater plant to NDEQ, we received a lagoon compliance inspection by the EPA and were issued a letter indicating non-compliance and a possible penalty. Last week, we received an inspection follow-up letter from the EPA requesting information about the status of the sludge in the lagoon and how we plan to begin to clean out all the old sludge and begin operating the lagoon in compliance with the 1995 directive. No word yet on any penalty.

We have asked JEO to coordinate the City's response to the EPA since the information needed must be done by an engineer. and the plan needs to fit with the new wastewater plant design and start-up schedule. Compliance with the EPA lagoon operation requirements will not be cheap, and we will report to you the findings as they develop.

14. Recess

- a. **Convene as Community Development Agency**
- b. **Approve Minutes – June 1, 2010**
- c. **Approve Claims**

15. Adjourn as Community Development Agency and Reconvene As Council

16. Adjourn

APPROVED AS TO FORM AND CONTENT:

Council President

City Administrator

July 6, 2010

The Wayne City Council met in regular session at City Hall on Tuesday, July 6, 2010, at 5:30 o'clock P.M. Mayor Lois Shelton called the meeting to order with the following in attendance: Councilmembers Brian Frevert, Jon Haase, Dale Alexander, Doug Sturm, and Kaki Ley; City Attorney Mike Pieper; City Administrator Lowell Johnson; and City Clerk Betty McGuire. Absent: Councilmembers Jim Van Delden, Kathy Berry and Ken Chamberlain.

Notice of the convening meeting was given in advance by advertising in the Wayne Herald on June 24, 2010, and a copy of the meeting notice and agenda were simultaneously given to the Mayor and all members of the City Council. All proceedings hereafter shown were taken while the Council convened in open session.

Councilmember Sturm made a motion and seconded by Councilmember Frevert, whereas the Clerk has prepared copies of the Minutes of the meeting of June 15, 2010, 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 Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried and the Minutes approved, as corrected.

The following claims were presented to Council for their approval:

VARIOUS FUNDS: AMAZON, SU, 223.21; AMERITAS, RE, 2158.14; APPEARA, SE, 162.48; AS CENTRAL SERVICES, SE, 448.00; BANK FIRST, FE, 210.00; BATTERIES AMERICA, SU, 252.20; BAUER UNDERGROUND, SE, 10304.00; CITY EMPLOYEE, RE, 168.06; BIG T ENTERPRISES, SU, 783.80; CITY EMPLOYEE, RE, 844.78; BLACK HILLS ENERGY, SE, 2271.37; BOMGAARS, SU, 753.56; CITY EMPLOYEE, RE, 1689.47; BROWN SUPPLY, SU, 216.41; CENTRAL STATES GROUP, SU, 82.93; CITY OF NORFOLK, SE, 308.90; CITY OF WAYNE, RE, 300.00; CITY OF WAYNE, RE, 2000.00; CITY OF WAYNE, RE, 50.00; CITY OF WAYNE, RE, 500.00; CITY OF WAYNE, RE, 285.95; CITY OF WAYNE, PY, 65747.04; CITY OF WAYNE, RE, 100.00; CITY OF WAYNE, RE, 199.57; COMMUNITY HEALTH

CHARITIES, RE, 4.00; COMPRESSION SYSTEMS, SE, 11242.03; COVENTRY HEALTH, SE, 19107.08; CREDIT BUREAU SERVICES, SE, 390.00; CUSTOMER SOLUTIONS NETWORK, FE, 75.00; DANKO EMERGENCY EQUIPMENT, SU, 356.00; DE LAGE LANDEN FINANCIAL, SE, 77.00; CITY EMPLOYEE, RE, 1099.72; DUTTON-LAINSON, SU, 182.76; ECHO GROUP, SU, 320.13; EGAN SUPPLY, SE, 1530.03; EISCHEID ARTIFICIAL RAIN, SE, 40.00; ELECTRIC FIXTURE, SU, 725.91; ELKHORN VALLEY, SE, 30000.00; ELLIS PLUMBING & HEATING, SE, 129.46; ERIC NIELSEN, RE, 500.00; FARMERS & MERCHANTS, RE, 500000.00; FASTENAL CO, SU, 94.86; FIRST CONCORD GROUP, SE, 3824.78; FLETCHER FARM SERVICE, SU, 50.00; FLOOR MAINTENANCE, SU, 528.91; FORT DEARBORN LIFE, SE, 106.64; FREDRICKSON OIL, SU, 1002.35; GAYLORD BROS, SU, 28.18; GEMPLER'S INC, SU, 125.75; GERHOLD CONCRETE, SU, 1779.72; GILL HAULING, SE, 133.00; GODFATHER PIZZA, SU, 56.00; CITY EMPLOYEE, RE, 112.18; HAMPTON INN -GRAND ISLAND, SE, 109.00; HAUFF MID-AMERICAN SPORTS, SU, 43.00; HAWKINS, SU, 679.00; HEARTLAND STAINLESS, SU, 2.56; CITY EMPLOYEE, RE, 11.12; HOLIDAY INN OF KEARNEY, SE, 291.80; ICMA, RE, 5644.64; IRS, TX, 20445.11; JACK'S UNIFORMS, SU, 28.94; JASON CAROLLO, SE, 25.00; JEO CONSULTING GROUP, SE, 21601.00; KORY LESEBERG, RE, 391.00; L.G. EVERIST, SU, 507.38; LEAGUE OF NEBRASKA MUN., FE, 1104.00; LIBERAL GASKET MFG , SU, 104.39; CITY EMPLOYEE, RE, 106.11; MERCY MEDICAL CLINIC, SE, 26.00; MID-STATE ENGINEERING, SE, 132.50; MID-SUMMER CLASSIC, FE, 150.00; MIDLAND COMPUTER, SE, 1757.25; MUNICIPAL SERVICE, SU, 395.34; N.E. NEB ECONOMIC DEV DIS, SE, 1483.00; NE AIR FILTER, SU, 450.61; NE CODE OFFICIAL ASSOC., FE, 150.00; NE DEPT OF ENVIRONMENTAL, FE, 20.00; NE DEPT OF REVENUE, TX, 2957.35; NE NEB INS AGENCY, SE, 59126.00; NELEIN, SE, 650.00; NEXIC, SE, 426.00; NMPP ENERGY, FE, 509.25; NORTHEAST EQUIPMENT, SE, 57.55; N.E. NE AMERICAN RED CROSS, RE, 59.24; NNPPD, SE, 2446.56; NWEA, FE, 55.00; OVERHEAD DOOR COMPANY, SU, 1215.00; CITY EMPLOYEE, RE, 58.50; PIEPER, MILLER & DAHL, SE, 2137.00; PITNEY BOWES, SE, 648.00; POLLARD PUMPING, SE, 155.00; PUSH-PEDAL-PULL, RE, 280.32; QUILL, SU, 246.16; QWEST, SE, 427.95; QWEST, SE, 185.35; ROBERT WOehler & SONS, SE, 20944.95; SD MEYERS, SE, 2634.00; SKARSHAUG TESTING LAB, SE, 102.89; STATE FARM INSURANCE, SE, 425.00; STATE NATIONAL BANK, RE, 1500000.00; STATE NATIONAL BANK, RE, 98.67; STEVE HARRIS CONSTRUCTION, SE, 22358.44; THE PENWORTHY COMPANY, SU, 288.22; TOM'S BODY & PAINT SHOP, SE, 1119.30; CITY EMPLOYEE, RE, 68.30; TYLER TECHNOLOGIES, SE, 1777.00; ULTRA PLASTIC PRINTING, SU, 370.00; UNITED WAY, RE, 32.32; US BANK, SE, 2621.40; VAN DIEST SUPPLY, SU, 87.42; VERIZON, SE, 578.02; VIAERO, SE, 138.70; VOSS LIGHTING, SU, 123.96; WAED, RE, 6383.33; WAYNE COUNTY CLERK, SE, 526.47; WAYNE COUNTY COURT, RE, 600.00; WAYNE GRAIN & FEED, SE, 122.00; WAYNE STATE COLLEGE, RE, 2500.00; CITY EMPLOYEE, RE, 704.39; WESCO, SU, 420.68; WHELEN ENGINEERING, SU, 24.75; WINNING FINISH, SE, 90.00; Y & Y LAWN SERVICE, SE, 57.00; CITY EMPLOYEE, RE, 334.77; ADVANCED CONSULTING, SE, 806.25; CITY OF WAYNE, SE, 1564.00; BARONE SECURITY SYSTEMS, SE, 1044.00;

BROWN SUPPLY, SU, 1055.27; CITY EMPLOYEE, RE, 1800.12; CITY OF WAYNE, RE, 967.82; COPY WRITE PUBLISHING, SU, 151.84; EASYPERMIT POSTAGE, SU, 1643.80; ECHO GROUP, SU, 158.00; ELECTRIC FIXTURE, SU, 27.49; FREDRICKSON OIL, SU, 473.88; GERHOLD CONCRETE, SU, 222.75; GILL HAULING, SE, 3083.30; GREAT PLAINS ONE-CALL, SE, 96.60; CITY OF WAYNE, RE, 4397.00; HARDING & SCHULTZ, SE, 4385.17; HEIKES AUTOMOTIVE, SE, 47.93; HOBBY LOBBY, SU, 109.31; CITY OF WAYNE, RE, 3673.00; CITY EMPLOYEE, RE, 508.08; KELLY SUPPLY, SU, 196.82; KRIZ-DAVIS, SU, 51.87; KTCH, SE, 605.00; LANGEMEIER, WAYNE, SE, 100.00; CITY EMPLOYEE, RE, 406.23; LP GILL, SE, 8021.58; CITY OF WAYNE, RE, 10000.00; NNPPD, SE, 10487.80; OLSSON ASSOCIATES, SE, 12188.79; PLUNKETT'S PEST CONTROL, SE, 93.60; QUALITY 1 GRAPHICS, SE, 20.00; QWEST, SE, 1206.18; S & S WILLERS, SU, 193.38; SIEMENS WATER TECHNOLOGIES, SU, 780.00; STALP GRAVEL, SU, 787.70; WASTE CONNECTIONS, SE, 78.00; WATERLINK, SE, 1053.42; WAED, RE, 6383.33; WAYNE COUNTY CLERK, SE, 11.00; WAYNE HERALD, SE, 1522.39; WAYNE STATE COLLEGE, RE, 200.00; WAYNE VETERINARY CLINIC, SE, 98.00; WAPA, SE, 31979.60

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

Mayor Shelton 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, she 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.

Wes Blecke, Director of Wayne Area Economic Development, and representing the LB 840 Advisory Committee gave a report on the progress of the economic development plan and the status of projects and funding. The only changes that have taken place since January are: \$75,000 grant to the Wayne Veterans Memorial Project and a \$2,500 grant to the Farmers Market & Community Garden Project. Voters

approved \$3.2 million dollars to be collected and used for economic development over 15 years. Of that \$3.2 million dollars, \$736,000 has been committed or disbursed, which is 23% of the total funds possible. At this time, applications for this program have slowed down considerably.

Roger Protzman, engineer with JEO Consulting Group, reviewed the bids that were received on the 2009-2010 Wastewater Treatment Facility Improvements Phase I Project. The City received 7 bids for the construction of the mechanical wastewater treatment facility. The bids ranged from \$5,133,000 to \$5,998,000. The low bidder was Eriksen Construction of Blair, Nebraska, with a bid of \$5,133,000. Their bid documents are in order and they found no irregularities. All bids were below JEO's cost estimate of \$6,000,000, as presented at the May 18th Council meeting. The bid received from Eriksen Construction did include alternate deductive pricing, and after conferring with city staff, they are recommending the City accept the bid with the following alternative deductive item: Submersible Lift Pumps – ABS in the amount of \$34,230. This then lowers the bid from Eriksen Construction to \$5,098,770. Eriksen Construction has completed a number of projects satisfactorily for JEO clients, and they find no reason to withhold award to Eriksen Construction in the amount of \$5,098,770. Mr. Protzman advised the Council that their motion for approval should be contingent upon DEQ approval of the contract documents and should so be documented in the minutes.

Councilmember Sturm introduced Resolution No. 2010-41 and moved for its approval, subject to the same being contingent upon DEQ's approval of the contract documents; Councilmember Frevert seconded.

RESOLUTION NO. 2010-41

A RESOLUTION ACCEPTING BID AND AWARDING CONTRACT ON THE
"2009-2010 WASTEWATER TREATMENT FACILITY IMPROVEMENTS
PROJECT."

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

Administrator Johnson stated the following Resolution would approve the agreement with Aquarius which provides for a two-year warranty period on the wastewater treatment plant system.

Mr. Protzman advised the Council that Aquarius offered the City a performance guarantee. They reviewed the guarantee and added some additional language to it that they thought would be in the City's best interest. They requested a two-year guarantee on all of their parts and materials which is beyond what the contractor would provide which is a one-year guarantee. The warranty period would start when the system reaches equilibrium. The purpose of the agreement is should there be a problem, the manufacturer will provide remedies to correct those problems identified in their treatment system. He noted when the crossover takes place, the treatment plant will probably be out of compliance for a month. When starting up a new plant, you usually receive a "grace" or "forgiveness" the first 1-2 months for being out of compliance.

Councilmember Ley introduced Resolution No. 2010-42 and moved for its approval; Councilmember Sturm seconded.

RESOLUTION NO. 2010-42

A RESOLUTION APPROVING AQUARIUS TECHNOLOGIES, INC., MSABP
PROCESS PERFORMANCE GUARANTEE AGREEMENT.

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

Dr. Ken Liska and George Phelps, representing the Wayne Kiwanis Club, were present requesting Council consideration to allowing them to build and help maintain a school bus stop shelter for children in the vicinity of Sunnyview Park. They will be applying for a grant in the amount of \$6-7,000 to help cover the cost of this project. A “Kiwanis” sign will be placed on the shelter.

The Kiwanis Club is one of several in Wayne that target projects to benefit children. This proposal would be designed and built locally by Heritage Industries and installed in a location approved by city staff at the school bus stop at 10th Street and Providence Road.

Councilmember Ley made a motion and seconded by Councilmember Sturm approving the request of the Wayne Kiwanis Club to build and help maintain a school bus stop shelter for children in the vicinity of Sunnyview Park. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Mayor Shelton declared the time was at hand for the public hearing to consider the Planning Commission’s recommendation in regard to amending Section 74-102 (a) Administrative Subdivisions, by allowing for up to two administrative subdivision replats for the same tract of land. The applicant is the City of Wayne.

Joel Hansen, Building Inspector/Planner/Cert. Street Supt. was present and stated that the Planning Commission held a public hearing on June 7, 2010, on this matter. Doing a lot split or swapping/exchanging small parcels of land is very cumbersome (e.g. applicant must go through two public hearings, the cost, etc.). The recommendation from staff is to give the zoning administrator the authority to approve two administrative subdivision replats. At this time, the zoning administrator has the authority to approve

only one administrative subdivision replat. The Planning Commission wanted to allow up to three administrative subdivision replats by the zoning administrator, but they did not feel comfortable making that recommendation since their public hearing notice did not specify it that way.

Attorney Pieper stated as you continue to subdivide, the descriptions of that property get more and more particular and makes it a little more difficult for both the assessment records and anybody searching those records as you continue to pile on a replat after replat. That is potentially one reason why there shouldn't be an unlimited amount of lot splits.

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

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

Councilmember Sturm introduced Ordinance 2010-13, and moved for approval thereof; Councilmember Ley seconded.

ORDINANCE NO. 2010-13

AN ORDINANCE AMENDING WAYNE MUNICIPAL CODE CHAPTER 74, ARTICLE III, BY AMENDING SECTION 74-102 ADMINISTRATIVE SUBDIVISION; TO PROVIDE FOR THE REPEAL OF CONFLICTING SECTIONS; AND TO PROVIDE FOR AN EFFECTIVE DATE.

Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried. The second reading will take place at the next meeting.

