

**AGENDA  
CITY COUNCIL MEETING  
November 2, 2010**

**5:30 Call to Order**

**1. [Approval of Minutes – October 19, 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 \(Video\) by Ron Asche, President and CEO of Nebraska Public Power District on the 2011 Wholesale Rates and Future of Electric Power Utility Industry](#)**

**Background:** Mr. Asche schedules visits to wholesale customers every couple of years. He asks elected officials what issues they see concerning NPPD services and pricing. He will begin with a 17 minute informational video with some projections of future trends and to generate discussion.

**4. [Resolution 2010-87: Power Purchase Agreement with \(RED,LLC\) Renewable Energy Development, LLC \(Wayne Industrial Park Wind Project\)](#)**

**Background:** Last Tuesday night the Northeast Public Power District Board approved Mark Shults' recommended a set of average rates for purchasing electric power from farmers or others who install wind turbines and want to sell excess power back out on to Northeast Power Grid. Those average rates are \$.041/Kwh in the summer and \$.034/Kwh in the winter.

At the same time, while Mark Shults was preparing his recommendation, Mike Towne, the professional utility rate consultant that the City of Wayne has used for 15 years was independently analyzing for us, the Power Purchase Agreement proposed by RED,LLC. Mike Towne did not have access to relevant turbine industry information and wind pattern projections. When we supplied Mark Shults' assumptions that the wind would blow only 30% of the time and that it would blow only 17% of that time during the "demand charge" periods of the billing day, Mike Towne came to a similar rate conclusion to the rates Mark provided to the Northeast Board.

**Why is the demand charge important?** The "demand charge" is what NPPD charges to cover its fixed costs for construction and maintenance of the power plants, power lines and transformers and equipment to run them during the hottest

demand peak hour of the year. NPPD takes that total fixed cost for the year and divides it by the KWs we customers are all using during that peak hour of each month and of the year. The higher our City of Wayne peak demand is during NPPD's peak load times, the more we help ourselves to a bigger share of the total NPPD fixed cost "demand charge".

What does that have to do with turbines? The NPPD billing demand periods are between 10am and 10pm during week days. Each month, NPPD bills the city for our highest peak hour of electricity demand rate of use during the demand day periods. Each year, NPPD records our highest hour of demand use for the year and bills us for that peak amount each month for the next year. Our typical summer peak demand is 14,000 KW and if the turbines are running at full power during that time, they would reduce our peak demand by 2,000 KW. If the wind isn't blowing during the peak times, the turbines don't reduce our demand peak and we still have to pay NPPD the full amount for the peak hour.

How do know when the wind is going to blow? We don't know ahead of time, so our rate consultant and Mark used wind pattern history from regional turbine sites to develop the probabilities that the wind will blow 30% of the time, and that 17% of the time the wind will blow will be during peak demand periods.

What is the result of this for the Wayne utility rate payers? Although our normal purchase process is to bid out for goods and services we can openly consider offers that are brought to us. The city has been approached with an offer to directly provide wind power to Wayne from Renewable Energy Development, LLC. Prior to that offer, there have been some Wayne Industries discussions about what incentives can attract business development and new jobs to Wayne or preserve existing business and jobs here. There is a nationwide trend by some business sectors to expand into communities that offer electricity generated from renewable power such as wind, methane, and algae or deep geothermal. There has been interest in general to try wind if it doesn't cost more than the NPPD power that is generated by 45% coal, 23% natural gas, 20% nuclear, 7% hydro power, 3% wind and other renewable.

**Attachments: Proposed Power Purchase Agreement between the City of Wayne and Renewable Energy Development, LLC**

**Recommendation:** NPPD has not yet offered to carve out a specific cut of their wind generated power to contract out to Wayne or other wholesale customers. No one else is making any offers to Wayne to provide wind power or other renewable energy. Therefore, in our city staff review of the RED.LLC proposal for you, we have used the goal that the cost of wind power to the rate payers shouldn't be higher than NPPD's wholesale power cost. With that in mind our rate consultant and city staff makes the following recommendations:

- 1) We have confirmed through national business development site consultants that there are more US industries specifically looking for new locations that have renewable power to offer.
- 2) There is a benefit to Wayne in the world of business expansions and recruitment by offering renewable power. It will give Wayne some amount of visibility and would get Wayne past one more site consideration threshold like being a certified community and having the "Spec. Building". These are still no

guarantee of success but renewable power broadens the regional and national business development field Wayne is competing in.

- 3) We could agree to a 20 year contract with RED, LLC for a max of 2,000 KW of wind turbine power using an average summer purchase rate of \$.041/Kwh for power generated in June through Sept NPPD billing periods and an average winter purchase rate of \$.034/Kwh for other eight months of 2011, while recording the actual hours and Kwh of wind turbine power purchased and agreeing to a true-up of the actual cost at the end of 2011. This “true-up” would mean that we would pay the average rates to RED, LLC during the year. Then when we know that actual hours the wind blew and the turbines generated power and the amount that was generated, we would adjust the rates for each hour of actual turbine production to the same rate that NPPD was charging at that time. The administrative cost to do this would be the cost of the city staff. This would require “time of production” metering and spread sheet analysis each month by software or our staff. The average rate for 2012 would be calculated the same way based on NPPD’s increased rates which we expect to see each year and then trued-up at the end of 2012. Each of the 20 years of the contract with RED, LLC would be done the same. This is not yet reflected in Section 7 of the attached RED, LLC Contract but will be in the signed documents.

5. Action on Request for Change Order From M.E. Collins Construction to Extend Contract End Date and Change in Ramp Design for the Downtown Sidewalk Project

**Background:** This item was tabled till Nov 2<sup>nd</sup> at the last council meeting. At this time no additional information has been provided from Collins or JEO. The pace of construction on the project has increased.