Mayor Shelton declared the time was at hand for the public hearing to consider the Planning Commission's recommendation in regard to amending Section 90-203 Permitted Accessory Uses and Structures; Section 90-233 Permitted Accessory Uses and

Structures; Section 90-263 Permitted Accessory Uses and Structures; Section 90-293 Permitted Accessory Uses and Structures; Section 90-313 Permitted Accessory Uses and Structures; and Section 90-703 Accessory Uses, to Allow for an Adjustment in the Maximum Building Size and Total Area of Accessory Structures on a Lot. The applicant is the City of Wayne.

Joel Hansen, Building Inspector/Planner/Cert. Street Supt. was present and stated that the Planning Commission held a public hearing on June 7, 2010, on this matter. The sections of the Code that these amendments pertain to are in the R zones. At the current time, we have a limit of 1,064 sq. ft. for an accessory structure (28'x38' building). There are some property owners in outlying areas of Wayne that have large lots, some of which are over 1 acre in size. He has received inquiries from property owners who have large lots that want to build larger accessory buildings than the code permits. After researching the matter, he made a recommendation to the Planning Commission to consider allowing a property owner to put up a building whose size/dimension is up to 7% of the lot size, but not more than 3,000 sq. ft, which is a 50'x60' building. This would allow some flexibility for those property owners who have larger lots. The Planning Commission approved this recommendation for Council consideration.

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

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

Councilmember Ley introduced Ordinance 2010-14, and moved for approval thereof; Councilmember Sturm seconded.

ORDINANCE NO. 2010-14

AN ORDINANCE AMENDING WAYNE MUNICIPAL CODE CHAPTER 90, ARTICLE I, ARTICLE IV, ARTICLE V, AND ARTICLE VIII, BY AMENDING SECTIONS 90-203, 90-233, 90-263, 90-293, 90-313, AND 90-703 REGARDING ACCESSORY USES.

Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried. The second reading will take place at the next meeting.

Councilmember Sturm introduced Ordinance 2010-12, and moved for approval of the second reading thereof; Councilmember Alexander seconded.

ORDINANCE NO. 2010-12

AN ORDINANCE AMENDING WAYNE MUNICIPAL CODE CHAPTER 2, ARTICLE IV, BY ADDING DIVISION 8 BOARD OF APPEALS; TO PROVIDE FOR THE REPEAL OF CONFLICTING SECTIONS; AND TO PROVIDE FOR AN EFFECTIVE DATE.

Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried. The third and final reading will take place at the next meeting.

Joel Hansen, Building Inspector/Planner/Cert. Street Supt. stated the following Ordinance would amend the zoning map to go from an arc system to a straight-line system. This is the same action Council took a couple of meetings ago where it was done by resolution. After some research, staff found that the same should have been approved by ordinance.

Councilmember Ley introduced Ordinance 2010-15, and moved for approval thereof; Councilmember Alexander seconded.

ORDINANCE NO. 2010-15

AN ORDINANCE AMENDING THE ZONING MAP BY CHANGING THE EXTRATERRITORIAL JURISDICTION FROM AN ARC SYSTEM TO A STRAIGHT LINE SYSTEM.

Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried. The second reading will take place at the next meeting.

Councilmember Chamberlain arrived at 6:35 p.m.

Councilmember Sturm introduced Resolution No. 2010-43 and moved for its approval; Councilmember Alexander seconded.

RESOLUTION NO. 2010-43

A RESOLUTION ADOPTING OFFICIAL ZONING MAP.

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

Garry Poutre, Supt. of Public Works and Utilities, was present and advised the Council that they received two bids for a commercial front deck mower. The bid proposal from Dinkel Equipment did not meet bid specs. Therefore, staff recommendation is to accept the bid of and award the contract to Northeast Equipment for a John Deere commercial front deck mower in the amount of \$17,700. The City crews mow 79.7 acres. This particular mower is a 4-wheel drive mower with dual front wheels for stability and is replacing the 1999 Ranson mower. In addition, this mower will have a roll bar which is needed for safety on some of the steep slopes that they mow. None of the other mowers have a roll bar. The cost of the mower will be split between the Water/Wastewater Department and the Parks Department. The trade-in value last

year for the 1999 Ranson mower was \$2,500. This mower will continue to be used to mow flat ground.

Todd Hoeman and Lowell Heggemeyer of the Public Works Department were present to answer questions.

Councilmember Sturm introduced Resolution No. 2010-44 and moved for its approval; Councilmember Alexander seconded.

RESOLUTION NO. 2010-44

A RESOLUTION ACCEPTING BID AND AWARDING CONTRACT ON THE PURCHASE OF A COMMERCIAL FRONT DECK MOWER.

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

Garry Poutre, Supt. of Public Works & Utilities, along with City Administrator Johnson, gave a report on the proposed changes that will take place in recycling collection at the transfer station beginning July 31st. Waste Connections has advised the City that they are going to have curbside recycling beginning August 1st and will no longer be operating recycling at the transfer station. We will not have any interruption of services at the transfer station. Staff met with Gill Hauling today, and they have assured us that they will provide for the recycling, and if they do not, then the city will continue to accept all of the recycling that we do now.

Joel Hansen, Building Inspector/Planner/Cert. Street Supt., requested Council consideration to open Tomar Drive and East 4th Street to public use and establish a road across the east end of the rugby fields to connect the summer sports complex. Asphalt millings from the airport project will be used to establish this road. If the Benscoter Subdivision doesn't have a concrete street in place when the airport project begins, then

the asphalt millings can be put down to create a temporary road base to get down to the summer sports complex. Then, once the Benscoter Subdivision is ready to be developed, the asphalt millings can be removed and then replaced with a concrete street.

Councilmember Ley made a motion and seconded by Councilmember Sturm approving the request to open Tomar Drive and E. 4th Street to public use and establish a road across the east end of the rugby fields to connect to the summer sports complex. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Administrator Johnson stated a pay request has been received from Robert Woehler & Sons Construction in the amount of \$18,173.71 for the Muhs Acres Water Main Extension Project. The engineer on the project has approved the same.

Councilmember Sturm made a motion and seconded by Councilmember Chamberlain approving Certificate of Payment No. 3 for the Muhs Acres Water Main Extension Project in the amount of \$18,173.71 to Robert Woehler & Sons Construction. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Administrator Johnson stated a pay request has been received from Gana Trucking & Excavating in the amount of \$8,756.82 for the Former Kardell Landfill project. The engineer on the project has approved the same.

Councilmember Alexander made a motion and seconded by Councilmember Sturm approving Contractor's Pay Estimate No. 2 for the Former Kardell Landfill Project in the amount of \$8,756.82 to Gana Trucking & Excavating. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Administrator Johnson stated a change order request (final) has been received on the Wayne Booster Pump Station 2009 Project. This change order adds the SRF Federal Assurance Requirements to the contract documents.

Councilmember Chamberlain made a motion and seconded by Councilmember Alexander approving Change Order No. 2 (Final) which would add the SRF Federal Assurance Requirements to the contract documents. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Joel Hansen, Building Inspector/Planner/Cert. Street Supt., stated the “Former Kardell Landfill Stream Restoration Project” was completed on May 14th. He showed a photo of the rock rip rap and initial seeding on the slope/bank of the Logan Creek. After the heavy rains, the water took out the bottom half of the seeded mat on the slope/bank and it got rid of the silt fence (photo also shown). We need to reestablish the silt fence and repair the rest of the project. The rock rip rap stayed in place. One request will be to approve reinstalling the silt fence, and the second request will be to accept Option B which would put rock rip rap on the entire length of the project.

Councilmember Chamberlain made a motion and seconded by Councilmember Haase approving a Change Order for Gana Trucking & Excavating to reinstall silt fence in the “Former Kardell Landfill Stream Restoration Project.” Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Councilmember Ley made a motion and seconded by Councilmember Chamberlain approving a Change Order for Gana Trucking & Excavating to accept Option B to put rock rip rap on the entire length of the “Former Kardell Landfill Stream

Restoration Project” in the amount of \$44,429.67. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Joel Hansen, Building Inspector/Planner/Cert. Street Supt., stated that Knife River will be doing an asphalt overlay project in Wayne. Recommendation is to approve a change order to put asphalt overlay on E. 12th Street between Schreiner Drive and Walnut Street which is internal to and on the WSC campus for \$6,248.55. Wayne State College rejected acceptance of this one/half block of street from the City in 2008 unless the City repaved it first. After this is done, the City might want to approach the College again to see if they would be willing to take over the street. Asphalt overlay typically gives you an extra 7-10 years of life on your streets. We got almost 30 years of life on the 10th Street asphalt overlay.

Councilmember Ley made a motion and seconded by Councilmember Sturm approving a Change Order for Knife River for work being done on E. 12th Street between Schreiner Drive and Walnut Street in the amount of \$6,248.55. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Councilmember Alexander made a motion and seconded by Councilmember Ley to adjourn the meeting. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried and the meeting adjourned at 7:08 p.m.

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CLAIMS LISTING JULY 20, 2010

| | | |
|----------------------------|--------------------------------------|-----------|
| ALARM PROS, INC. | RESISTORS | 5.28 |
| ALERT-ALL CORP | JUNIOR FIRE HATS | 223.20 |
| AMERITAS LIFE INSURANCE | POLICE RETIREMENT | 2,345.07 |
| APPEARA | MAT & TOWEL SERVICE | 75.62 |
| BANK FIRST | FRATERNAL ORDER OF POLICE DUES | 210.00 |
| CITY EMPLOYEE | HEALTH REIMBURSEMENT | 112.16 |
| BINSWANGER GLASS | TEMPURED GLASS | 40.00 |
| CITY EMPLOYEE | HEALTH REIMBURSEMENT | 178.01 |
| CITY OF WAYNE | IRRIGATION HEAD REPAIR | 20.00 |
| CARHART LUMBER COMPANY | FILTERS/SOFTENER SALT/NUTS/WASHERS | 1,290.60 |
| CHARTWELLS | CONGREGATE MEALS | 5,532.70 |
| CITY OF WAYNE | BUILDING PERMIT DEPOSIT REFUND | 250.00 |
| CITY OF WAYNE | COOLING INCENTIVES | 90.00 |
| CITY OF WAYNE | PAYROLL | 65,286.76 |
| CITY OF WAYNE | UNITED WAY REC/SWIM PASSES | 175.00 |
| CITY OF WAYNE | UTILITY REFUNDS | 1.77 |
| CLAUSSEN & SONS IRRIG. | IRRIGATION REPAIRS | 676.32 |
| COMMUNITY HEALTH | HEALTH CHARITIES | 4.00 |
| COPY WRITE PUBLISHING | LIBRARY OFFICE SUPPLIES | 152.78 |
| DAVE'S DRY CLEANING | POLICE UNIFORM CLEANING | 72.00 |
| DUTTON-LAINSON COMPANY | TRANSFORMER TANK/TAPE | 186.44 |
| ECHO GROUP INC JESCO | FUSES | 632.00 |
| CITY EMPLOYEE | CLOTHING REIMBURSEMENT | 39.59 |
| ED M FELD EQUIPMENT INC | GLOVES/BATTERY COVER/AIR PAK REPAIRS | 841.50 |
| ELLIS PLUMBING & HEATING | CONTROL ROOM AC COMPRESSOR REPAIRS | 713.94 |
| FLOOR MAINTENANCE | JANITORIAL SUPPLIES | 351.02 |
| GALE GROUP | BOOKS | 29.66 |
| GANA TRUCKING & EXCAVATING | BANK STABILIZATION | 8,756.82 |
| GLEN'S AUTO BODY | DOOR HANDLE REPAIRS | 86.58 |
| GRAHAM TIRES | TIRE | 124.26 |
| GUILDCRAFT ARTS & CRAFTS | SUMMER READING SUPPLIES | 215.95 |
| CITY EMPLOYEE | HEALTH REIMBURSEMENT | 35.00 |
| HAWKINS, INC | POOL CHEMICALS | 753.75 |
| HIRERIGHT SOLUTIONS INC | COLLECTION FEES | 51.90 |
| ICMA RETIREMENT TRUST-457 | ICMA RETIREMENT | 5,579.68 |
| INGRAM BOOK COMPANY | BOOKS | 445.35 |
| IRS | FEDERAL WITHHOLDING | 20,963.95 |
| JASON CAROLLO | MOWING-CH/LIB/SR | 245.00 |
| JOHN'S WELDING AND TOOL | SPREADER BAR REPAIRS | 55.40 |
| CITY EMPLOYEE | HEALTH REIMBURSEMENT | 65.60 |
| K & M SEEDS | RYE-WESTERN RIDGE | 10.00 |
| KELLY SUPPLY COMPANY | POWER PLANT BACKFLOW | 201.52 |
| L.G. EVERIST | RIPRAP ROCK | 996.82 |
| M. K. ERVIN, INC | BORING 6TH/FIREHALL | 6,160.00 |
| MICROFILM IMAGING SYSTEMS | DIGITIZE WAYNE HERALD | 516.23 |

| | | |
|----------------------------|-------------------------------------|------------|
| MIDWEST LABORATORIES, INC | BOD TESTING | 53.55 |
| MIDWEST TAPE LLC | AUDIO BOOKS | 288.49 |
| MILO MEYER CONSTRUCTION | SHAPE WESTERN RIDGE DIKE | 1,581.25 |
| MOONLIGHT TOWING LLC | TOWING | 58.58 |
| MUNICIPAL SUPPLY | VALVE BOX/COUPLING/LID | 356.71 |
| NE DEPT OF REVENUE | STATE WITHHOLDING | 3,075.42 |
| NE EXPRESSWAYS | LOBBYIST SERVICES MAY-JUN 10 | 581.04 |
| NE LIBRARY COMMISSION | ONE LIBRARY CONSORTIUM | 1,250.00 |
| NORTHEAST EQUIPMENT | MOWER REPAIRS/DRYING AGENT/ELEMENTS | 966.98 |
| ORIENTAL TRADING CO INC | SUMMER READING SUPPLIES | 113.87 |
| PAC N SAVE | SUMMER READING SUPPLIES | 13.08 |
| PAMIDA STORE # 165 | VACUUM/SUMMER READING/COFFEE | 180.23 |
| CITY EMPLOYEE | HEALTH REIMBURSEMENT | 184.77 |
| PEPSI-COLA | CAC POP | 67.79 |
| PRESTO X COMPANY | PEST CONTROL | 77.20 |
| CITY EMPLOYEE | HEALTH REIMBURSEMENT | 1,950.01 |
| QA BALANCE SERVICES | TREATMENT LAB | 90.00 |
| QWEST | TELEPHONE CHARGES | 139.60 |
| ROBERT WOehler & SONS | MUHS ACRES | 18,173.71 |
| ROBERTSON IMPLEMENT CO | SEAL OIL/BEARINGS/SPACER | 174.36 |
| RON'S RADIO | MICROPHONE CABLE | 42.99 |
| SD MEYERS | GAS IN OIL TESTING | 168.00 |
| SHAWN STORY | TRANSLATOR | 25.00 |
| SIEMENS WATER TECHNOLOGIES | FLIGHT CHANNEL FOR PRIMARY | 1,513.00 |
| SPARKLING KLEAN | JANITORIAL SERVICES | 1,405.58 |
| STADIUM SPORTING GOODS | SHIRTS | 30.00 |
| STATE NATIONAL BANK | ACH FEES | 54.74 |
| T & S TRUCKING | HAUL RIPRAP FOR SPILLWAYS | 460.47 |
| VOSS LIGHTING | LIGHT BULBS | 122.80 |
| WAYNE AREA CHAMBER | CHICKEN SHOW DONATION | 1,000.00 |
| WAYNE AREA ECONOMIC DEVEL | LB840 FUNDS | 100,000.00 |
| WAYNE AUTO PARTS | FILTERS/CABLE/CLAMPS/ALTERNATOR ETC | 1,613.54 |
| WAYNE COMMUNITY SCHOOLS | LIQUOR LICENSES | 3,057.00 |
| WAYNE COUNTY COURT | BOND | 300.00 |
| WAYNE ROTARY | 2010-2011 DUES BRADEN/WEBSTER | 280.00 |
| WAYNE STATE COLLEGE | LIGHTING EFFICIENCY | 1,000.00 |
| WESCO DISTRIBUTION INC | TERMINAL KIT/PAD MOUNT TRANSFORMERS | 3,553.11 |
| FIREMAN | HOBBY LOBBY CARDS-APPRECIATION | 28.79 |
| WOOD PLUMBING & HEATING | GLYCOL | 153.77 |
| ZACH HEATING & COOLING | AC REPAIRS | 107.50 |
| ZACH OIL COMPANY | GASOLINE | 4,809.49 |
| CITY EMPLOYEE | CLOTHING REIMBURSEMENT | 50.00 |
| ZACH PROPANE SERVICE INC | CYLINDAR FILL | 16.50 |
| CITY EMPLOYEE | HEALTH REIMBURSEMENT | 42.34 |

VOID FROM CLAIMS LISTING 7/6/10
WAED-CONTRIBUTIONS \$6,383.33

NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY

INVITATION FOR SOURCE WATER PROTECTION PROJECT PROPOSALS FUNDING UNDER SECTION 1452 OF THE FEDERAL SAFE DRINKING WATER ACT

I. PROGRAM OVERVIEW

| | |
|--|---|
| ESTIMATED ANNUAL FUNDS | \$100,000 |
| ELIGIBLE APPLICANTS | Political subdivisions, in Nebraska, that operate a public water system serving a population of 10,000 or less. |
| ELIGIBLE ACTIVITIES | Projects that provide long-term benefits to drinking water quality, quantity, education, and/or security. |
| INELIGIBLE ACTIVITIES | <ul style="list-style-type: none">• Activities related to the operations and maintenance of drinking water systems and water treatment;• Land purchases for the sole purpose of developing a Wellhead or Watershed Protection Plan;• Projects requesting only personnel expenses. |
| APPLICATION DEADLINE | August 6, 2010 |
| REQUIRED COPIES | Original application, 6 paper copies and one copy on CD. |
| <p>Proposals must be delivered to the NDEQ office in Lincoln on or before 3:00pm August 6, 2010 or postmarked on or before the due date to be considered for funding. Late proposals will be returned unopened. Facsimile or e-mailed proposals will not be accepted.</p> <p>Mail or hand deliver applications to:</p> <p>Source Water Coordinator Nebraska Department of Environmental Quality 1200 N Street, Suite 400, The Atrium Lincoln, Nebraska 68509-8922 Telephone: (402) 471-2186 Website: http://www.deq.state.ne.us Email: NDEQ.moreinfo@nebraska.gov Phone 402-471-6988 Toll Free: 877-253-2603</p> | |

5/25-
sent to
Lowell

Odeys Inc.

9994 F Street
Omaha, NE. 68127
402-630-4995
402-597-6296

Estimate

| DATE | ESTIMATE NO. |
|-----------|--------------|
| 5/15/2010 | 3031 |

| NAME / ADDRESS |
|------------------------------------|
| Wayne High School Rob Sweetland |

| DESCRIPTION | QTY | U/M | COST | PROJECT |
|--|-----|-----|-----------|------------|
| | | | | TOTAL |
| Scope of Work | | | | |
| Mobilization To and From Job Site | | | 600.00 | 600.00T |
| Grading | | | 2,200.00 | 2,200.00T |
| Odeys Infield Conditioner (Incorporated) | 12 | | 518.00 | 6,216.00T |
| Odeys Premium Infield Topdressing | 5 | | 558.00 | 2,790.00T |
| Incorporate Material | 17 | | 240.00 | 4,080.00T |
| Shipping / Handling (Customer must be able to unload at their end) | | | 400.00 | 400.00T |
| Travel Expenses | | | 250.00 | 250.00T |
| Odeys Labor Discount (6 to 8 people present for 4 to 5 hours) | | | -1,000.00 | -1,000.00T |
| Sales Tax Exempt | | | 0.00 | 0.00 |

SIGNATURE _____

Thank you for the opportunity to share these ideas with you!

Estimates valid for (30) days. Unless otherwise noted.

| | |
|---------------|--------------------|
| TOTAL | \$15,536.00 |
| Web Site | |
| www.odeys.com | |

RESOLUTION NO. 2010-46

A RESOLUTION ACCEPTING PROPOSAL AND AWARDING CONTRACT FOR THE HVAC SYSTEM FOR CITY HALL.

WHEREAS, one proposal was received for the HVAC System for City Hall; and

WHEREAS, the proposal has been reviewed by the City Administrator; and

WHEREAS, the City Administrator is recommending that the contract be awarded to Zach Cooling & Heating in the amount of \$8,889 (\$4,229 for the City Offices and \$4,660 for the Police Department Office).

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the City of Wayne, Nebraska, that they find and declare that the proposal, as submitted by Zach Cooling & Heating in the total amount of \$8,889 is reasonable and responsive, and the same is hereby accepted.

BE IT FURTHER RESOLVED, that the bid, as set forth and filed with the City Clerk in accordance with the general terms calling for the proposals for the furnishing of labor, tools, materials, and equipment required for said project in the City of Wayne, Nebraska, be and the same is hereby accepted.

BE IT FURTHER RESOLVED, that the Mayor/Council President be, and she/he is hereby instructed and authorized to enter into a contract on behalf of the City of Wayne, Nebraska, with the contractor for the above project, and the City Administrator is authorized to approve and execute change orders in amounts not to exceed five percent of the contract amount.

PASSED AND APPROVED this 20th day of July, 2010.

THE CITY OF WAYNE, NEBRASKA,

By _____
Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM AND CONTENT:

City Attorney

ZACH HEATING & COOLING

310 South Main Street
WAYNE, NEBRASKA 68787
(402) 375-3555

JOB ESTIMATE

PHONE _____ DATE 4-20-2010

JOB NAME/LOCATION CITY OFFICES-WAYNE

TO CITY OF WAYNE

JOB DESCRIPTION: CITY OFFICE

> Install 1 SPB048H4S43 Lennox 4 ton/15SEER Heat Pump-2 stage.
Bid includes 20 KW heater, 4 ton variable/speed blower and all
necessary ductwork, less wiring.

15 SEER
3 phase
2 stage Heat Pump

TOTAL \$ 4229.00

POLICE OFFICE

Install 2 LCG Mini-split system 2 ton each (cooling only)
in police office, less wiring.

3 phase heat
Ductwork heat

TOTAL \$ 4660.00

old equipment removed & taken away

THIS ESTIMATE IS FOR COMPLETING THE JOB AS DESCRIBED ABOVE.
IT IS BASED ON OUR EVALUATION AND DOES NOT INCLUDE MATERIAL
PRICE INCREASES OR ADDITIONAL LABOR AND MATERIALS WHICH
MAY BE REQUIRED SHOULD UNFORESEEN PROBLEMS OR ADVERSE
WEATHER CONDITIONS ARISE AFTER THE WORK HAS STARTED.

ESTIMATED JOB COST _____

ESTIMATED BY _____

RESOLUTION NO. 2010-47

A RESOLUTION AMENDING CHAPTER 30 - ACCEPTABLE USE POLICY FOR INFORMATION TECHNOLOGY OF THE CITY PERSONNEL MANUAL.

WHEREAS, the City of Wayne Personnel Manual was adopted by Resolution No. 88-31 on September 13, 1988; and

WHEREAS, it has been recommended by the City's legal counsel that Chapter 30 – Acceptable Use Policy for Information Technology of the City of Wayne Personnel Manual, which was adopted by Resolution No. 2002-1 on January 8, 2002, be amended.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Wayne, Nebraska as follows:

1. Amendments to the Personnel Manual, as set out in the attached Exhibit "A", are hereby approved.
2. The effective date of the amendment set out in Exhibit "A" shall be July 20, 2010.

PASSED AND APPROVED this 20th day of July, 2010.

THE CITY OF WAYNE, NEBRASKA,

By _____
Mayor

ATTEST:

City Clerk

Exhibit "A"
Amendments to Personnel Policy Manual
Resolution No. 2010-47

ACCEPTANCE USE GUIDELINES
FOR COMPUTERS AND INTERNET SERVICES
AND
E-MAIL AND TELEPHONIC COMMUNICATIONS

Sec. 30.10 GENERAL PRINCIPLES

Computers and Internet services are provided by the City of Wayne to support open communications and exchange of information and the opportunity for collaborative government-related work. The City of Wayne encourages the use of electronic communications by its departments and employees. Although access to information and information technology is essential to the missions of government agencies and their users, use of computers and Internet services is a revocable privilege. Conformance with acceptable use, as expressed in this policy statement, is required. City departments are expected to maintain and enforce this policy. Abuse of the Internet access provided by the City in violation of law or City policy will result in disciplinary action, up to and including termination of employment. Employees may be held personally liable for any violations of this policy.

During business hours computer use, and Internet communications to and from City employees and with outside government agencies, are presumed to be work related. City computers and data stored in them are the property of the City, and may be accessed at any time by authorized City officials. The equipment, services, and technology provided to access the Internet offered by the City remain at all times property of the City. As such, the City reserves the right to monitor Internet traffic, and retrieve and read any data composed, sent, or received through their online connections and stored in their computer systems. Employees should not expect privacy in the use of City computers.

At a minimum, users of computers and Internet services provided by the City of Wayne are expected to:

1. Make a reasonable effort to inform themselves of this acceptable use policy, and acceptable and unacceptable uses of computer equipment and the Internet in general. This burden of responsibility is on the user as to acceptable and unacceptable uses prior to use. Compliance with all applicable acceptable use restrictions is mandatory.

2. During on-duty hours City provided computers and Internet services are to be used only for City government-related activities.

The City Library provides use of computers and Internet services to the public free of charge. Therefore, no charge will be assessed to employees who use the computers and these Internet services during off-duty hours for personal business of a legal/ethical nature.

3. Respect the legal protection provided by copyright and license of programs and data.

4. Respect the privileges of other users.

5. Respect the integrity of computing systems connected to the Internet.

6. Know and follow generally accepted etiquette of the Internet. For example, always use civil forms of communication and avoid being drawn into "flame wars."

7. Avoid uses of the network that reflect poorly on other agencies or on the City.

8. During normal requirements of the various jobs within the City, protection of programs, data and select files may be required. Encrypting and/or use of passwords may be necessary to protect sensitive data. Sensitive data to be defined as personnel records, any information used in pending legal action, draft materials, and/or any information that if released prior to appropriate action may be detrimental to any City function. All passwords and/or encrypting methods including encrypting programs in use on City of Wayne owned or leased computerized equipment must be on file with the Department Head or City Administrator. Such passwords shall be listed on forms provided by City offices. The password or encrypting information must be filed and available within three working days from the date the password or encryption is used. When changing or updating passwords, the three working days is from the date that change is made.

Evaluation of the guidelines of this acceptable use policy may require the City Administrator, Department Heads or supervisors to view any document, program or materials displayed on any City computer, terminal or monitor on request.

Users should remember that the City of Wayne's personnel rules and regulations on employee conflict of interest, legal/ethical conduct, and appropriate use of City property apply to the use of electronic communications systems supplied by the City.

Sec. 30.20 SPECIFICALLY ACCEPTABLE USES

1. Communication and information exchange directly related to the mission and goals of the City and work tasks of its departments.

2. Communications and exchange for continuing professional development, to maintain currency of training and education, or to discuss issues related to the user's City activities.

3. Application for or administration of grants or City contracts.

4. Utilization for advisory, standards, research, analysis, and professional society activities related to the user's City work tasks and duties.

5. Announcement of new City regulations, ordinances, procedures, policies, rules, services, programs, information, or activities.

6. Any other City administrative communications not requiring a high level of security.

7. Communication incidental to otherwise acceptable use, except for illegal or specifically unacceptable uses.

Sec. 30.30 SPECIFICALLY UNACCEPTABLE USES FOR CITY INTERNET USAGE

1. Any purpose which violates a federal, state or local law.

2. Any for-profit activities unless specific to the mission, goals or duties of the City, or related work tasks of a department.

3. Purposes not directly related to the City's mission and goals or department's work tasks during normal business hours.

4. Using the City's time and resources for personal gain.

5. Access to and distribution of: (a) patently offensive representations or descriptions of ultimate sexual acts, normal or perverted, actual or simulated offensive representations or descriptions of excretory functions, masturbation, or lewd exhibition of the genitals, (b) material sent or received in violation of the Protection of Children Against Sexual Exploitation Act of 1977, as amended, 18 U.S.C. 2252.

An exemption is allowed for authorized City law enforcement officers searching for information pertaining to specific criminal activity directly related to active investigations within the jurisdiction of the City of Wayne.

6. Access to and distribution of computer games that have no bearing on the City's mission and goals or a department's work tasks. Some games that help teach, illustrate, train, or simulate City related issues may be acceptable.

7. Interference with or disruption of network users, services or equipment.

8. Intentionally seeking out information on, obtain copies of, or modify files and other data which are confidential under federal, state, or local law, unless specifically authorized to do so once the legal conditions for release are satisfied.

No intentional copy is to be made of any software, electronic file, program or data using City provided Internet services without a prior, good faith determination that such copying is, in fact, permissible. Any efforts to obtain permission should be adequately documented.

9. Intentionally seeking information on, obtaining copies of, or modifying files or data belonging to others without authorization of the file owner. Seeking passwords of others or the exchanging of passwords is specifically prohibited.

10. Users intentionally representing themselves electronically as others, either on the City Internetwork or elsewhere on the Internet unless explicitly authorized to do so by those other users. Users shall not circumvent established policies defining eligibility for access to information or systems.

11. Intentionally developing programs designed to harass other users or infiltrate a computer or computing system and/or damage or alter software components of same.

12. Fund raising or public relations activities not specifically related to City activities.

13. Using the Internet for political causes or activities, religious activities, or any sort of gambling.

14. Sending or posting discriminatory, harassing, or threatening messages or images.

15. Sending or posting messages or material that could damage the City's image or reputation.

16. Participating in the viewing or exchange of pornography or obscene materials.

17. Refusing to cooperate with a security investigation.

Sec. 30.40 ADDITIONAL GUIDELINES

1. Computer Viruses on Downloaded Software. Any software obtained from outside City government should be virus checked prior to use. Internet users should take the necessary anti-virus precautions before downloading or copying any file from the

Internet. All downloaded files are to be checked for viruses; all compressed files are to be checked before and after decompression.

2. Use by Contractors. Contractors and other non-City employees may be granted access to City provided Internet services at the discretion of the City Administrator. Acceptable use by contractors and other non-City employees working for the City is the responsibility of the contract administrator. The contract administrator is expected to provide contractors who use City Internet services with this information.

3. Passwords. Use passwords associated with the City information system only on that system. When setting up an account at a different information system that will be accessed using the Internet, choose a password different from ones used on City information systems. Do not use the same password for both local and remote Internet accessed site.

4. Logoff (Exiting). Always make a reasonable attempt to complete the logoff or other termination procedure when finished using a remote, Internet accessed system or resource. This will help prevent potential breaches of security.

5. E-mail Security. Unencrypted electronic mail sent or received outside any department and on the Internet cannot be expected to be secure.

6. Large File Transfers and Internet Capacity. The Internet connection is a shared resource. While routine electronic mail and file transfer activities will not impact other users much, large file transfers and intensive multimedia activities will impact the service levels of other users.

Users contemplating file transfers over ten megabytes per transfer or interactive video activities should, to be considerate of other users, schedule these activities early or late in the day.

7. Disclaimers. Users should avoid being drawn into discussions where disclaimers like “this represents my personal opinion and not that of my Department or the City of Wayne” need to be used. When you are using Internet services provided by the City, users need to remember that they are representing the City of Wayne.

Sec. 30-50 PROCEDURES

The City Administrator, department head or their delegated representative are responsible for their employees' compliance with the provisions of this policy and for investigating non-compliance. When an instance of non-compliance with this policy is discovered or suspected, the management shall take action in accord with City personnel policies. Suspension of service to users may occur when deemed necessary to maintain the operation and integrity of the City of Seward Internetwork. User accounts and password access may be withdrawn without notice if a user knowingly violates the acceptable use

policy. Discipline may be appropriate in cases of criminal or civil action where laws are violated.