6. Action on Application for Payment No. 2 for M.E. Collins Contracting Co., Inc., in the Amount of \$150,290.01 for the 2010 Wayne Sidewalk Replacement Project

**Background:** This is for work completed under contract and approved by the project engineer.

7. Public Hearing: To Consider the Planning Commissions’ Recommendation on a Request for a Use by Exception Permit, specifically Sec. 90-424(17) Vehicle Towing Service of the B-3 Neighborhood Commercial Zoning District of the Wayne Municipal Code. The Applicant, Main Street Auto Care, LLC, wishes to operate a vehicle towing service at 614 Main Street. (Advertised Time: 5:30 p.m.)

**Background:** This will be heard by the Planning Commission on Nov 1<sup>st</sup> and a report of action or recommendation by the Planning Commission will be available on Nov 2<sup>nd</sup>.

8. Resolution 2010-88: Use by Exception Permit Request of Main Street Auto Care, LLC

9. Public Hearing: To Consider the Planning Commissions’ Recommendation on a Request for a Use by Exception Permit, specifically Sec. 90-144(8) Wind Generating System of the A-2 Agricultural

Residential Zoning District of the Wayne Municipal Code. The Applicant, Brian Bowers, wishes to use the ground to construct a two-tower windmill energy project. The location would be 812 Pheasant Run Road. (Advertised Time: 5:30 p.m.)

**10. Resolution 2010-89: Use by Exception Permit Request of Brian Bowers**

**Background:** This will be heard by the Planning Commission on Nov 1<sup>st</sup> and a report of action or recommendation by the Planning Commission will be available on Nov 2<sup>nd</sup>.

**11. Resolution 2010-90: Engineering Agreement with Olsson Associates for Repairs to Stream Bank and Drain Outlets on Logan Creek**

**Background:** The high creek flows this spring did further damage to two areas on the city side of Logan Creek bank that were already slowly deteriorating. The most damage was to our storm water outfall in Boy Scout Park at the south end of Nebraska Street.

We have asked Olsson to prepare an engineering proposal for repairs to the two sites and that proposal is attached for your review. We will apply for additional stream bank stabilization funds as we did for the Kardell project when the plans are designed.

**12. Action on Application for Payment No. 3 for Eriksen Construction Company, Inc., in the Amount of \$92,137.50 for the 2009-2010 Wastewater Treatment Facility Improvements, Phase I**

**Background:** This is for work completed under contract and approved by the project engineer.

**13. Adjourn**

**APPROVED AS TO FORM AND CONTENT:**

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Mayor

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City Administrator

October 19, 2010

The Wayne City Council met in regular session at City Hall on Tuesday, October 19, 2010, at 5:30 o'clock P.M. Mayor Lois Shelton called the meeting to order with the following in attendance: Councilmembers Brian Frevert, Jim Van Delden, Jon Haase, Dale Alexander, Doug Sturm, Kaki Ley, Kathy Berry and Ken Chamberlain; City Attorney Mike Pieper; City Administrator Lowell Johnson; and City Clerk Betty McGuire.

Notice of the convening meeting was given in advance by advertising in the Wayne Herald on October 7, 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 Chamberlain made a motion and seconded by Councilmember Haase, whereas the Clerk has prepared copies of the Minutes of the meeting of October 5, 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.

The following claims were presented to Council for their approval:

**VARIOUS FUNDS:** AMAZON, SU, 319.71; AMERICAN LIBRARY ASSOC, FE, 180.00; AMERITAS, RE, 2237.51; APPEARA, SE, 145.40; BANK FIRST, FE, 195.00; BARONE SECURITY SYSTEMS, SE, 142.50; CITY EMPLOYEE, RE, 165.34; BIG T ENTERPRISES, SU, 122.93; BLUE DEVIL BOOSTER CLUB, SE, 85.00; CITY EMPLOYEE, RE, 137.58; CINDY MILLIGAN, RE, 342.00; CITY OF WAYNE, RE, 20.00; CITY OF WAYNE, PY, 59405.07; CITY OF WAYNE, RE, 216.42; COMMUNITY HEALTH, RE, 4.00; DAKOTA BUSINESS SYSTEMS, SE, 101.50; CITY EMPLOYEE, RE, 115.20; DUTTON-LAINSON, SU, 232.34; EDM PUBLISHERS, SU, 98.78; ELECTRONIC ENGINEERING, SE, 28.75; ELLIS PLUMBING & HEATING, SE, 63.36; ENGINEERED CONTROLS, SE, 450.00; FIRST