Sec. 30.60 E-MAIL AND TELEPHONIC COMMUNICATIONS

All electronic and telephonic communication systems and all information transmitted by, received from and stored in these systems, including e-mail and voice-mail, are the property of the City of Wayne (the "City"). These systems are to be used solely for job-related purposes and not for personal purposes. There is no expectation of privacy in connection with the use of this equipment or with the transmission, receipt, or storage of information in this equipment.

Employees shall not use a code, access a file, or retrieve any stored communication unless authorized. The City may monitor an employee's use of this equipment at any time at its discretion. Such monitoring may include printing and reading all e-mail messages entered or stored in these systems or retrieving voice-mail messages or other information.

The City may tape, record, videotape or otherwise monitor an employee's conversations or communications with other employees or non-employees for legitimate business purposes, such as for evaluation and training. An employee may be notified when such recording occurs. However, that notice may not be given to an employee in certain circumstances such as when the City is conducting an investigation into alleged policy or contractual violations.

RESOLUTION NO. 2010-48

**A RESOLUTION APPROVING AMENDMENT NO. 3 TO
COMMUNICATION TOWER AND REAL ESTATE LEASE
AGREEMENT WITH ALLTEL COMMUNICATIONS OF
NEBRASKA, INC.**

WHEREAS, the City owns a communication tower next to City Hall at 306 Pearl Street; and

WHEREAS, said parties entered into a lease agreement dated March 1, 1998, as amended by First Amendment to Lease Agreement, dated October 2, 2003, and as further amended by second amendment to lease agreement dated December 14, 2004; and

WHEREAS, the City Administrator has renegotiated and the City Attorney has reviewed said Amendment No. 3 to the Communication Tower and Real Estate Lease Agreement with Alltel Communications of Nebraska, Inc., and recommend approval thereof.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of the City of Wayne, Nebraska, that Amendment No. 3 to the Communication Tower and Real Estate Lease Agreement with Alltel Communications of Nebraska, Inc., is hereby approved, and the Mayor/Council President is hereby authorized to execute the agreement on behalf of the City.

PASSED AND APPROVED this 20th day of July, 2010.

THE CITY OF WAYNE, NEBRASKA,

By _____
Council President

ATTEST:

City Clerk

SITE NAME: NE03 Wayne DT
SITE NUMBER: _____

**AMENDMENT NO. 3 TO COMMUNICATION TOWER
AND REAL ESTATE AGREEMENT**

This AMENDMENT NO. 3 TO COMMUNICATION TOWER AND REAL ESTATE AGREEMENT ("Amendment") is made this _____ day of _____, 20____, by and between City of Wayne, a Nebraska municipal corporation ("LESSOR"), with it notice address of City Hall, 306 Pearl Street, Wayne, Nebraska 68787 and Alltel Communications of Nebraska, Inc., a Nebraska corporation ("LESSEE"), with its principal office located at One Verizon Way, Mail Stop 4AW100, Basking Ridge, New Jersey 07920 (telephone number 866-862-4404), with reference to the facts set forth in the Recitals below:

RECITALS

A. LESSOR and LESSEE, or their predecessors in interest, are parties to a Communications Tower and Real Estate Lease Agreement dated March 1, 1998, as amended by First Amendment to Lease Agreement, dated October 2, 2003, as further amended by Second Amendment to Lease Agreement dated December 14, 2004 (collectively, the "Agreement"), whereby LESSOR has leased a portion of LESSOR's property and a portion of LESSOR's building on adjacent property to LESSEE.

B. LESSOR and LESSEE desire to amend the Agreement to clarify the monthly rent payable to LESSOR under the Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the facts contained in the Recitals above, the mutual covenants and conditions below, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. RENT. Notwithstanding any provision in the Agreement to the contrary, all sums due and payable, whether chacterized as rent or otherwise in any provision of the Agreement, are hereby agreed to be for the payment of rent and shall be in the total amount of One Thousand Nine Hundred Two and 12/100 Dollars (\$1,902.12) per month for the remainder of the current term. Thereafter, the entire amount of said rent shall increase pursuant to the terms of the Agreement.

2. NOTICE. LESSEE's notice address in Paragraph 20 of the Agreement is hereby replaced with the following:

LESSEE: Alltel Communications of Nebraska, Inc.
180 Washington Valley Road
Bedminster, New Jersey 07921
Attention: Network Real Estate

3. RATIFICATION OF THE AGREEMENT. Except as specifically modified by this Amendment, the parties agree that all of the terms and conditions of the Agreement are in full force and effect and remain unmodified, and the parties hereby ratify and reaffirm the terms and conditions of the Agreement and agree to perform and comply with the same. In the event of a conflict between any term or provision of the Agreement and this Amendment, the terms and provisions of this Amendment shall control. In addition, except as otherwise stated in this Amendment, all initially capitalized terms will have the same respective defined meaning stated in the Agreement. All captions are for reference purposes only and shall not be used in the construction or interpretation of this Amendment.

IN WITNESS WHEREOF, LESSOR and LESSEE have caused this Amendment to be executed by each party's duly authorized representative on the date written below.

LESSOR:

City of Wayne,
a Nebraska municipal corporation

By: _____

Name: _____

Its: Mayor

By: _____

Name: _____

Its: _____

Date: _____

LESSEE:

Alltel Communications of Nebraska, Inc.,
a Nebraska corporation

By: _____

Beth Ann Drohan

Its: Area Vice President Network

Date: _____

RESOLUTION NO. 2010-49

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

WHEREAS, the Governor signed LB989 of the 1997 Session into law, and this law authorizes the City Council to allocate property taxes to the Wayne Municipal Airport Authority; and

WHEREAS, LB 1114 allows Airport Authorities to adopt a resolution requesting that the governing body of the city include their tax levy in the city budget; and

WHEREAS, the Wayne Municipal Airport Authority has requested \$60,000 in property tax allocation; and

WHEREAS, the Mayor and Council of the City of Wayne, Nebraska, hereby finds and determines that it is in the best interest of the City to allocate \$60,000 in property taxes to the Wayne Municipal Airport Authority.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Wayne, Nebraska, that the City of Wayne allocates \$60,000 to the Wayne Municipal Airport Authority.

PASSED AND APPROVED this 20th day of July, 2010.

THE CITY OF WAYNE, NEBRASKA,

By _____
Council President

ATTEST:

City Clerk

APPROVED AS TO FORM AND CONTENT:

City Attorney

PRELIMINARY LEVY ALLOCATION FROM CITY OF WAYNE
RESOLUTION NO. 2010-2

WHEREAS, Nebraska Statute 77-3443 (3) requires all political subdivisions subject to city/village levy authority to submit a preliminary request for levy allocation to the city council/village board; and

WHEREAS, the Wayne City Council is the levy authority for the Wayne Municipal Airport .

NOW, THEREFORE BE IT RESOLVED that the following is said Board's tax request for budget year 2010-2011:

| | |
|------------------|------------------|
| FUND TAX REQUEST | |
| General Fund | <u>\$ 60,000</u> |
| TOTAL | <u>\$ 60,000</u> |

BE IT FURTHER RESOLVED that said Public Airport has repayment of Interest-Free Loans from the Department of Aeronautics for \$20,052 and this amount is not included in the above tax request as allowed by law.

NOW, THEREFORE BE IT RESOLVED that the following is said Board's tax request for budget year 2010-2011:

TOTAL

Motion by Carl Rump to adopt Resolution NO. 2010-2. Seconded by Dave Zach.

Voting yes were: Dave Ley, Carl Rump, Rod Tompkins, Dave Zach, Mitchell Nissen

Voting no were: none

Motion carried.

Date this 12th day of July, 2010.

Mitchell Nissen
Chairman
Daniel R. Ly
Secretary

RESOLUTION NO. 2010-50

A RESOLUTION APPROVING STP ENGINEERING AGREEMENT (AMENDED) FOR PROFESSIONAL ENGINEERING DESIGN SERVICES BETWEEN THE CITY OF WAYNE AND KIRKHAM MICHAEL FOR THE WINDOM STREET FROM 3RD TO 7TH STREETS PAVING AND STORM SEWER PROJECT.

WHEREAS, the Wayne City Council previously approved on September 15, 2009, an Engineering Agreement with Kirkham Michael for the “Windom Street from 3rd to 7th Streets Paving and Storm Sewer Project”; and

WHEREAS, the said agreement has been revised and has now been approved by the FHWA/NDOR regarding the “Windom Street from 3rd to 7th Streets Paving and Storm Sewer Project”; and

WHEREAS, staff recommendation is to accept said proposal of Kirkham Michael for the above-named project at a cost of \$95,985.

NOW, THEREFORE BE IT RESOLVED, by the Mayor and City Council of the City of Wayne, Nebraska, that the Agreement for STP Engineering Design Services between the City of Wayne and Kirkham Michael for the “Windom Street from 3rd to 7th Streets Paving and Storm Sewer Project” be accepted as recommended, and the City Administrator and/or Mayor/Council President is authorized and directed to execute said Agreement for the professional services on behalf of the City.

PASSED AND APPROVED this 20th day of July, 2010.

THE CITY OF WAYNE, NEBRASKA,

By _____
Council President

ATTEST:

City Clerk

APPROVED AS TO FORM AND CONTENT:

City Attorney

ORIGINAL

ENGINEERING AGREEMENT

CITY OF WAYNE
KIRKHAM, MICHAEL AND ASSOCIATES, INC
PROJECT NO. URB-6709(2)
CONTROL NO. 31991
WINDOM STREET FROM 3RD TO 7TH STREETS
PRELIMINARY ENGINEERING SERVICES

THIS AGREEMENT, made and entered into by and between the City of Wayne, hereinafter referred to as the Local Public Agency or LPA, and Kirkham, Michael and Associates, Inc., hereinafter referred to as the "Consultant

WITNESSETH

WHEREAS, the LPA desires to engage the Consultant to render professional services for the above named project at the location shown on EXHIBIT "B", which is attached and hereby made a part of this agreement, and

WHEREAS, the Consultant is qualified to do business in Nebraska and has met all requirements of the Nebraska Board of Engineers and Architects to provide consultant engineering services in the State of Nebraska, and

WHEREAS, Consultant is willing to perform the services in accordance with the terms hereinafter provided, is presently in compliance with Nebraska law, and hereby agrees to comply with all federal, state, and local laws and ordinances applicable to this agreement, and

WHEREAS, the Consultant and LPA intend that the services provided by Consultant comply with all applicable federal-aid transportation related program requirements, so that LPA's project will be fully eligible for federal reimbursement, and

WHEREAS, the LPA and Consultant intend that the services under this agreement be completed in accordance with the terms and conditions of the Nebraska LPA Guidelines Manual for Federal Aid Projects; hereinafter referred to as LPA Manual; the LPA Manual is a document approved by the Federal Highway Administration (FHWA) that sets out the requirements for local federal-aid projects to be eligible for federal reimbursement; the LPA Manual can be found in its entirety at the following web address:

<http://www.transportation.nebraska.gov/gov-aff/lpa/lpa-guidelines.pdf>, and

WHEREAS, the Consultants primary contact person for LPA will be the LPA's representative, who has been designated as being in responsible charge of the project, and who is referred to herein as RC or Responsible Charge.

WHEREAS, the parties understand that the State of Nebraska, Department of Roads is involved in this federal-aid project on behalf of the FHWA only for issues related to the eligibility of the project for reimbursement of project costs with federal-aid funds.

NOW THEREFORE, in consideration of these facts, the parties hereto agree as follows:

SECTION 1. DEFINITIONS

Wherever in this agreement the following terms are used, they will have the meaning here given:

"CONSULTANT" means Kirkham, Michael and Associates, Inc. and any employees thereof, whose business and mailing address is 12700 West Dodge Road, Omaha, Nebraska 68154 and

"LPA" means a Local Public Agency. Local Public Agencies include, but are not necessarily limited to; Nebraska Cities, Villages, Counties, Political Subdivisions, Native American Tribes, and other entities or organizations found to be eligible sub recipients of federal funds for transportation projects, and

"LPA MANUAL" shall mean the Nebraska Department of Roads' LPA Guidelines Manual for Federal-Aid Projects. The LPA Manual can be found in its entirety at the following web address: <http://www.transportation.nebraska.gov/gov-aff/lpa/lpa-guidelines.pdf>, and

"RESPONSIBLE CHARGE" or "RC" shall mean LPA's representative for the project whose duties and responsibilities are identified in federal law and in the LPA Manual, and

"STATE" means the Nebraska Department of Roads in Lincoln, Nebraska, its Director, or authorized representative. The State represents the United States Department of Transportation on federally funded transportation projects sponsored by a sub recipient of federal funds and any reference to the "State" in this Master Agreement shall mean the State on behalf of the United States Department of Transportation.

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

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

To "ABANDON" the work means that the LPA has determined that conditions or intentions as originally existed have changed and that the work as contemplated herein is to be renounced

and deserted for as long in the future as can be foreseen.

To "SUSPEND" the work means that the LPA has determined that progress is not sufficient, or that the conditions or intentions as originally existed have changed, or the work completed or submitted is unsatisfactory, and that the work as contemplated herein should be stopped on a temporary basis. This cessation will prevail until the LPA determines to abandon or terminate the work or to reinstate it under the conditions as defined in this agreement.

To "TERMINATE" or the "TERMINATION" of this agreement is the cessation or quitting of this agreement based upon action or failure of action on the part of the Consultant as defined herein and as determined by the LPA.

SECTION 2. SCOPE OF SERVICES

The Consultant shall provide preliminary engineering services for Project No. URB-6709(2), Control No. 31991, in Wayne County, Nebraska. The scope shall be developed in accordance with the LPA manual and attached hereto as Exhibit "C".

SECTION 3. PERSONNEL

The Consultant has furnished a personnel chart or list in EXHIBIT "E". Personnel who are added to Exhibit "E" as replacements must be persons of comparable training and experience. Personnel added to Exhibit "E" as new personnel and not replacements must be qualified to perform the intended work. The Consultant shall notify the LPA of any personnel changes. The LPA reserves the right to accept or reject the personnel change. Failure on the part of the Consultant to provide acceptable replacement personnel or qualified new personnel as determined by the LPA will be cause for termination of this agreement, with settlement to be made as provided in the CHANGE OF PLAN, ABANDONMENT, SUSPENSION, AND TERMINATION section of this agreement.

SECTION 4. NEW EMPLOYEE WORK ELIGIBILITY STATUS

The Consultant agrees to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska. The Consultant hereby agrees to contractually require any subconsultants to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of

1996, 8 U.S.C. 1324a, known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee.

The undersigned duly authorized representative of the Consultant, by signing this agreement, hereby attests to the truth of the following certifications, and agrees as follows:

Neb.Rev.Stat. § 4-114. I certify compliance with the provisions of Section 4-114 and, hereby certify that this Consultant shall register with and use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska. I agree to require all subconsultants, by contractual agreement, to require the same registration and verification process.

If the Consultant is an individual or sole proprietorship, the following applies:

1. The Consultant must complete the United States Citizenship Attestation form, available on the Department of Roads website at www.transportation.nebraska.gov/projdev/#save.
2. If the Consultant indicates on such Attestation form that he or she is a qualified alien, the Consultant agrees to provide the US Citizenship and Immigration Services documentation required to verify the Consultant lawful presence in the United States using the Systematic Alien Verification for Entitlements (SAVE) Program.
3. The Consultant understands and agrees that lawful presence in the United States is required and the Consultant may be disqualified or the contract terminated if such lawful presence cannot be verified as required by Neb. Rev. Stat. §4-108.

SECTION 5. STANDARD PRACTICES AND REQUIREMENTS

It is mutually agreed that at the request of the State, the Consultant shall provide the State a detailed report of the product and progress of the work and allow inspection of the existing work product. From time to time, additions, deletions, changes, elaborations, or modifications of the services performed under the terms of this agreement may be determined by the State to be desirable or preferable. These changes will be made by supplement agreement.

SECTION 6. NOTICE TO PROCEED AND COMPLETION

The LPA will issue the Consultant a written Notice-to-Proceed when LPA determines that federal funding approval has been obtained for the project, and upon State concurrence that the form of this Task Order is acceptable for federal funding eligibility. Any work or services performed by Consultant on the project prior to the date specified in the written Notice-to-Proceed is not eligible for reimbursement.

The Consultant shall do all the work according to the schedule in attached EXHIBIT "D" and shall complete all work required under this agreement in a satisfactory manner by July 1, 2012.

Any costs incurred by Consultant after the completion deadline are not eligible for federal funding reimbursement unless the Consultant has received an extension of time in writing from LPA and the LPA has federal funding approval for the extension of time.

The completion time will not be extended because of any avoidable delay attributed to the Consultant, but delays attributable to the LPA may constitute a basis for an extension of time.

LPA authorized changes in the scope of work, which increase or decrease work-hours or services required of the Consultant, will provide the basis for a change of time and/or changes to the Consultant's fee.

SECTION 7. FEES AND PAYMENTS

- A. For performance of the services as described in this agreement, the Consultant will be paid a fixed-fee-for-profit of \$9,971.97, as defined in paragraph D of this section, and up to a maximum amount of \$86,013.03 for actual costs as defined in paragraph E of this section, that are allowable subject to the terms of this agreement and to all requirements and limitations of the federal cost principles contained in the Federal Acquisition Regulation (48 CFR 31). The total agreement amount is \$95,985.00.
- B. Occasionally, the conditions of this agreement may change. This may be due to a change in scope which may require an adjustment of costs. In order to justify the need to modify this contract, the LPA must first determine that the situation meets the following criteria:
 - That the additional work is beyond the scope of services initially negotiated with Consultant; and

- That the proposed Services are within the scope of the Request for Proposal under which Consultant was selected and contract entered into; and
- That it is in the best interest of the LPA that the services be performed under this agreement.

Once the need for a modification has been established, a supplemental agreement will be prepared.

If the additional work requires the Consultant to incur costs prior to execution of a supplemental agreement, the LPA shall use the Consultant Work Order Form (DR Form 246) to describe and provide necessary justification for the modification of the scope of services, the deliverables, the schedule, and to document the estimated total additional fee. DR Form 246 is available on the State's webpage at:

www.transportation.nebraska.gov/qov-aff/downloads.htm. The Consultant Work

Order must be executed to provide authorization for the additional work and to specify when that work may begin. This agreement will be supplemented after one or more Consultant Work Orders have been authorized and approved for funding.

- C. The LPA is not responsible for costs incurred prior to the Notice-to-Proceed date or after the completion deadline date stated in the TIME OF BEGINNING AND COMPLETION Section of this agreement.
- D. The fixed-fee is computed upon the direct labor or wage costs, indirect labor costs, indirect non-labor costs, and direct payroll additives. The fixed-fee is not allowable upon direct non-labor costs. The fee for profit is calculated by multiplying the sum of the wages and overhead costs billed by the negotiated fee for profit rate of twelve percent.
- E. Actual costs include direct labor costs, direct non-labor costs, and overhead costs.
- (1) Direct Labor Costs are the earnings that individuals receive for the time they are working directly on the project.
- (a) Hourly Rates: For hourly employees, the hourly earnings rate shall be the employee's straight time hourly rate for the pay period in which the work was performed. For salaried employees, the hourly earnings rate shall be their normal hourly rate as established by the company's compensation plan, except for those pay periods where the employee works more hours than normally expected. In those pay periods, the

hourly rate for project billing purposes shall be the actual rate determined by dividing the actual compensation for that pay period by the actual hours reported, including paid absences, for that pay period. Hours worked includes paid absences, such as: holiday, vacation, sick leave, administrative leave, etc.

(b) Time records: The hours charged to the project must be supported by adequate time distribution records. The records must clearly indicate the distribution of hours to all activities on a daily basis for the entire pay period, and there must be a system in place to ensure that time charged to each activity is accurate.

(2) Direct Non-Labor Costs charges in this category include actual allowable expenses for personnel away from their base of permanent assignment, communication costs, reproduction and printing costs, computer charges, special equipment and materials required for the project, special insurance premiums if required solely for this agreement, and such other similar items. A non-labor cost cannot be charged as a direct cost and also be included in the Consultant's overhead rate. If for reasons of practicality, the consultant is treating a direct non-labor cost category, in its entirety, as an overhead cost, then costs from that category are not eligible to be billed to this project as a direct expense.

Payment for eligible direct non-salary costs must be made on receipted invoices whenever possible, or on certified billings of the Consultant. For purposes of standardization on this agreement, the following expenses will be reimbursed at actual costs, not to exceed the rates as shown below.

Company Automobile/Pick-up truck - The reimbursement for automobile/pick-up truck mileage shall be the prevailing standard rate as established by the Internal Revenue Services through its Revenue Procedures - currently 50 cents per mile.

Company Survey Vehicle - Currently 52.5 cents per mile (2.5 cents above Company Automobile/Pick-up truck)

Privately Owned Vehicle - Actual reimbursement to employee, not to exceed rates shown for company vehicles outlined above

Automobile Rental - Actual reasonable cost

Air fare - Actual reasonable cost, giving the State all discounts

Lodging - Actual cost – excluding taxes and fees: Not to exceed the federal lodging reimbursement guidelines, as periodically determined by the U.S. General Services Administration – currently at the following rates:

Not to exceed *\$70.00 per person daily

*Omaha/Douglas County, not to exceed \$101.00 per person daily

Meals - Actual cost – including tax and gratuity: Not to exceed the federal per meal reimbursement guidelines, as periodically determined by the U.S. General Services Administration – currently at the following rates:

| | Statewide | Omaha/Douglas County |
|-----------|----------------|--|
| Breakfast | \$ 7.00 | \$ 10.00 |
| Lunch | 11.00 | 15.00 |
| Dinner | <u>23.00</u> | <u>31.00</u> |
| Totals | <u>\$41.00</u> | <u>\$56.00</u> (Includes tax and gratuity) |

For the Consultant and its employees to be eligible for the meal allowance, the following criteria must be met.

- Breakfast: (a) Employee is required to depart at or before 6:30 a.m., or
(b) Employee is on overnight travel.
- Lunch: (a) Employee must be on overnight travel. No reimbursement for same day travel.
(b) Employee is required to leave for overnight travel at or before 11:00 a.m., or
(c) Employee returns from overnight travel at or after 2:00 p.m.
- Dinner: (a) Employee returns from overnight travel or work location at or after 7:00 p.m., or
(b) Employee is on overnight travel.

Meals are not eligible for reimbursement if the employee eats within 20 miles of the headquarters town of the employee.

The Consultant shall note the actual lodging and meal costs in a daily diary, expense report, or on the individual's time report along with the time of departure to the project and time of return to the headquarters town. The total daily meal costs must not exceed \$41.00 per person, with the exception of Omaha/Douglas County, which must not exceed \$56.00 per person (includes tax and gratuity). When requested by LPA or State, the Consultant will provide a copy of the meal receipts.

- (3) Overhead Costs include indirect labor costs, indirect non-labor costs, and direct labor additives that are allowable in accordance with 48 CFR 31. Overhead costs are to be allocated to the project as a percentage of direct labor costs. The Consultant will be allowed to charge the project using its actual allowable overhead rate. Overhead rate increases which occur during the project period will not be cause for an increase in the maximum amount established in paragraph A of this section. When an audit is performed by the State at the completion of the work, the actual allowable overhead rate for the year the project labor was incurred will be applied to the direct labor costs for that year. If a particular year's actual overhead has not yet been computed or approved by the State, the most recent year's accepted rate will be applied. The audit may result in additional funds due the Consultant or a cost due from the Consultant to the State.

- F. The Consultant shall submit invoices to the LPA at a minimum of monthly intervals and in accordance with the "LPA Procedure for Processing Invoices" located on the State's webpage at:

www.transportation.nebraska.gov/gov-aff/downloads.htm.

The invoices must present actual direct labor, actual overhead, actual direct non-labor costs, as well as the fixed-fee based upon the actual direct labor and overhead costs billed for that period. The fixed-fee amount on the final invoice should be the difference between 90 percent of the agreed-upon fee and the total amount previously billed. The invoices must identify each employee by name and classification, the hours worked, and each individual's actual labor cost. Direct non-labor expenses must be itemized and provide a complete description of each item billed. See LPA Guidelines Manual for Federal-Aid projects, Chapter 13, Section 13.3, paragraph 4, for additional requirements.

Each monthly invoice must be substantiated by a progress report which is to include/address, as a minimum:

1. A description of the work completed for that period
2. A description of the work anticipated for the next pay period
3. Information needed from LPA
4. Percent of work completed to date
5. A completed "Cost Breakdown Form" which is located on the State's webpage at www.transportation.nebraska.gov/irfp.

If the Consultant does not submit a monthly invoice, it shall submit its progress report monthly.

- G. The State, on behalf of LPA, will make every effort to pay the Consultant within 30 days of receipt of the Consultant's invoices. Payments are dependent upon whether the monthly progress reports provide adequate substantiation for the work and whether the LPA and State determines that the work submitted is satisfactory. Upon determination that the work was adequately substantiated and satisfactory, payment will be made in the amount of 100 percent of the billed actual costs, and 90 percent of the fixed-fee. The final 10% of the fixed-fee will be paid upon completion of the work required under this agreement, acceptance by the LPA and State, and a final audit of all invoiced amounts has been completed by the State or its authorized representative. The Consultant agrees to reimburse the State for any overpayments discovered by the State or its authorized representative.

The acceptance by the Consultant of the final payment will constitute and operate as a release to the LPA and State for all claims and liability to the Consultant, its representatives, and assigns, for any and all things done, furnished, or relating to the services rendered by or in connection with this agreement or any part thereof.

- H. The Consultant shall maintain and also require that its Subconsultants/Subcontractors maintain all books, documents, papers, accounting records, and other evidence pertaining to costs incurred and shall make such material available for examination at its office at all reasonable times during the agreement period and for three years from the date of final project acceptance by FHWA under this agreement. Such materials must be available for inspection by the State, FHWA, or any authorized representative of the federal government, and when requested, the Consultant shall furnish copies.

SECTION 8. PROFESSIONAL PERFORMANCE

The Consultant understands that the LPA will rely on the professional performance and ability of the Consultant. Any examination by the LPA, State or the FHWA, or any acceptance or use of the work product of the Consultant, will not be considered to be a full and comprehensive examination and will not be considered an approval of the work product of the Consultant which would relieve the Consultant from any liability or expense that would be connected with the Consultant's sole responsibility for the propriety and integrity of the professional work to be accomplished by the Consultant pursuant to this agreement. That further, acceptance or approval of any of the work of the Consultant by the LPA or of payment, partial or final, will not constitute a waiver of any rights of the LPA to recover from the Consultant, damages that are caused by the Consultant due to error, omission, or negligence of the Consultant in its work. That further, if due to error, omission, or negligence of the Consultant, the plans, specifications, and estimates are found to be in error or there are omissions therein revealed during the construction of the project and revision or reworking of the plans is necessary, the Consultant shall make such revisions without expense to the LPA. The Consultant shall respond to the LPA's or State's notice of any errors or omissions within 24 hours and give immediate attention to these corrections to minimize any delays to the construction contractor. This may involve visits by the Consultant to the project site, if directed by the LPA. If the Consultant discovers errors in its work, it shall notify the LPA and State of the errors within seven days. Failure of the Consultant to notify the LPA will constitute a breach of this agreement. The Consultant's legal liability for all damages incurred by the LPA caused by error, omission, or negligent acts of the Consultant will be borne by the Consultant without liability or expense to the LPA.

SECTION 9. CHANGE OF PLAN, ABANDONMENT, SUSPENSION, AND TERMINATION

Additions to the schedule of services, if approved in writing, will require negotiation of a supplemental agreement. For any work beyond the schedule of services, the Consultant shall document the additional work, estimate the cost to complete the work, and receive written approval from the LPA before the Consultant begins the work. Any such work performed by the Consultant prior to written approval of the LPA will be done at the expense of the Consultant.

The LPA has the absolute right to abandon the project or to change the general scope of work at any time and such action on its part will in no event be deemed a breach of agreement. The LPA can suspend or terminate this agreement at any time. Such suspension or termination may be affected by the LPA giving the Consultant seven days written notice.

If the LPA abandons or subtracts from the work, or suspends or terminates the agreement as presently outlined, the Consultant will be compensated in accordance with the provisions of 48 CFR 31, provided however, that in case of suspension, abandonment, or termination for breach of this agreement or for tender of improper work, the LPA can suspend payments, pending the Consultant's compliance with the provisions of this agreement. In determining the percentage of work completed, the LPA will consider the work performed by the Consultant prior to abandonment or termination to the total amount of work contemplated by this agreement. The ownership of all project plans and supporting documents completed or partially completed at the time of such termination or abandonment will be retained by the LPA and the Consultant shall immediately deliver all project plans and supporting documents to the LPA.

SECTION 10. OWNERSHIP OF DOCUMENTS

All surveys, plans, specifications, maps, computations, charts, electronic data, and other project data prepared or obtained under the terms of this agreement are the property of the LPA and the Consultant shall deliver them to the LPA without restriction or limitation as to further use.

LPA acknowledges that such data may not be appropriate for use on an extension of the work covered by this agreement or on other projects. Any use of the data for any purpose other than that for which it was intended without the opportunity for Consultant to review the data and modify it if necessary for the intended purpose will be at the LPA's sole risk and without legal exposure or liability to Consultant.

SECTION 11. USE AND/OR RELEASE OF PRIVILEGED OR CONFIDENTIAL INFORMATION

Certain information provided by the State to the Consultant is confidential information contained within privileged documents protected by 23 U.S.C. §409. "Confidential information" means any information that is protected from disclosure pursuant to state and federal law and includes, but is not limited to, accident summary information, certain accident reports, diagnostic evaluations, bridge inspection reports, and any other documentation or information that corresponds with said evaluations or reports, and any other information protected by 23 U.S.C. §409. "Privileged document" means any document pertaining to any file or project maintained by the State that is privileged and protected from disclosure, pursuant to appropriate state and federal law, including any document containing attorney-client communications between a State employee and the Legal Division. This confidential and privileged information is vital and essential to the Consultant in order that the Consultant adequately design the project at hand on behalf of the State.

The Consultant agrees it will only use any information or documentation that is considered to be privileged or confidential for the purposes of executing the services by which it has agreed to render for the State for the project at hand only. The Consultant agrees not to reveal, disseminate, or provide copies of any document that is confidential and privileged to any individual or entity. The State agrees that any information or documentation that is considered to be privileged or confidential that is provided to Consultant will be marked with the following information:

“**CONFIDENTIAL INFORMATION:** Federal Law, 23 U.S.C §409, prohibits the production of this document or its contents in discovery or its use in evidence in a State or Federal Court. The State of Nebraska has not waived any privilege it may assert as provided by that law through the dissemination of this document and has not authorized further distribution of this document or its contents to anyone other than the original recipient.”

The Consultant agrees to obtain the written approval of the Consultant Coordinator prior to the dissemination of any privileged or confidential information or documentation if it is unclear to the Consultant whether such information or documentation is in fact privileged or confidential.

The Consultant and the State agree that any unauthorized dissemination of any privileged or confidential information or documentation on the part of the Consultant will create liability on the part of the Consultant to the State for any damages that may occur as a result of the unauthorized dissemination. The Consultant agrees to hold harmless, indemnify, and release the State for any liability that may ensue on the part of the State for any unauthorized dissemination of any privileged or confidential information or documentation on the part of the Consultant.

SECTION 12. FORBIDDING USE OF OUTSIDE AGENTS

The Consultant warrants that it has not employed or retained any company or person, other than a bona fide employee working for the Consultant, to solicit or secure this agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon or resulting from the award or making of this agreement. For breach or violation of this warranty, the LPA has the right to annul this agreement without liability or, in its discretion, to deduct from the agreement price or consideration, or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

SECTION 13. NON-RAIDING CLAUSE

The Consultant shall not engage the services of any person or persons presently in the employ of the State for work covered by this agreement without the prior written consent of the employer of the persons.