SOURCE TITLE&ESCROW, SE, 76.25; FLOOR MAINTENANCE, SU, 316.02; CITY EMPLOYEE, RE, 118.22; GALE GROUP, SU, 92.93; GALE RESEARCH, SU, 1404.00; GILL HAULING, SE, 133.00; GLEN'S AUTO BODY, SE, 75.00; HD SUPPLY WATERWORKS, SU, 2049.36; HDR ENGINEERING, SE, 6056.74; CITY EMPLOYEE, RE, 4.06; HHS REGULATION & LICENSURE, FE, 31.00; HIRERIGHT SOLUTIONS, SE, 51.90; ICMA, RE, 5535.91; IRS, TX, 19089.70; JANIS MYERS, RE, 500.00; JASON CAROLLO, SE, 175.00; JOHN'S WELDING AND TOOL, SE, 82.98; JOHNSON, LOWELL, RE, 131.96; KTCH, SE, 1155.00; M.E. COLLINS, SE, 126964.71; CITY EMPLOYEE, RE, 388.67; MICROFILM IMAGING SYSTEMS, SE, 495.33; MIDWEST LABORATORIES, SE, 424.35; MUNICIPAL SUPPLY, SU, 548.18; NE CODE OFFICIAL ASSOC, FE, 200.00; NE DEPT OF REVENUE, TX, 2829.63; NE LIBRARY COMMISSION, SU, 529.60; NE SAFETY COUNCIL, FE, 365.00; NE STATE PATROL, SE, 120.00; NPPD, SE, 284176.60; NIAGARA CONSERVATION, SU, 1214.18; NORFOLK PRINTING, SU, 676.00; OSMOSE UTILITIES SERVICES, SE, 5058.67; PAC N SAVE, SE, 258.49; CITY EMPLOYEE, RE, 49.01; PEPSI-COLA, SU, 592.91; PRESTO X, SE, 77.20; QUALITY FOODS, SU, 21.01; QWEST, SE, 1319.08; RANDOM HOUSE, SU, 171.92; CITY OF WAYNE, RE, 37.35; RICHARD A BROWN, RE, 500.00; ROBERT WOehler & SONS, SE, 20212.24; SECRETARY OF STATE, FE, 30.00; CITY EMPLOYEE, RE, 680.00; CITY OF WAYNE, RE, 245.00; SOCIETY FOR HUMAN MGMT, FE, 160.00; STADIUM SPORTING GOODS, SU, 611.50; STATE NATIONAL BANK, SE, 48.30; TAYLOR RACELY, SE, 50.00; TAYMARK, SU, 39.83; TOP HEALTH, SU, 139.92; UNITED STATES PLASTIC, SU, 88.16; WASTE CONNECTIONS, SE, 46.70; WATERLINK, SE, 1053.42; WAED, RE, 6383.33; WAYNE STATE COLLEGE, RE, 2460.00; CITY EMPLOYEE, RE, 160.21; WESCO, SU, 892.00; WAPA, SE, 25731.62; ZEE MEDICAL SERVICE, SU, 45.64; BEHLEN MFG, SU, 2097.00; CITY EMPLOYEE, RE, 22.38; BOMGAARS, SU, 79.98; BROWN SUPPLY, SU, 119.99; CITY OF WAYNE, RE, 300.00; CITY OF WAYNE, RE, 500.00; CITY OF WAYNE, RE, 498.81; COVENTRY HEALTH, SE, 18695.11; CULLIGAN, SE, 43.95; CURRY FLOOR & ACOUSTICS, SU, 87.00; DE LAGE LANDEN FINANCIAL, SE, 394.00; DUTTON-LAINSON, SU, 202.24; ELECTRIC FIXTURE, SU, 1789.50; FLOOR MAINTENANCE, SU, 309.23; GEMPLER'S, SU, 34.88; GERHOLD CONCRETE, SU, 20.25; GRAPHIC CONTROLS, SU, 339.90; HD SUPPLY WATERWORKS, SU, 1862.58; CITY EMPLOYEE, RE, 484.01; CITY EMPLOYEE, RE, 640.90; CITY EMPLOYEE, RE, 30.00; MSC INDUSTRIAL, SU, 76.87; NATE SIMMS, RE, 500.00; NE DEPT OF ENVIRONMENTAL, FE, 150.00; NE LAW ENFORCEMENT, SE, 180.00; NE NEB INS AGENCY, SE, 105.00; NE NEB INS AGENCY, RE, 270.00; NE RURAL WATER, FE, 50.00; NMC, INC., SU, 1524.62; PITNEY BOWES, SE, 648.00; POLLARD PUMPING, SE, 408.00; CITY EMPLOYEE, RE, 26.18; QUALITY 1 GRAPHICS, SU, 20.00; SHAWN STORY, SE, 100.00; SPARKLING KLEAN, SE, 1597.95; STADIUM SPORTING GOODS, SU, 28.00; TYLER TECHNOLOGIES, SE, 2825.55; VOSS LIGHTING, SU, 296.50; CITY EMPLOYEE, RE, 164.66; WESCO, SU, 13288.98; ZEE MEDICAL SERVICE, SU, 13.79

Councilmember Sturm made a motion and seconded by Councilmember Chamberlain 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.

Administrator Johnson stated a request has been received from M.E. Collins Construction Company to extend their contract end date of November 1, 2010, to April 15, 2011. A copy of a letter from Jerry Kabourek, Vice President of M.E. Collins, to JEO Consulting Group was received today and distributed to Council for their review.

Terry Mead of JEO Consulting Group addressed the change order for the ramp design. He did not have the exact dollar amount of the change order, because he assumed the focus of the discussion this evening would be on the request to extend the contract end date. However, he thought there would be a \$10,000 to \$11,000 increase in costs due to the fact that they added a ramp at Godfather's, which was not part of the original plan. They will change that wooden ramp to concrete, etc. They also altered the ramp design at First Source and Title Escrow and eliminated the ramps at both the Job Site and Harder & Ankeny due to the property owners' request. They will also do some reconfiguration with the sidewalk at Mine's Jewelers.

It was noted that there will be no additional costs to the City; however, some of the grant funds will be allocated to different places.

Jerry Kabourek, Vice President of M.E. Collins Construction Company, was present to address the request to extend the contract end date from November 1, 2010, to April 15, 2011, for the 2010 Downtown Sidewalk Project. The reason for this request is that they did not get started on time with this project because of weather delays and the additional work they had lined up. They hesitated to bring in other or extra crews, because they wanted consistency in the work. They will continue on the path they are on now whether they get the extension or not. The schedule they have laid out in the letter is realistic. They have completed the hardest and slowest part of the project, so the remainder of the project will go relatively quickly. Their goal is to have all of the linear sidewalk completed, excluding ramps, by Thanksgiving.

Councilmember Sturm did not understand why projects are not completed in the timeframe provided in the bid documents. He felt the City is always granting extensions for projects. When this happens, he is concerned as to how this affects the other companies that bid on these projects.

Administrator Johnson advised the Council that the grant deadline is April 1, 2011. Because of the uncertainty of the weather in March, they wanted to get this project done by November 1<sup>st</sup>.

Mr. Kabourek advised the Council that if they would approve the extension, and if for some reason, M.E. Collins would not meet the grant deadline which then caused the City consequences, they should be on the hook or accountable for whatever that might be. In regard to liquidated damages being factored into their bid, he stated that they intended

on negotiating until a December 1<sup>st</sup> timeframe which they thought was reasonable. He also stated he felt there were a number of factors that would justify 2 to 2.5 weeks in a time extension (e.g. utilities and footings have been in the way, and the Mayor wanted to see more bricks on the street).