SECTION 14. GENERAL COMPLIANCE WITH LAWS

The Consultant hereby agrees to comply with all federal, state, and local laws and ordinances applicable to the work.

SECTION 15. DISPUTES

Any dispute concerning a question of fact in connection with the work not disposed of by this agreement will be referred for determination to the LPA or a duly authorized representative, whose decision in the matter will be final and conclusive on the parties to this agreement.

SECTION 16. RESPONSIBILITY FOR CLAIMS AND LIABILITY

The Consultant agrees to save harmless the LPA and State from all claims and liability due to the activities of the Consultant or those of the Consultant's agents or employees in the performance of work under this agreement. In this connection, the Consultant shall for the life of this agreement, carry insurance as outlined in Exhibit "A" and attached hereto, and hereby made a part of this agreement.

SECTION 17. PROFESSIONAL REGISTRATION

The Consultant shall affix the seal of a registered professional engineer or architect licensed to practice in the State of Nebraska, on all plans, documents, and specifications prepared under this agreement as required by the Nebraska Engineers and Architects Regulations Act, Neb.Rev.Stat §81-3401 et. seq.

SECTION 18. SUCCESSORS AND ASSIGNS

This agreement is binding on successors and assigns of either party.

SECTION 19. DRUG-FREE WORKPLACE POLICY

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

SECTION 20. FAIR EMPLOYMENT PRACTICES ACT

The Consultant agrees to abide by the Nebraska Fair Employment Practices Act, as provided by Neb. Rev. Stat. 48-1101 through 48-1126, which is hereby made a part of and included in this agreement by reference.

SECTION 21. DISABILITIES ACT

The Consultant 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 22. DISADVANTAGED BUSINESS ENTERPRISES

The Consultant shall ensure that disadvantaged business enterprises, as defined in 49 CFR 26, have the maximum opportunity to compete for and participate in the performance of subagreements financed in whole or in part with federal funds under this agreement. Consequently, the disadvantaged business requirements of 49 CFR 26 are hereby made a part of and included in this agreement by reference.

The Consultant shall not discriminate on the basis of race, color, sex, or national origin in the award and performance of FHWA-assisted contracts. Failure of the Consultant to carry out the requirements set forth above will constitute a breach of this agreement and, after the notification of the FHWA, may result in termination of this agreement by the LPA or such remedy as the LPA deems appropriate.

SECTION 23. NONDISCRIMINATION

- A. Compliance with Regulations: During the performance of this agreement, the Consultant, for itself and its assignees and successors in interest, agrees to comply with the regulations of the DOT relative to nondiscrimination in federally-assisted programs of the DOT (49 CFR 21 and 27, hereinafter referred to as the Regulations), which are hereby made a part of and included in this agreement by reference.
- B. Nondiscrimination: The Consultant, with regard to the work performed by it after award and prior to completion of this agreement, shall not discriminate on the basis of race, color, sex, or national origin in the selection and retention of Subconsultants, including procurements of materials and leases of equipment. The Consultant shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR 21.5, including employment practices when the agreement covers a program set forth in Appendixes A, B, and C of 49 CFR 21.
- C. Solicitations for Subagreements, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the Consultant for work to be performed under a subagreement, including procurements of materials or equipment, each potential Subconsultant or supplier shall be notified by the Consultant of the Consultant's obligations under this

agreement and the Regulations relative to nondiscrimination on the basis of race, color, sex, or national origin.

- D. Information and Reports: The Consultant shall provide all information and reports required by the Regulations, or orders and instructions issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the LPA, State or FHWA to be pertinent to ascertain compliance with such Regulations, orders, and instructions. Where any information required of a Consultant is in the exclusive possession of another who fails or refuses to furnish this information, the Consultant shall certify to the LPA, State or FHWA, as appropriate, and set forth what efforts it has made to obtain the information.
- E. Sanctions for Noncompliance: In the event of the Consultant's noncompliance with the nondiscrimination provisions of this agreement, the LPA will impose such agreement sanctions as it or the State and FHWA may determine to be appropriate, including but not limited to withholding of payments to the Consultant under this agreement until the Consultant complies, and/or cancellation, termination, or suspension of this agreement, in whole or in part.
- F. Incorporation of Provisions: The Consultant shall include the provisions of paragraphs A through E of this section in every subagreement, including procurements of materials and leases of equipment, unless exempt by the Regulations, orders, or instructions issued pursuant thereto. The Consultant shall take such action with respect to any subagreement or procurement as the LPA, State or FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance, provided however, that in the event a Consultant becomes involved in or is threatened with litigation with a Subconsultant/ Subcontractor as a result of such direction, the Consultant may request that the LPA enter into such litigation to protect the interests of the LPA and, in addition, the Consultant may request that the State and United States enter into such litigation to protect the interests of the State and United States.

SECTION 24. SUBLETTING, ASSIGNMENT, OR TRANSFER

Any other subletting, assignment, or transfer of any professional services to be performed by the Consultant is hereby prohibited unless prior written consent of the LPA is obtained.

The Consultant shall enter into an agreement with its Subconsultants/Subcontractors for work covered under this agreement. All Subconsultant/Subcontractor agreements for work

covered under this agreement, in excess of \$10,000, must contain similar provisions to those in this agreement. No right-of-action against the LPA will accrue to any Subconsultant/Subcontractor by reason of this agreement.

As outlined in the DISABILITIES ACT Section of this agreement, the Consultant shall take all necessary and reasonable steps to ensure that disadvantaged business enterprises have the maximum opportunity to compete for and perform subagreements. Any written request to sublet any other work must include documentation of efforts to employ a disadvantaged business enterprise.

SECTION 25. CONFLICT OF INTEREST

The Consultant shall review the conflict of interests provisions of 23 C.F.R. 1.33 and any other applicable provisions and agrees to fully comply with all the conflict of interest provisions in order to insure that the project remains fully eligible for state or federal funding. By signing this agreement, the Consultant certifies that it has no financial or other interests in this project or the outcome of this project. For further federal interpretation of these provisions, see "PE/CE Consultant Conflict of Interest Frequently Asked Questions" located on the State's Local Federal Aid Projects' Frequently Asked Questions webpage:

<http://www.transportation.nebraska.gov/gov-aff/faa.html>

SECTION 26. CONSULTANT CERTIFICATIONS

The undersigned duly authorized representatives of the Consultant, by signing this agreement, hereby swears, under the penalty of law, the truth of the following certifications, and agrees as follows:

- A. **Neb.Rev.Stat. § 81-1715(1)**. I certify compliance with the provisions of Section 81-1715 and, to the extent that this contract is a lump sum or actual cost-plus-a-fixed fee professional service contract, I hereby certify that wage rates and other factual unit costs supporting the fees in this agreement are accurate, complete, and current as of the date of this agreement. I agree that the original contract price and any additions thereto shall be adjusted to exclude any significant sums by which the LPA determines the contract price had been increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs. Neb. Rev. Stat. §§ 81-1701 through 81-1721.
- B. , **Neb. Rev. Stat. §§ 81-1717 and 1718**. I hereby certify compliance with the provisions of Sections 81-1717 and 1718 and, except as noted below neither I nor any person associated with the firm in the capacity of owner, partner, director, officer, principal

investor, project director, manager, auditor, or any position involving the administration of federal funds:

1. Has employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above Consultant) to solicit or secure this agreement, or
2. Has agreed, as an express or implied condition for obtaining this agreement, to employ or retain the services of any firm or person in connection with carrying out this agreement, or
3. Has paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above Consultant) any fee, contribution, donation, or consideration of any kind for, or in connection with procuring or carrying out this agreement, except as here expressly stated (if any).

C. Certification Regarding Debarment, Suspension, and Other Responsibility Matters-Primary Covered Transactions. Section C1 below contains 10 instructions that consultant agrees to follow in making the certifications contained in C2

1. Instructions for Certification

- a. By signing this agreement, the Consultant is providing the certification set out below.
- b. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this project. The Consultant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the LPA's determination whether to enter into this agreement. However, failure of the Consultant to furnish a certification or an explanation will disqualify the Consultant from participation in this agreement.
- c. The certification in this clause is a material representation of fact upon which reliance was placed when the State determined to enter into this agreement. If it is later determined that the Consultant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal government, the LPA may terminate this agreement for cause or default.

- d. The Consultant shall provide immediate written notice to the LPA if at any time the Consultant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- e. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549.
- f. The Consultant agrees that should the proposed covered transaction be entered into, it will not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the LPA before entering into this agreement.
- g. The Consultant further agrees to include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction," provided by the State without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
- h. The Consultant in a covered transaction may rely upon a certification of a prospective Subconsultant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A Consultant may decide the method and frequency by which it determines the eligibility of its principals.
- i. Nothing contained in the foregoing will be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the Consultant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- j. Except for transactions authorized under paragraph (f) of these instructions, if the Consultant in a covered transaction knowingly enters

into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the federal government, the LPA may terminate this agreement for cause or default.

2. Certification Regarding Debarment, Suspension, and Other Responsibility Matters - Primary Covered Transactions

- a. By signing this agreement, the Consultant certifies to the best of its knowledge and belief, that it and its principals:
- i. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
 - ii. Have not within a three-year period preceding this agreement been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - iii. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph A.(ii) of this certification; and
 - iv. Have not within a three-year period preceding this agreement had one or more public transactions (federal, state, or local) terminated for cause or default.
- b. Where the Consultant is unable to certify to any of the statements in this certification, such Consultant shall attach an explanation to this agreement. I acknowledge that this certification is to be furnished to the State and the FHWA in connection with this agreement involving participation of federal-aid highway funds and is subject to applicable, state and federal laws, both criminal and civil.

SECTION 27. (LPA) CERTIFICATION

By signing this agreement, I, Lois Shelton, Mayor do hereby certify that, to the best of my knowledge, the Consultant or its representative has not been required, directly or indirectly as an express or implied condition in connection with obtaining or carrying out this agreement to:

- (a) employ or retain, or agree to employ or retain, any firm or person, or
- (b) pay or agree to pay to any firm, person, or organization, any fee, contribution, donation, or consideration of any kind.

I acknowledge that this certification is to be furnished to the FHWA, upon their request, in connection with this agreement involving participation of Federal-Aid highway funds and is subject to applicable state and federal laws, both criminal and civil.

SECTION 28. ALL ENCOMPASSED

This instrument embodies the whole 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 hereto have caused these presents to be executed by their proper officials thereunto duly authorized as of the dates below indicated.

After being duly sworn on oath, I do hereby acknowledge the foregoing certification and state that I am authorized to sign this agreement for the firm.

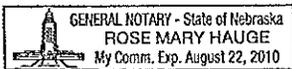
EXECUTED by the Consultant this 24th day of May, 2010.

KIRKHAM, MICHAEL & ASSOCIATES, INC.

Rich Robinson
Rich Robinson, Senior Vice President

STATE OF NEBRASKA)
)ss.
DOUGLAS COUNTY)

Subscribed and sworn to before me this 24th day of May, 2010.



Rose Mary Hauge
Notary Public

EXECUTED by the City of Wayne this _____ day of _____, 2010.

CITY OF WAYNE

Lois Shelton, Mayor

Subscribed and sworn to before me this _____ day of _____, 2010.

Clerk

STATE OF NEBRASKA
DEPARTMENT OF ROADS
Form of Agreement Approved for
Federal Funding Eligibility:

Date

AGRS

EXHIBIT "A "

INSURANCE REQUIREMENTS FOR PROFESSIONAL SERVICE PROVIDERS

Consultant agrees to:

- (1) Make a detailed review of its existing insurance coverage,
- (2) Compare that coverage to the expected scope of the work under this contract,
- (3) Obtain sufficient insurance coverage to fully protect it from loss associated with the work, and to have at a minimum the insurance described below:

General Liability --

Limits of at least:

\$ 1,000,000 Per Occurrence

\$ 2,000,000 General Aggregate

\$ 2,000,000 Completed Operations Aggregate (if applicable)

\$ 1,000,000 Personal/Advertising Injury

- Consultant shall be responsible for the payment of any deductibles.
- Coverage shall be provided by a standard form Commercial General Liability Policy covering bodily injury, property damage including loss of use, and personal injury.
- General Aggregate to apply on a Per Project Basis.
- The State of Nebraska, Department of Roads, shall be named as Additional Insured on a primary and non-contributory basis including completed operations (the completed work/product) for three (3) years after the work/product is complete.
- Consultant agrees to waive its rights of recovery against the State. Waiver of Subrogation in favor of the State shall be added to the policy.
- Contractual liability coverage shall be on a broad form basis and shall not be amended by any limiting endorsements.
- If work is to be done within 50' of the railroad Right-of-Way, Railroad Protective insurance must be acquired, consistent with the requirements of the impacted railroad and the railroad right of way exclusion must be deleted.
- In the event that this contract provides for consultant to construct, reconstruct or produce a completed product, products and completed operations coverage in the amount provided above shall be maintained for the duration of the work, and shall be further maintained for a minimum period of five years after final acceptance and payment.

- Policy shall not contain a total or absolute pollution exclusion. Coverage shall be provided for pollution exposures arising from products and completed operations (as per standard CG0001 Pollution Exclusion or equivalent). A parenthetical will be added at the end of the bullet point about pollution saying: (If a pollution exclusion applies to the general liability coverage, please refer to the following section entitled "Pollution Coverage.")

Pollution Coverage –

- In the event that the general liability policy has a pollution exclusion of any type, coverage may be substituted with separate Pollution Liability Coverage in the amount of \$1.0 million per occurrence and \$1.0 million aggregate. If coverage is provided by a "claims made" form, coverage will be maintained for three years after project completion. Any applicable deductible is the responsibility of the Consultant.

Automobile Liability –

Limits of at least: \$ 1,000,000 CSL Per Accident

- Coverage shall apply to all Owned, Hired, and Non-Owned Autos.

Workers' Compensation –

Limits: Statutory coverage for the State where the project is located.

Employer's Liability limits: \$100,000 Each Accident

\$100,000 Disease – Per Person

\$500,000 Disease – Policy Limit

- Consultant agrees to waive its rights of recovery against the State. Waiver of Subrogation in favor of the State of Nebraska, Department of Roads shall be added to the policy

Professional Liability –

Limits of at least: \$ 1,000,000 per claim

- Coverage shall be provided for three years after work/project completion.

Electronic Data and Valuable Papers –

Limits of at least: \$100,000 Electronic Data Processing Data and Media

\$25,000 Valuable Papers

Umbrella/Excess –

Limits of at least: \$1,000,000 Per Occurrence

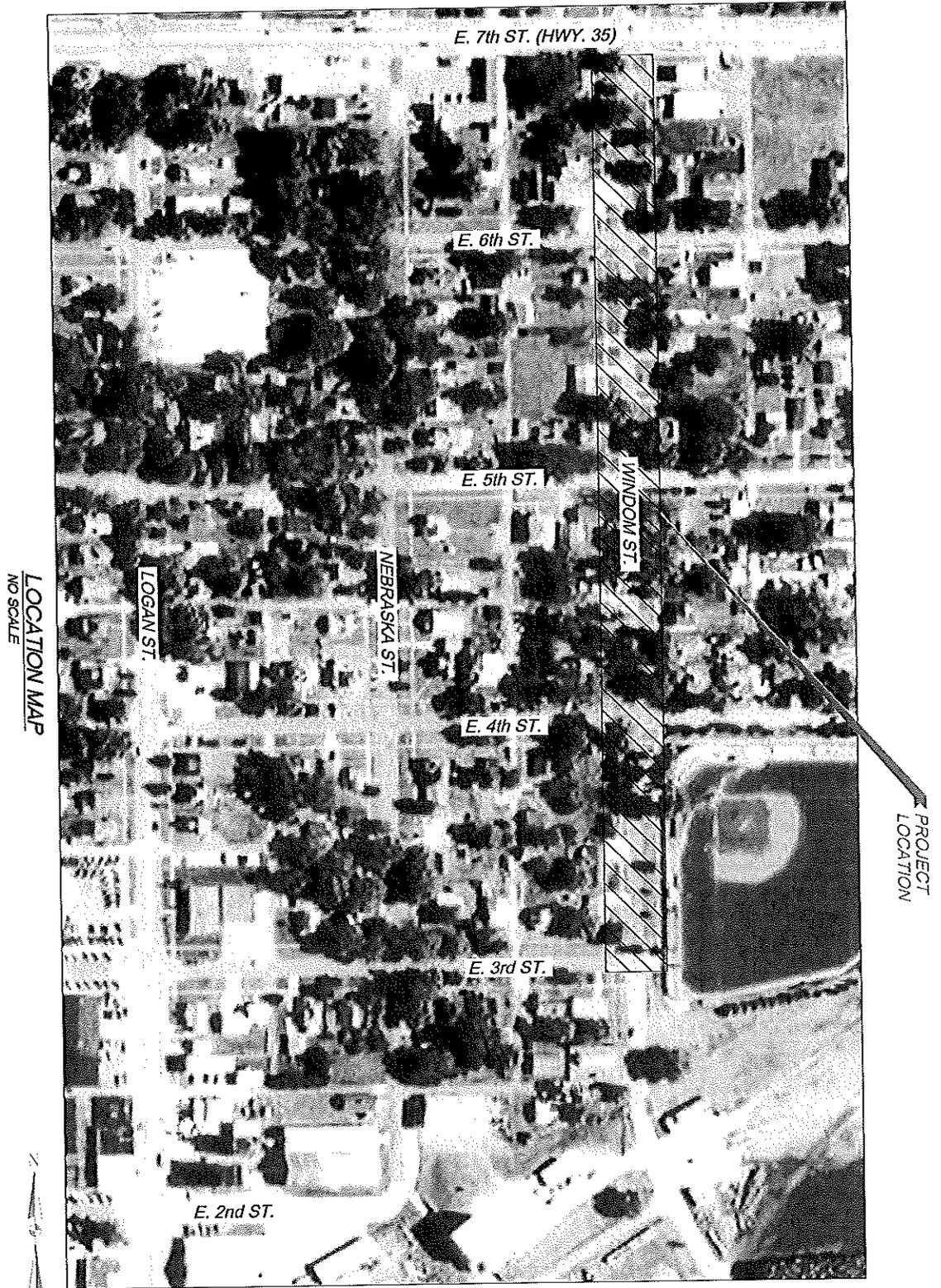
- Policy shall provide liability coverage in excess of the specified Employers Liability, Commercial General Liability and Auto Liability.

- The State of Nebraska, Department of Roads, shall be an "Additional Insured".
- Consultant agrees to waive its rights of recovery against the State. Waiver of subrogation in favor of the State of Nebraska, Department of Roads shall be provided.

Additional Requirements –

- Any insurance policy shall be written by a reputable insurance company acceptable to the State or with a current Best's Insurance Guide Rating of A – and Class VII or better, and authorized to do business in Nebraska.
- Evidence of such insurance coverage in effect shall be provided to the State in the form of an Accord certificate of insurance executed by a licensed representative of the participating insurer(s), and must contain a clause granting at least 30 days prior written notice to the State of intent to affect cancellation.
- Failure of the owner or any other party to review, approve, and/or reject a certificate of insurance in whole or in part does not waive the requirements of this agreement.
- The Limits of Coverage's set forth in this document are suggested minimum limits of coverage. The suggested limits of coverage shall not be construed to be a limitation of the liability on the part of the contractor or any of its subcontractors/tier subcontractors. The carrying of insurance described shall in no way be interpreted as relieving the contractor, subcontractor, or tier subcontractors of any responsibility of liability under the contract.
- If there is a discrepancy of coverage between this document and any other insurance specification for this project, the greater limit or coverage requirement shall prevail.

EXHIBIT 'B'



**SCHEDULE OF SERVICES
FOR
CITY OF WAYNE**

**WINDOM STREET FROM 3RD TO 7TH STREETS
URBAN RECONSTRUCTION AND STORM SEWER DESIGN**

1. PROJECT DESCRIPTION

This schedule provides for the Consultant to prepare design plans for the above project which is Windom Street from 3rd to 7th Streets which is approximately four blocks of 32 foot wide paving of Windom Street. The pavement thickness is preliminary proposed at 8-inches with integral curb. The geotechnical engineer will provide a pavement thickness design recommendation. Existing storm sewer is undersized and will be replaced with larger diameter storm sewer (estimated at 24-inch diameter). The existing water main located just behind the east curb will be replaced. Sidewalks will also be replaced and/or constructed. Work includes preliminary engineering (preliminary survey, preparing preliminary vertical and horizontal alignment, street design and storm sewer design) and Final Design for the entire project. The work also includes preparing for and attending a public meeting, assistance with NEPA environmental documentation and project bid letting. The Scope of Services does not include any right of way services, or any specialized environmental documentation field services, such as wetlands delineations, Section 106 historical surveys, biological field surveys or any geotechnical investigations.

2. LPN TO

1. Provide existing LPA utility location plans and pavement record drawings.
2. Facilities for information meetings and public hearing.

3. APPLICABLE PUBLICATIONS

The consultant shall follow the criteria of the current applicable publications of the American Association of State Highway and Transportation Officials and design criteria. These publications and others which the Consultant shall use in this work are:

- *1. A Policy on Geometric Design of Highways and Streets (AASHTO)
- *2. State of Nebraska Minimum Standards, Board of Public Roads Classifications and Standards (State)
3. Highway Capacity Manual - Transportation Research Board Special Report 209
4. State of Nebraska, Department of Roads, Standard Specifications for Highway Construction.
5. Federal Aid Policy Guide, 23 CFR 650A
6. Americans with Disabilities Act (ADA)
7. LPA Guidelines Manual for Federal Aid Projects.

* If discrepancies occur between these publications, Consultant shall get a decision from the State.

4. PROJECT PLANS FORMAT, CONVENTIONAL AND CADD

1. The Consultant shall prepare plan and profile plan sheets on a scale of 1-inch = 20 feet.
2. Plans submitted to the LPA or State by the Consultant will be on plain bond paper.
3. The Consultant shall follow the State's CADD drafting procedures and guidelines in preparing the project plans.
 - (a) Sheets must be set up according to the State's procedures.
 - (b) Line weights, line styles, text size and leveling must follow the State's guidelines.
4. The CADD files must also conform to the following standards and conventions:
 - (a) Working units must be:
 - 1) Master Units = feet
 - 2) Sub Units = 100 feet
 - 3) Position Units = 4
 - (b) Global origin of the graphics design plane must be located at the lower left corner.

5. CROSS-SECTIONS

1. The Consultant shall:
 1. Plot all cross-sections. This includes labeling stations on the right side of the sheet, labeling existing and design centerline elevations at centerline and labeling offset distances every 25 feet at the bottom of each sheet.
 2. Plot cross-sections on standard size sheets (same size as project plan sheets) in accordance with the State's standards.
 3. Stamp or plot in the upper right corner of each sheet the project number, control number and horizontal and vertical scale. Plot the roadway cross-sections at the scale of 1-inch = 10 feet H and V.
 4. Plot cross-sections with stations progressing upward from the bottom to the top of the sheet.
 5. Plot the cross-sections so that there is room for the proposed cross-section. Do not overlap cross-sections.
 6. Cut cross sections at 50 feet intervals.
 7. Plot a cross section in each location when there may be a drainage structure needed.
 8. Plot drainage structure cross-sections on plain bond paper and keep them separate from roadway cross-sections.
 9. Plot drainage structure cross-sections at the following scales:
 - (a) Storm Sewer 1-inch = 10 feet.
 10. Plot computer roadway cross-sections in the following manner:
 - (a) Plot original ground with a dashed line.

- (b) Plot design template with a solid line.

UPON NOTICE TO PROCEED, THE CONSULTANT SHALL PROVIDE ALL OF THE SERVICES AS OUTLINED IN THIS SCHEDULE.

6. SAFETY AND SAFETY EQUIPMENT

1. The Consultant shall take good safety precautions for surveying and shall:
 - (a) Wear bright, highly visible caps or hats and safety vests or shirts or outerwear at all times while on the project site.
 - (b) Keep traffic safety signs displayed (as per the Uniform Traffic Control Devices Manual) within a reasonable distance from the survey work at all times while on the project site.
 - (c) Whenever the Consultant leaves the project survey site, (even for a short time), the Consultant shall either pick up the traffic safety signs and cones, or lay them down in the ditch, until the Consultant returns to the project survey site.

7. FIELD SURVEY

1. The Consultant shall perform complete preliminary survey work, tying of necessary sections and quarter section land monuments to the project survey baseline, and do the profiling, cross-sectioning and topography.
2. The beginning stationing of the project must be the first sheet of the Plan and Profile sheets.
3. The Consultant shall tie the project baseline to the centerline of existing pavement, intersecting public roads and drives, and tie the survey to land monuments.
4. The Consultant shall set control points or centerline monuments to be visible directly from one control point to the next control point with necessary centerline stations in between control points.
5. The Consultant shall run bench levels by direct leveling methods (no "side shots" are permitted).
6. The Consultant shall assure that the levels close within an allowable error of 0.3 feet times the square root of the length of the level loop in miles.
7. The Consultant shall record the topographic features within 50 feet each side of centerline, both natural and man-made and both above and belowground including all utilities. The Consultant shall record other topographic features beyond 50 feet from centerline which in the judgment of the Consultant are necessary to properly show the effect of the proposed work upon the adjoining property and/or improvements (assume none). The Consultant shall record topographic features of any wetland areas, which in the judgment of the Consultant could affect the project (assume none). The Consultant shall record key topographic features of

any wetland area including structures in or around them.

8. The Consultant shall create cross-sections from DTM at each even 50 feet.
9. The Consultant shall create cross-sections from DTM as necessary for the proposed improvement on each side of the roadway centerline (Min. 50 feet on each side) or as may be necessary to accurately depict the lay of the land, to analyze the drainage requirements and to compute the earthwork quantities.
10. The Consultant shall include in the cross-sections, elevations of curbs, drives, sidewalks, retaining walls, foundations, steps and building entrances.
11. The Consultant shall take cross-sections at the intersecting roads to identify any grade changes or drainage problems. Survey of side roads limited to 50 feet measured from centerline of Windom Street.
12. The Consultant shall take cross-sections at each edge of driveway or field entrance and at the centerline and take cross sections both right and left of the project centerline if it will affect the earthwork for the project. If the earthwork will not be affected, the Consultant only needs to take one cross-section at the centerline of the driveway or field entrance and specifically mark or circle these sections for driveways or field entrances in the notes if they do not effect the earthwork.
13. The Consultant shall gather sufficient other survey data necessary to determine contributing drainage areas including any existing storm sewer systems or sanitary systems, etc.

8. PRELIMINARY AND FINAL STREET DESIGN

1. In general, the Consultant shall provide (preliminary and functional/final) street design services for (but not be limited to):
 - (a) Horizontal alignment
 - (b) Vertical alignment
 - (c) Drainage structures
 - (d) Earthwork
 - (e) Special designs (Final)
 - (f) Pavement geometrics (Final)
 - (g) Limits of Construction with offsets from project centerline to be used
 - (h) Grades and surfacing elevations, and paving joints (Final)
 - (i) Driveways and other accesses
 - (j) Ditches (includes special ditches) (Final)
 - (k) Medians, curbs and gutters, etc. (Final)
 - (l) Removals
 - (m) Driveway culverts (Final). (Replace with same size, except use 24 inch minimum).
 - (n) Quantities (including horse blankets, and sodding, seeding and erosion control, etc.).
2. The Consultant shall use Board of Public Roads Classifications and Standards Minimum Design Standards for Municipal Streets.

3. The Consultant shall reference all geometrics to the project centerline
4. The Consultant shall prepare preliminary plans for the Plan-in-Hand inspection and shall submit three half size sets to the LPA two weeks prior to the Plan-in-Hand. This shall include half size cross-sections.
5. The Consultant shall schedule and attend the Plan-in-Hand field inspection with the LPA.
6. After the Plan-in-Hand, the Consultant shall:
 - (a) Prepare the Plan-in-Hand report and submit to the LPA two weeks after the field inspection.
 - (b) Consolidate comments on one set of 1/2 size Plan-in-Hand plans and submit to the LPA with the report.
 - (c) Proceed with design which reflects Plan-in-Hand decision.
7. The Consultant shall label the plans "Preliminary, Subject to Change" until the Registered Engineer's seal and signature are added (see cell library, cell name PNF).
8. The Consultant shall prepare quantity and cost estimates, including computation sheets, for all construction and removal items on the plans and submit them to the LPA and State for approval. The quantity estimates shall be submitted as follows:

| <u>No.</u> | <u>Schedule</u> |
|------------|------------------------|
| One | With preliminary plans |
| Two | With functional plans |
| Three | With L.O.C. plans |
| Four | With final plans |

9. UTILITIES (PRELIMINARY)
 1. The Consultant shall draft existing utilities, both overhead and underground (that are not already on the plans) on the project plan sheets, print and distribute to the utility companies for verification. The utility topography must be referenced to the project baseline.
 2. The Consultant shall coordinate directly with the utility companies and others to verify location and ownership of all existing overhead and underground utilities on the project.
 3. The Consultant shall address specific utility problems at the plan-in-hand field inspection.

10. UTILITIES (FINAL)
 1. The Consultant shall analyze the utility constraints and be available to discuss the design of the project (including drainage structures) with affected utilities and shall attempt to eliminate or minimize conflict with utilities.
 2. The Consultant will submit the plans to the utilities for their review. The affected utilities will, in turn, submit their rehabilitation plans and estimates back to the Consultant.

11. OPTIONAL FIELD INSPECTION

1. The Consultant shall prepare design plans to include construction items, templated cross-sections, 2-A sheets, construction notes, limits of construction, drainage design, etc. and submit them to the LPA for review two weeks prior to the field inspection.
2. The Consultant shall schedule and attend a field inspection with the LPA.
3. The Consultant shall after the field review, complete the L.O.C. plans according to the decisions made at the review.

12. LIMITS OF CONSTRUCTION PLANS (L.O.C.)

1. The Consultant shall submit to the LPA two weeks prior to the L.O.C. meeting two sets of "Limits of Construction" plans with station and offset distances, and estimated quantities (according to the Design Process outline, design checklist).
2. Within two weeks after the Limits of Construction meeting, the Consultant shall submit to the LPA:
 - (a) Two sets of plans with all the corrections and/or changes from the Limits of Construction meeting, plus the original marked-up prints.

13. ENVIRONMENTAL SERVICES

The Consultant shall provide the following environmental services to assist the LPA with environmental review and approval through NDOR.

1. Wetland Determination – A wetland determination will be completed which is a desktop review process which can be used on projects that have minor grading work and wetland impacts of less than 1/10 acre. The wetland determination will be completed by a qualified biologist.
2. Biological Evaluation Form – The consultant shall prepare a biological evaluation form in accordance with NDOR instructions dated January 26, 2010. This form is prepared for LPA submittal to NDOR use in obtaining concurrence letters from U.S. Fish and Wildlife Service (USFWS) and Nebraska Game and Parks Commission (NGPC).
3. Historic and Cultural Resources – The consultant shall prepare a Section 106 State Historic Preservation Office (SHPO) Concurrence Request. This request will be prepared for NDOR use in obtaining concurrence from SHPO.
4. National Environmental Policy Act (NEPA) Determination Form – After receiving concurrence from USFWS, NGPC, and SHPO, the consultant will prepare a NEPA determination form for submittal by the LPA to NDOR. The purpose of this form is to classify the type of NEPA document the proposed project will require.

5. Categorical Exclusion Form – It is believed that the type of NEPA document required for this project will be a Categorical Exclusion (CE). A CE is prepared when the Federal Highway Administration (FHWA) has determined that the project is unlikely to have significant impacts. The CE form will be completed in accordance with NDOR instruction dated November, 2008. The consultant will prepare the CE form for LPA submittal to NDOR.
6. Environmental Commitments: Consultant shall summarize mitigation measures required by resource agencies. The commitment summary will follow the project through design and construction.