Mr. Kabourek again stated that should there be consequences for running past the grant deadline of April 1<sup>st</sup>, they should be monetarily accountable. They just need to gather that information and see what that is.

Administrator Johnson stated typically on the grant approval process for other grants, it typically doesn't show up as a dollar amount; it shows up as points you don't receive because of issues in the past.

Mr. Kabourek stated because the Council just received the letter this evening, he wasn't looking for a time extension tonight. He thought the Council should table the matter until the next meeting. It will not affect the way they are working – they are not leaving.

Councilmember Sturm stated he thought that M.E. Collins was doing a good job on this project.

Councilmember Haase did not have a problem with granting the extension.

Councilmember Sturm made a motion and seconded by Councilmember Frevert to table action until the next meeting on the request of M.E. Collins Construction to extend the contract end date on the 2010 Downtown Sidewalk Improvement Project, knowing that there could be liquidated damages if the extension is not granted at that time.

Administrator Johnson also agreed there have been some delays which they would get credit for.

Mayor Shelton stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Chamberlain who voted Nay, the Mayor declared the motion carried.

Dave Tietgen of Renais Energy LLC, was present to discuss the proposed Power Purchase Agreement with Renewable Energy Development LLC, and to update the Council on what has been happening over the past couple of weeks. They are in the process of obtaining a use by exception permit for the turbines which will be located on Brian Bowers' property. The lease agreement with Mr. Bowers cannot take place until the Power Purchase Agreement is accepted by the City.

Mike Garvin of Renais Energy was also present. He noted they will have more of an ownership and equitable stake with the land owner than they have ever seen in Iowa. The Iowa model is not particularly conducive for treating the land owner very well, but they are changing that. The Power Purchase Agreement is moving along nicely. Over the course of just a couple of weeks, we have come to terms with the major issues of identifying what energy sells for. We identified this afternoon a price point that is an average -- we will have a summer and winter rate. They addressed in the document who pays and how is it paid. On page 10, No. 7 (which was just changed a few hours ago), they identified that the average rate of .0559 per kWh was agreed upon by all parties. They will break that out into a winter and summer rate in the final document. Two other changes that were made in No. 7 were that we agreed we would reduce the minimum base to 4% annually, and that we would eliminate the two points below NPPD's annual

inflation. It was his misguided vision that we could control some of the inflationary factors going forward with 2 points below NPPD's rate, but it was hard to calculate and difficult to maintain. They expect to generate 5,100 megawatt hours every year for the City of Wayne. The City can claim that much energy is green and carbon-free and market that to companies that want to manufacture in a carbon-reduced or carbon-free environment. They have met with the Superintendent of the Wayne Public Schools. They would like to donate the proceeds of the renewable energy credits to the Wayne Public Schools to establish a new curriculum around renewable energy studies involving all levels of science from K-12 and the industrial arts program. They promised they will create this project and generate this energy at no more cost or no differential increased cost to what Wayne is getting coal-fired energy for right now. They have, in their negotiations, committed to that. They are going to be very cognizant of what NPPD's real increases are, and they will never go over those.

Administrator Johnson replied that without the hourly time of production, it will not be exact, because half of our bill from NPPD that we receive in the summer is the demand charge, and if the turbine is not running on the hottest hour of the hottest day of the month, then we would not have deferred that, so we will still have to pay for that peak demand for the day which will be averaged in for the next four years. This will not be exact.

Mr. Garvin also noted that every five year period, the parties will evaluate the escalation factors tied with NPPD's rate. They will look at them and their costs and the City's purchasing practices and adjust accordingly.

Administrator Johnson also clarified that the price the City pays NPPD is a blend price for coal, nuclear, water and gas, and coal is the cheapest of all. We can never get to there with a turbine, so we are trying to do the equivalent of the blend cost which is relatively cheap in the United States.

Wayne is the only town in Nebraska that Renais is working with at this time. They are also working with Webster City and Fairfield, both located in Iowa. He feels renewable energy will take off when jobs are being created.

Mayor Shelton declared the time was at hand for the public hearing on the Wayne Revolving Loan Fund (WRLF) application of Wayne Hospitality Group, LLC, for \$150,000 which will be used to purchase tax increment financing bonds for the Cobblestone Hotel Project.

Administrator Johnson advised the Council that this project is changing daily, and when the notice was published, it was published as a \$150,000 WRLF application to be used to purchase tax increment financing bonds for the Cobblestone Hotel Project. Since the publication of the notice, the amount has changed to \$125,000 and will be used for the construction of the Cobblestone Hotel Project.

Wes Blecke, Executive Director of WAED, stated the Business and Industry Committee met and reviewed the WRLF application for Wayne Hospitality Group, LLC, to construct a 44-room hotel in Wayne. The Committee voted to forward the WRLF application to the City Council without recommendation, but that the Committee continues to support the project. Last week, WHG was informed by the USDA that their loan would not be guaranteed as is, and that is what started the ball rolling with these changes to the financial package.

It was noted that there is \$250,000 in the Wayne Revolving Loan Fund at this time.

This would be a zero percent loan, with a 20-year amortization and a seven year balloon payment.

Kent Franzen, representing Wayne Hospitality Group, LLC, was present to answer questions.

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

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

Councilmember Sturm introduced Resolution No. 2010-81 and moved for its approval; Councilmember Chamberlain seconded.

#### RESOLUTION NO. 2010-81

A RESOLUTION CONFIRMING THE APPLICATION FOR AND APPROVING THE USE OF NOT TO EXCEED \$125,000 FROM THE WAYNE REVOLVING LOAN FUND.

Mayor Shelton stated the motion, and the result of roll call being all Yeas, with the exception of Councilmembers Haase and Ley who abstained, the Mayor declared the motion carried.

Wes Blecke, Executive Director of WAED, was present and advised the Council that the Sales Tax Advisory Committee met and reviewed an application to Wayne's Economic Development Program Fund. The Committee recommended approving the request to modify the previous terms by Wayne Hospitality Group, LLC, for \$250,000 to be used to assist with obtaining bank financing for a \$2.8 million hotel. The

recommended modification of terms includes granting the money to the entity instead of the previously approved terms of a 0% loan paid back over 15 years. This grant status is needed for WHG, LLC, to secure bank financing for the project. WHG, LLC, has every intention to honor the Council's previous agreement to pay the money back over 15 years; however, the grant designation needs to occur for the financing package to work.