The above services will be provided based on the following understanding:

1. The wetland determination will be a desktop review only and no field investigation or delineations will be required.
 2. Consultant will coordinate with local utilities to determine impacts.
 3. No threatened and endangered (T&E) species or critical habitat are present within the project area. No provision for special field investigations or a migratory bird study has been allowed for.
 4. A Phase 1 Environmental Site Assessment (ESA) will not be required.
 5. A noise analysis will not be required.
 6. No section 6(f) Land and Water Conservation Fund Act impacts are anticipated.
 7. Permit applications will be prepared by the consultant for LPA use in obtaining required permits. All permit fees will be paid directly by the LPA.
 8. Allowance has been made for one revision to documents based on agency review comments.
 9. Allowance has been made for one (1) public information meeting.
14. 90% PLANS (FINAL)
1. The Consultant shall prepare 90% final design plans to include all construction items, templated cross-sections, all 2-A sheets, all construction notes, contours, limits of construction, drainage design, etc. and submit them to the LPA for review according to the schedule.
15. COMPLETED FINAL PLANS AND DOCUMENTS (FINAL)
1. The Consultant, after the 90% review, shall complete the final design plans according to decisions made at the review.
 2. All final plans will be on plain bond paper.

3. The Consultant shall include (but not be limited to) in the final plans package the following:

- (a) Typical cross-sections
- (b) Completed Plan and Profile Sheets
- (c) 2L sets of plan. They are as follows:
 - 1) Construction and removal
 - 2) Geometrics
 - 3) Joints and grades
 - 4) Drainage

The 2L Plan sheets must show all details for removal items, surfacing elevations, geometrics, contours, drainage structures, retaining walls, guard rail, sodding, seeding, erosion control, construction notes and details, pavement joints, grades, utilities.

- (d) Roadway cross-sections
- (e) Drainage structure cross-sections
- (f) Special drainage structure plans
- (g) Summary of quantities computation sheets
- (h) Special provisions
- (i) Staking, blue tops and pavement grade books, design data and earthwork stickup sheets.

4. The Consultant shall stamp, sign and date the plans. (The stamping of plan sheets will exclude the roadway cross-sections). Culvert cross-sections will be stamped. The seal of the Consultant should be from a rubber stamped facsimile that is then signed and dated by the engineer registered in Nebraska.

16. PUBLIC INFORMATION MEETING

- 1. The Consultant shall prepare for and attend a public information meeting.
- 2. For the information meeting, the Consultant shall:
 - (a) Provide a set of preliminary plans.
 - (b) Provide a set of street cross-sections.

17. LETTING SERVICES

- 1. Assist State in advertising for and obtaining bids for a single prime contract for construction.
- 1. Issue addenda as appropriate to interpret, clarify or expand the Bidding Documents.

SCHEDULE

**WINDOM STREET URBAN RECONSTRUCTION AND STORM SEWER DESIGN
CITY OF WAYNE (LPA)**

| | Completion (Calendar Days from NTP) |
|--|--|
| Notice to Proceed (NTP) | 0 |
| Preliminary Design/NEPA | |
| Kick Off Meeting | 7 |
| Preliminary Topographical Surveys | 21 |
| Data Collection | 30 |
| Wetland Determination | 45 |
| Storm Sewer Study/Analysis | 60 |
| Preliminary Plans/Design Memorandum | 80 |
| Biological Evaluation Form | 90 |
| Plan-In Hand with City/State | 100 |
| Submit 30% Preliminary Plans | 120 |
| NEPA Determination Form | 160 |
| Submit 60% Functional Plans | 200 |
| Environmental Consultation/Documentation (CE Form) | 400 |
| Conduct Public Information Meeting | 460 |
| Final Design | |
| Submit 90% LOC Plans | 500 |
| Complete Permit Applications | 560 |
| Complete Design | 600 |

Note: Schedule does not include lengthy delays by regulatory or approval agencies.

PERSONNEL CHART
PRELIMINARY ENGINEERING/NEPA

WINDOM STREET URBAN RECONSTRUCTION AND STORM SEWER DESIGN
CITY OF WAYNE (LPA)

| | |
|------------------------|----------------------|
| Principal | Rich Robinson, P.E. |
| Project Manager | Steve Irons, P.E. |
| Professional Engineer | Jay Fallick, P.E. |
| Environmental Engineer | Nick Gordon, E.I. |
| Utility Engineer | Scott Schmoker, P.E. |
| Utility Engineer | Blake Birkel, E.I. |
| CADD Technician | Jeff Knutson |
| CADD Technician | Mark Templeman |
| Support Staff | Sheri Thomas |
| Support Staff | Nancy Roshone |
| Land Surveyor | Chad Marsh, L.S. |
| Survey Crew | Nate Peterson |
| Survey Crew | Jeff Gute |
| Survey Crew | Tim Laughlin |

FEE SUMMARY
PRELIMINARY ENGINEERING/NEPA
WINDOM STREET URBAN RECONSTRUCTION & STORM SEWER DESIGN
CITY OF WAYNE (LPA)

| DESCRIPTION OF WORK ITEMS/TASKS | CLASSIFICATIONS | | | | | | | | Total |
|---|-----------------|------------|------------|------------|----------|-----------|--|--|------------|
| | PR | PM | PE | CT | CL | SC | | | |
| Project Management (%) | 4 | 22 | | | | | | | 26 |
| Site Inspection (P.I.H., field chk.) | | 12 | 30 | | | | | | 42 |
| Meetings (Monthly, weekly, other) | | 14 | 19 | | 5 | | | | 38 |
| Data Collection, Review and Survey | | | 6 | 10 | | 70 | | | 86 |
| Note Reduction/Prelim. Plotting | | | 6 | 24 | | | | | 30 |
| Horizontal Alignment | | | 10 | 24 | | | | | 34 |
| Vertical Alignment | | | 10 | 20 | | | | | 30 |
| Template Rdwy. X-Sections | | | | 20 | | | | | 20 |
| Earthwork | | | 6 | 24 | | | | | 30 |
| Geometric Design | | | 6 | 16 | | | | | 22 |
| Drainage Design/X-Sections | | | 12 | 36 | | | | | 48 |
| Storm Sewer Study | | 6 | 36 | 20 | | | | | 62 |
| Construction and Removal | | | 8 | 32 | | | | | 40 |
| Utility Design | | 2 | 12 | 22 | | | | | 36 |
| Public Meeting | 2 | 6 | 6 | | | | | | 14 |
| NEPA Environmental Documentation Assistance | 6 | 38 | 12 | | | | | | 56 |
| Joints & Grades | | | 4 | 10 | | | | | 14 |
| Misc. Design | | | 4 | 10 | | | | | 14 |
| Utilities Coordination/Verification | | | 6 | 24 | | | | | 30 |
| Quantities/Estimates | | 4 | 7 | 22 | | | | | 33 |
| Typical Sections (2T) | | | 7 | 14 | | | | | 21 |
| Construction Staking Books | | | | | | 6 | | | 6 |
| CADD File Submittals | | | | | 6 | | | | 6 |
| Quality Control | 1 | 5 | | | | | | | 6 |
| | | | | | | | | | |
| | | | | | | | | | |
| | | | | | | | | | |
| Total MH | 13 | 109 | 207 | 334 | 5 | 76 | | | 744 |

KEY: PR = Principal CT = CADD Technician MH = Manhours
 PM = Project Manager CL = Clerical MD = Mandays (8 hrs.)
 PE = Project Engineer SC = Survey Crew

EXHIBIT F

| | <u>Total Manhours</u> | <u>Rate</u> | <u>Amount</u> |
|-----------------------|-----------------------|-------------|--------------------|
| Principal | 13 | \$64.50 | \$838.50 |
| Project Management | 109 | \$50.51 | \$5,505.59 |
| Professional Engineer | 207 | \$32.90 | \$6,810.30 |
| CADD Technician | 334 | \$21.96 | \$7,334.64 |
| Clerical | 5 | \$17.52 | \$87.60 |
| Survey Crew | 76 | \$40.00 | \$3,040.00 |
| TOTALS | 744 | | \$23,616.63 |

| Direct Non-Salary Costs: | <u>Amount</u> |
|-----------------------------------|-------------------|
| Subconsultants | \$0.00 |
| Vellum, Bond, Cross Section Paper | \$36.00 |
| Mileage | \$409.33 |
| Reproduction Costs | \$42.00 |
| Computer | \$1,314.00 |
| TOTALS | \$1,801.33 |

| | <u>Amount</u> |
|--|--------------------|
| DIRECT SALARY COSTS | \$23,616.63 |
| OVERHEAD @ 181.70% | \$42,911.42 |
| DIRECT NON-SALARY COSTS | \$1,801.33 |
| TOTAL COSTS | \$68,329.38 |
| FIXED FEE (12%) | \$7,983.37 |
| TOTAL PRELIMINARY ENGINEERING/ENVIRONMENTAL | \$76,312.74 |

EXHIBIT F

| | <u>Total Manhours</u> | <u>Rate</u> | <u>Amount</u> |
|-----------------------|-----------------------|-------------|-------------------|
| Principal | 3 | \$64.50 | \$193.50 |
| Project Management | 35 | \$50.51 | \$1,767.85 |
| Professional Engineer | 61 | \$32.90 | \$2,006.90 |
| CADD Technician | 80 | \$21.96 | \$1,756.80 |
| Clerical | 9 | \$17.52 | \$157.68 |
| Survey Crew | | \$40.00 | \$0.00 |
| TOTALS | 188 | | \$5,882.73 |

Direct Non-Salary Costs:

| | <u>Amount</u> |
|-----------------------------------|-------------------|
| Subconsultants | \$0.00 |
| Vellum, Bond, Cross Section Paper | \$24.00 |
| Mileage | \$184.00 |
| Reproduction Costs | \$28.00 |
| Computer | \$876.00 |
| TOTALS | \$1,112.00 |

| | <u>Amount</u> |
|---------------------------------|--------------------|
| DIRECT SALARY COSTS | \$5,882.73 |
| OVERHEAD @ 181.70% | \$10,688.92 |
| DIRECT NON-SALARY COSTS | \$1,112.00 |
| TOTAL COSTS | \$17,683.65 |
| FIXED FEE (12%) | \$1,988.60 |
| TOTAL FINAL DESIGN COSTS | \$19,672.25 |

EXHIBIT F

FEE SUMMARY
TOTAL PROJECT
WINDOM STREET URBAN RECONSTRUCTION & STORM SEWER DESIGN
CITY OF WAYNE (LPA)

| | <u>Amount</u> |
|--|--------------------|
| DIRECT SALARY COSTS | \$29,499.36 |
| OVERHEAD @ 181.70% | \$53,600.34 |
| DIRECT NON-SALARY COSTS | \$2,913.33 |
| TOTAL COSTS | \$86,013.03 |
| FIXED FEE (12%) | \$9,971.97 |
| TOTAL PRELIMINARY ENGINEERING/ENVIRONMENTAL | \$95,985.00 |

RESOLUTION 2010-51

A RESOLUTION AUTHORIZING CHIEF ELECTED OFFICIAL TO REQUEST COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS.

WHEREAS, the City of Wayne, Nebraska, has applied for Community Development Block Grant Funds.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Wayne, Nebraska, that the Council President, in the absence of the Mayor, be authorized and directed to sign the necessary documents to request the release of the Community Development Block Grant Funds for Grant Numbers 07-ED-007, 07-NFHP-5044, 08-DTR-104, and 08-ED-006 for:

- Determination of Level Review
- Authorization to Request Community Development Block Grant Funds
- Financial Management Certification
- Procurement Procedures and Code of Conduct; and
- Excessive Force Certification

PASSED AND APPROVED this 20th day of July, 2010.

THE CITY OF WAYNE, NEBRASKA,

By _____
Council President

ATTEST:

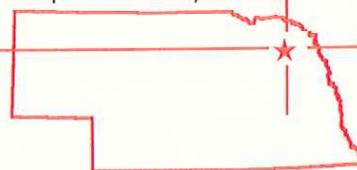
City Clerk

City of Wayne

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

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

Incorporated - February 2, 1884



AUTHORIZATION TO REQUEST GRANT FUNDS

CDBG CDBG-R HOME NAHTF NSP

This is to Certify that Doug Sturm and
(TYPED NAME [Mayor/Board Chairperson])

Betty A. McGuire are authorized to
(TYPED NAME [Clerk/Executive Director])

request Grant Funds for Grant Number(s)** 07-ED-007, 07-NFHP-5044,
08-DTR-104, and 08-ED-006 ;

and that the signatures appearing below are the true signatures of
the aforementioned individuals.

SIGNATURES OF AUTHORIZED OFFICIALS

Signature

Doug Sturm
Typed Name

Council President
Title

dsturm@cityofwayne.org
Email

Date

Signature

Betty A. McGuire
Typed Name

City Clerk
Title

betty@cityofwayne.org
Email

Date

***If official letterhead paper is not used, the signatures must be notarized.**

****Please list all active DED Grant Numbers.**

RESOLUTION NO. 2010-52

A RESOLUTION AUTHORIZING EXTENSION OF CONTRACT END DATE FOR NAHTF GRANT #07-TFHP-5044.

WHEREAS, the contract for NAHTF Grant #07-TFHP-5044 from the Nebraska Department of Economic Development will end August 6, 2010; and

WHEREAS, the City of Wayne has expended \$255,612 of the original grant of \$387,216 and is aware of housing assistance needs yet to be met with the program funds; and

WHEREAS, the City has contracted with the Wayne Community Housing Development Corporation for assistance in completion of this grant.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Wayne, Nebraska, that they hereby authorize the extension of the contract end date for the aforementioned grant to October 6, 2010.

PASSED AND APPROVED this 20th day of July, 2010.

THE CITY OF WAYNE, NEBRASKA,

By _____
Council President

ATTEST:

City Clerk

APPROVED AS TO FORM AND CONTENT:

City Attorney

**MINUTES OF JUNE 1, 2010
COMMUNITY DEVELOPMENT AGENCY**

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

Chair Chamberlain called the meeting of the Community Development Agency to order. Those in attendance were: Members Jim Van Delden, Jon Haase, Dale Alexander, Lois Shelton, and Kaki Ley; City Attorney Mike Pieper; City Administrator Lowell Johnson; and City Clerk Betty McGuire. Absent: Members Brian Frevert, Doug Sturm and Kathy Berry.

Chair 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.

The next item on the CDA agenda was to approve the minutes of the May 18, 2010, meeting.

Member Alexander made a motion and seconded by Member Shelton approving the minutes of the May 18, 2010, meeting. Chair Chamberlain stated the motion, and the result of roll call being all Yeas, the Chair declared the motion carried.

Chair Chamberlain stated the following Resolution would amend the Redevelopment Plan for Western Ridge by adding Lot 15 thereto, which is owned by Habitat for Humanity.

Member Shelton introduced CDA Resolution No. 2010-1 titled as follows and moved its passage and approval by the Agency:

CDA RESOLUTION NO. 2010-1

A RESOLUTION RECOMMENDING APPROVAL OF A REDEVELOPMENT PLAN AMENDMENT FOR THE WESTERN RIDGE SINGLE-FAMILY RESIDENTIAL PLANNED UNIT DEVELOPMENT PROJECT IN THE CITY OF WAYNE, NEBRASKA; AND APPROVAL OF RELATED ACTIONS.

Member Ley seconded the motion. On roll call vote, the following Agency Members voted in favor of the motion: Van Delden, Haase, Alexander, Shelton, Ley, and Chamberlain. The following Members were absent or did not vote: Frevert, Sturm and Berry.

The passage of CDA Resolution No. 2010-1, having been agreed upon by a majority of the Agency, the Chair declared CDA Resolution No. 2010-1 passed and, in the presence of the Agency, signed and approved CDA Resolution No. 2010-1, and the Clerk attested to its passage by affixing her signature thereto. A true and complete copy of CDA Resolution No. 2010-1 is attached hereto as Exhibit C.

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

City of Wayne
CDA Claims List
July 20, 2010

| | |
|--|----------|
| Habitat for Humanity – Liteform due from Grant | 1,131.64 |
| Habitat for Humanity – Gift Lot to Habitat | 5,000.00 |
| City of Wayne – Attorney fees | 929.00 |