Mr. Blecke explained that the USDA has a program where they will guarantee 80% of a bank loan. Right now, WHG is working through F & M Bank in Wayne. It is a speculative enough process that a bank is probably not going to lend \$1.6 or \$1.8 million dollars without that guarantee, and with the lending practices and the current economic environment, it is going to be very tough. The guarantee is critical. Without the guarantee, the project likely will not move forward as is. This group has been very adamant about doing everything locally as possible. Three of the four banks in Wayne are represented in the investment club, so it is natural to look at F & M because they do not have anybody within the bank who is a member of Northeast Nebraska Investors, LLC.

Kent Franzen advised the Council because of the conflicts of interest with the officers, and some officers in each bank being members, the other banks aren't really in a position to be able to be involved. The USDA guarantee is essential to this project, and it has been from the start. It is essential to make this thing run, and because we have over 30 investors now, and because no one investor owns 20% of the project, personal guarantees are not part of the picture. They were not aware that the USDA considered the TIF as equity until they actually turned in their application. This was common practice with WHG from Wisconsin. The USDA changed their classification and is not only claiming the TIF as debt, but also the \$250,000 LB 840 as debt which drops their

equity to 12.8%, and 20% is what is needed. If they can get the \$250,000 reclassified as a grant, that will raise their equity back to 22.1%. Their cash flow still works even with the payment of the grant money as they planned. This project is expected to generate approximately \$43,000 a year in tax income for the City.

Mr. Blecke stated the “no vote” at the LB840 committee was from a committee member that would prefer to see a little bit of money go to multiple projects. This committee member has never been in favor of large projects.

Mr. Franzen, in response to Councilmember Sturm’s question, stated that right now in the State of Nebraska, TIF bonds are not tied to the real estate which is why he believes they are not selling, and in order to make TIF bonds a viable financing tool going into the future, the Legislature is going to have to address that. Should the original entity fail, those TIF bonds are unsecured debt. If they can get the guarantee, the project will buy its own TIF bonds.

Councilmember Alexander stated the concern he has with giving a grant is that if the project does fail, then the City is out \$250,000. Mr. Franzen responded that with the original proposal and under that scenario, the subordinate financing that was already committed to would already be out anyway. The risk does not increase as much as one might think between the grant and the loan.

Administrator Johnson stated the loan would be in a third position behind other lenders.

Councilmember Frevert stated he thought this was a good project and didn’t think it would fail.

Mayor Shelton stated there is \$442,000 in TIF bonds on this project. The City is buying \$125,000; they will take the rest of it.

Mr. Franzen stated if the City declines this request, they will have to seek another lender, and they will have to try to raise more money in the community. Mr. Blecke stated if both of these requests are approved this evening, it doesn't mean that this project is automatically a go, because there are a couple of other hurdles they have to meet. If the Council does not approve this, it will probably delay the project at least a year.

Councilmember Alexander had a problem with this. He thought the City is floating a lot of money to this group (private investors) and he understands the City might benefit on the tail end, but the City might not also.

Mr. Franzen responded that the benefits for the City, as a whole, will start as soon as the hotel is open for business.

Mayor Shelton clarified to the Council that this is technically not city money. It is money that has been allocated by the taxpayers, in this case, to be used to invest in the community for economic development and to help the community go forward.

Councilmember Alexander had concerns about tying the money all up in one place, instead of using the money in several different places.

Mr. Franzen stated he knows this is a big project and a big investment, but how many requests have been made for smaller projects that are going to generate the kind of tax money that we're talking about here. If those rooms will generate more activity at the college, at the high school, and in town, what are the intangible results? This facility will be a force multiplier when it comes to the economic engine of the town.

Mr. Blecke stated his job here is to give the Council facts and advise them what the Committee has said, not to lobby one way or the other. When he receives a request for funds, most of the requests are for \$5,000 or 10,000. He does not push them towards LB 840 or the revolving loan funds. WAED has an internal revolving loan fund which the Council supported. They have made 21 loans to small businesses in Wayne. When people come to them for small projects, that is the loan he tailors them to. That loan has 0% interest over 10 years. He does not direct them to the LB 840 area, because it's much simpler to go the economic development revolving loan fund route.

Councilmember Chamberlain made a motion and seconded by Councilmember Frevert approving the request of Wayne Hospitality Group, LLC, to convert the \$250,000 LB 840 0% interest loan to a grant. Mayor Shelton stated the motion, and the result of roll call being all Yeas, with the exception of Councilmembers Haase and Ley who abstained due to a conflict of interest, and Councilmember Alexander who voted Nay, the Mayor declared the motion carried.

Councilmember Alexander left the meeting.

Rod Hansen with Olsson Associates advised the Council that the plans and specifications have been prepared for the Kardell Sanitary Sewer/Lift Station Improvement Project, and Council needs to pass the Resolution and authorize the City Clerk to advertise for bids in the form of notice prepared by them. This phase will be for a 4" force main that will tie into an existing manhole near the storage units on Centennial Road. This will open up the whole Kardell Subdivision area and the area north of Great Dane. It will also allow Pacific Coast and the other industries to tie into the system. The

future phase will allow the property south of Highway 35 along Chief's Way to attach to sewer.

Councilmember Ley introduced Resolution No. 2010-86 and moved for its approval; Councilmember Chamberlain seconded.

RESOLUTION NO. 2010-86

A RESOLUTION APPROVING THE PLANS, SPECIFICATIONS, AND ESTIMATE OF COST FOR THE KARDELL LIFT STATION PROJECT AS PREPARED BY THE CITY'S ENGINEER. AND DIRECTING ADVERTISEMENT FOR BIDS.

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

Rod Hansen with Olsson Associates advised the Council that the work has been completed on the Kardell Subdivision, Paving, Drainage and Water Improvement Project. His recommendation is to accept the work and authorize final payment to Steve Harris Construction, Inc., in the amount of \$5,097.61.

Councilmember Sturm introduced Resolution No. 2010-85 and moved for its approval; Councilmember Ley seconded.

RESOLUTION NO. 2010-85

A RESOLUTION ACCEPTING WORK ON THE KARDELL SUBDIVISION, PAVING, DRAINAGE AND WATER IMPROVEMENT PROJECT, AND AUTHORIZING FINAL PAYMENT THERETO.

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, stated the following Ordinance would amend the Wayne Municipal Code to include Vehicle Towing Service as a use by

exception in the B-3 Neighborhood Commercial District. This was inadvertently overlooked at the last meeting when the special conditions were adopted in the B-3 Neighborhood Commercial District.

Councilmember Sturm introduced Ordinance 2010-28, and moved for its approval; Councilmember Ley seconded.

ORDINANCE NO. 2010-28

AN ORDINANCE AMENDING WAYNE MUNICIPAL CODE CHAPTER 90, ARTICLE V, BY AMENDING SECTION 90-424 EXCEPTIONS IN THE B-3 NEIGHBORHOOD COMMERCIAL DISTRICT.

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

Councilmember Chamberlain made a motion and Councilmember Sturm seconded to suspend the statutory rules requiring ordinances to be read by title on three different days. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Councilmember Chamberlain made a motion and Councilmember Sturm seconded to move for final approval of Ordinance No. 2010-28. 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 direct the City Clerk to file a lien against 102 Douglas Street for the cost of work hired by the City to abate a violation of City Code after proper notice was given to the property owner.

Councilmember Sturm introduced Resolution No. 2010-82 and moved for its approval; Councilmember Ley seconded.

RESOLUTION NO. 2010-82

A RESOLUTION DIRECTING THE CITY CLERK TO CERTIFY MOWING COSTS TO THE WAYNE COUNTY CLERK AND THE WAYNE COUNTY TREASURER TO BECOME A LIEN ON LOT SEVEN, BLOCK TWENTY-FOUR, ORIGINAL TOWN OF WAYNE, WAYNE COUNTY, NEBRASKA, MORE COMMONLY DESCRIBED AS 102 DOUGLAS STREET, WAYNE, NEBRASKA.

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 direct the City Clerk to file a lien against 904 Walnut Street for the cost of work hired by the City to abate a violation of City Code after proper notice was given to the property owner.

Councilmember Sturm introduced Resolution No. 2010-83 and moved for its approval; Councilmember Ley seconded.

RESOLUTION NO. 2010-83

A RESOLUTION DIRECTING THE CITY CLERK TO CERTIFY MOWING COSTS TO THE WAYNE COUNTY CLERK AND THE WAYNE COUNTY TREASURER TO BECOME A LIEN ON THE SOUTH TWENTY-ONE FEET OF LOT TWENTY-SIX AND PART OF LOT TWENTY-SEVEN, MCPHERRAN'S ADDITION TO THE CITY OF WAYNE, WAYNE COUNTY, NEBRASKA, MORE COMMONLY DESCRIBED AS 904 WALNUT STREET, WAYNE, NEBRASKA.

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, stated that the Department of Roads, over the last few years, has always shared a portion of the Federal money with First Class Cities so we can do Federal Transportation Projects with STP funding. They have now had problems the last few years of not expending the money, and part of that is due to the changes regarding the Responsible Charge, etc. Because of all of the Federal rules and

regulations that have been passed, they now have to make sure that the State is making sure that the local communities follow those rules and regulations. Part of that has held up some of the projects, and they are not getting the money expended. This year, they had to take some of that money and allocate it towards a State project in order to expend the funds. If they don't expend those funds every year, they lose them. In the past, they have always done each community separately, and the money accumulated until they had a project ready to go. That has not always worked out for the State to be able to expend all of those Federal funds in that way, and so what they are trying to do is get all of the First Class Cities together in a pool to essentially try to prorate the allotment to everybody. They want scheduled projects so there are enough projects going through every year so the Federal money gets spent every year. This is a process that the League of Nebraska Municipalities came up with so the State does not lose federal funds.

Councilmember Chamberlain introduced Resolution No. 2010-84 and moved for its approval; Councilmember Ley seconded.

#### RESOLUTION NO. 2010-84

#### A RESOLUTION ACCEPTING AND AUTHORIZING THE EXECUTION OF A FEDERAL TRANSPORTATION FUNDING INTERLOCAL AGREEMENT.

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

Councilmember Chamberlain made a motion and seconded by Councilmember Ley approving Contractor's Pay Estimate No. 4 (Final) submitted by Gana Trucking & Excavating, Inc., in the amount of \$2,295.07 for 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 Sturm made a motion and seconded by Councilmember Frevert adopting the LB 840 Capital Projects portion of the budget. Mayor Shelton stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Councilmember Sturm 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 Brian Frevert, Jim Van Delden, Jon Haase, Lois Shelton, Doug Sturm, Kaki Ley, and Kathy Berry; City Attorney Mike Pieper; City Administrator Lowell Johnson; and City Clerk Betty McGuire. Absent: Member Dale Alexander.

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 September 21, 2010, meeting.

Member Sturm made a motion and seconded by Member Ley approving the minutes of the September 21, 2010, meeting. Chair Chamberlain stated the motion, and the result of roll call being all Yeas, the Chair declared the motion carried.

The next item on the agenda was to approve lot sale incentives for Western Ridge. Those incentives are as follows:

1. The period of this incentive offer will be from the time of approval to December 31, 2011;

2. The required completion date for homes to be built on the lots will be extended from the current policy of 12 months from the date of closing on the lot to a longer period that ends on the December 15<sup>th</sup> after the second construction season following the date of the sale by the CDA. The late penalty will still be \$5,000 filed as a performance lien on the lot when it is sold by the CDA to be released upon receipt of Certificate of Occupancy;
3. A \$1,500 rebate on the lot price will be made to the developer of the lot if the house has a "Certificate of Occupancy" within 12 months from the date of sale; and
4. The CDA will carry the cost of the lot at 0% interest from the date of closing until the sale of the lot and house.

Member Shelton introduced CDA Resolution No. 2010-3 and moved for its approval; Member Sturm seconded.

#### CDA RESOLUTION NO. 2010-3

#### A RESOLUTION APPROVING LOT SALE INCENTIVES FOR WESTERN RIDGE SUBDIVISION.

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

Member Ley made a motion and seconded by Member Shelton 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.

Councilmember Chamberlain made a motion and seconded by Councilmember Sturm 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 7:16 p.m.

## CLAIMS LISTING NOVEMBER 2, 2010

4IMPRINT	THUNDER TOTES	993.82
AMERITAS LIFE INSURANCE	POLICE RETIREMENT	2,168.38
APPEARA	MAT SERVICE	25.56
ARNIE'S FORD-MERCURY INC	REPAIRS-AIR BAG LIGHT/CHAIR LIFT	409.40
BANK FIRST	FRATERNAL ORDER OF POLICE DUES	195.00
CITY EMPLOYEE	HEALTH REIMBURSEMENT	13.37
CITY EMPLOYEE	VISION REIMBURSEMENT	75.40
BLACK HILLS ENERGY	GAS BILLS	87.68
BROWN SUPPLY CO	SIGNAL STOBE TUBE/JACK HAMMER HOSE	331.31
CITY OF WAYNE	AUDITORIUM DEPOSIT REFUND	150.00
CITY OF WAYNE	BUILDING PERMIT DEPOSIT REFUND	250.00
CITY OF WAYNE	CAC OVERPAYMENT	22.04
CITY OF WAYNE	CAT TRAP REFUND	20.00
CITY OF WAYNE	PARKING TICKET OVERPAYMENT	15.00
CITY OF WAYNE	WAED HEALTH REIMBURSEMENT	164.66
COMMUNITY HEALTH	HEALTH CHARITIES	4.00
DALE VITITO	BLAST DOOR CARTRIDGE	47.94
DEMCO INC	STAPLER/SHARPENER/FILM	111.51
ECHO GROUP INC JESCO	METER/CONDUIT/CODE BOOK/TOOLS	482.75
ED M FELD EQUIPMENT INC	BUNKER GEAR/FOAM	405.00
ENDURANCE POWER PRODUCTS	VALVES	510.74
FIRST CONCORD GROUP LLC	CAFETERIA PLAN & DEDUCTIONS	3,824.78
FLOOR MAINTENANCE	TOWELS/SPONGES/BLEACH/PLACEMATS	255.16
FORT DEARBORN LIFE	VFD LIFE INSURANCE	106.64
GALE GROUP	SUBSCRIPTION	2,399.00
GANA TRUCKING & EXCAVATION	TS BANK STABILIZATION	2,295.07
GAYLORD BROS	BOOK COVERS	101.40
GERHOLD CONCRETE CO INC.	CAULK	93.00
GP GFOA	MEMBERSHIP- N BRADEN	85.00
H.K. SCHOLZ COMPANY	ENGINE 4 MAIN BREAKER REPAIR	11,987.43
HD SUPPLY WATERWORKS, LTD	INVISION METERS	2,693.61
HDR ENGINEERING INC	CONFERENCE REGISTRATION	280.00
HOLIDAY INN ""MIDTOWN""	LODGING-BELT/HANSEN	219.90
HYDRAULIC EQUIPMENT	HYDRAULIC HOSE REPAIR	3,233.42
ICMA RETIREMENT TRUST-457	ICMA RETIREMENT	5,481.85
IRS	FEDERAL WITHHOLDING	18,592.39
KRIZ-DAVIS COMPANY	WALL TUBING/CABLE/PVC	6,722.49
KTCH AM/FM RADIO	CAC RADIO ADS	80.00
CITY EMPLOYEE	VISION REIMBURSEMENT	58.40
MAIN STREET AUTO CARE	TOWING	80.00
CITY EMPLOYEE	HEALTH REIMBURSEMENT	72.29
MERIT MECHANICAL	REPAIRS TO UNDERGROUND HEATING	2,585.73
MICHAEL TODD & CO INC	STREET SIGN POSTS	438.11
NE DEPT OF REVENUE	STATE WITHHOLDING	2,756.75
NE RURAL WATER	UTILITY EXPO	120.00

NMC, INC.	BEARINGS FOR CAT LOADER	37.52
NORFOLK DAILY NEWS	STREET BID	30.87
N.E. NE AMERICAN RED CROSS	PAYROLL DEDUCTION	59.24
NORTHEAST NE PUBLIC POWER	ELECTRICITY	2,750.96
PETERSON INDUSTRIAL ENGIN	ENGINE 3 FUEL SYSTEM REPAIRS	9,642.27
CITY EMPLOYEE	HEALTH REIMBURSEMENT	417.76
PROVIDENCE MEDICAL	LIGHTING EFFICIENCY	1,634.00
QWEST	TELEPHONE CHARGES	428.26
QWEST BUSINESS SERVICES	TELEPHONE CHARGES	214.89
STATE NATIONAL BANK	PETTY CASH	99.76
TAYLOR RACELY	CAC CARPET CLEANING	1,175.00
UNITED WAY	UNITED WAY DEDUCTION	31.22
VERIZON WIRELESS SERVICES	CELL PHONE CHARGES	260.09
VIAERO	CELL PHONE CHARGES	135.57
WAYNE GRAIN & FEED INC	SCALE CHARGES	14.00

**POWER PURCHASE AGREEMENT**  
Executed by  
**CITY OF WAYNE NEBRASKA**  
And  
**RENEWABLE ENERGY DEVELOPMENT, LLC**  
(Wayne Industrial Park Wind Project)

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This POWER PURCHASE AGREEMENT (this "Agreement") is executed by and between RENEWABLE ENERGY DEVELOPMENT, LLC ("Seller"), and the CITY OF WAYNE NEBRASKA ("CITY"). Both Seller and CITY are sometimes referred to herein individually as "Party" and collectively as "Parties."

WHEREAS Seller desires to construct, own, and operate a wind powered electric generating plant to be located in Wayne, Nebraska.

WHEREAS, Seller desires to sell to the City of Wayne Nebraska all of the Energy Output generated by the Facility (as defined below), and CITY desires to buy the same from Seller.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the sufficiency and adequacy of which are hereby acknowledged, the Parties agree to the following:

## 1. Definitions

The terms listed in this Section shall have the meanings set forth herein whenever the terms appear in this Agreement, whether in the singular or the plural or in the present or past tense. The plain meaning of terms not listed in this Section and otherwise used in this Agreement shall apply, unless such unlisted terms have meanings as commonly used in Good Utility Industry Practice, in which case the Good Utility Industry Practice meaning shall apply. [definitions not used should be deleted, e.g. (a) (w)]

- (a) "Actual Average Annual Output" means the actual amount of average annual Energy Output generated by the Facility during any given 24-month rolling.
- (b) "Availability Factor" means the number of hours the Facility was in service and ready during the preceding twelve (12) month period to generate Energy Output in accordance with Good Utility Industry Practice, divided by 8,760 hours.
- (c) "Wayne Industrial Park Wind Turbine(s)" mean each and all of those two (2), Nordic Wind power, Inc. 1 MW N1000 wind turbine generators, or a reasonably acceptable replacement or substitute therefor, which constitute part of the Facility and are dedicated to producing Energy Output for sale to CITY pursuant to this Agreement.
- (d) "Business Day" means each Monday through and including Friday during the term of this Agreement other than nationally recognized holidays.
- (e) "Commercial Operation" means when a particular Wayne Industrial Park Wind Turbine in the Facility is ready for regular, daily operation, has been connected to the Grid, and is capable of producing Energy Output in accordance with Good Utility Industry Practice, all as certified in writing by Seller to CITY.
- (f) "Commercial Operation Date" means, with respect to a particular Wayne Industrial Park Wind Turbine, the first day on which Commercial Operation occurs.
- (g) "Commission(s)" means any of the state or Federal regulatory agencies having jurisdiction over CITY or Seller including, but not limited to, the Federal Energy Regulatory Commission ("FERC"), or successor agencies.
- (h) "Completion Date" means the date when all of the Wayne Industrial Park Wind Turbines have achieved Commercial Operation and the Conditions Precedent in Section 9(a) have been satisfied.
- (i) "Conditions Precedent" has the meaning given in Section 9(a).
- (j) "Contract Year" means any consecutive twelve (12) month period commencing with the Completion Date or its anniversary.
- (k) "Delivery Arrangements Agreement" means an agreement between CITY and the Transmission System Operator that provides for the receipt of Energy Output at the Point of Delivery and for the transmission and delivery of such Energy Output to points beyond the Point of Delivery.

- (l) "Emergency" means a physical condition or situation that, in the judgment of the Transmission System Operator, affects or will affect the ability of the Grid to accept Energy Output from the Facility at the Point of Delivery.
- (m) "Energy Output" means the amount of electrical energy generated by the Wayne Industrial Park Wind Turbines and delivered at the Point of Delivery. Energy Output shall be metered in whole kilowatt-hours (kWh) by the Metering Device(s) on the high side of the transformer at the Facility Substation. Energy Output delivered to CITY at the Point of Delivery shall be deemed to be equal to the energy measured by the Metering Device(s) minus energy losses of 0.052 percent between the Metering Device and the Point of Delivery.
- (n) "Energy Payment Rate" has the meaning ascribed in Section 7.
- (o) "Event of Default" means an event as defined in Section 10 that confers a contractual right upon the non-defaulting Party to terminate the Agreement.
- (p) "Facility" means the Wayne Industrial Park Wind Project, which includes all of the following, the purpose of which is to produce and sell electricity: Seller's equipment, property, wind turbines, step-up transformer(s), circuit breakers, necessary electric lines to connect to the Point of Delivery, protective and associated equipment, improvements, and other tangible and intangible assets, property and access rights and contract rights reasonably necessary for the construction, operation, and maintenance of the electric wind generating facility to be located at the site specified in Section 4 that produces Energy Output being sold under this Agreement.
- (q) "Facility Substation" means the facilities located at the point of intersection of the Facility Transmission Line and CITY's transmission line.
- (r) "Facility Transmission Line" means the transmission line connecting the Wind Turbines to the Point of Delivery.
- (s) "First Delivery Date" means the first date on which the Interconnection Facilities are energized and capable of accepting delivery of Energy Output at the Point of Delivery.
- (t) "GDPIPD" means the implicit price deflator for the gross domestic product as computed and published by the U.S. Department of Commerce. The figures to be used in this adjustment shall be those presented in the "Gross Domestic Product: First Quarter 'Final' Press Release" typically released in June of each calendar year by the United States Department of Commerce, Bureau of Economic Analysis. No subsequent revisions released by the United States Department of Commerce to those figures will be considered to affect or adjust the Energy Payment Rate for that particular Contract Year.
- (u) "Good Utility Industry Practice(s)" means the practices, methods, and acts (including, but not limited to, the practices, methods, and acts engaged in or approved by a significant portion of the electric utility industry) that, at a particular time, in the exercise of reasonable judgment in light of the facts known or that should reasonably have been known at the time a decision was made, would have been expected to accomplish the desired result in a manner consistent with law, regulation, codes, standards, equipment manufacturer's recommendations, reliability, safety, environmental protection, economy, and expedition. With respect to the Facility, Good Utility Industry Practice(s) include, but are not limited to, taking reasonable steps to ensure that:
  - (1) equipment, materials, resources, and supplies are available to meet the Facility's needs;
  - (2) sufficient operating personnel are available at all times and are adequately experienced, trained and licensed as necessary to operate the Facility properly and efficiently, and are capable of responding to reasonably foreseeable emergency conditions whether caused by events on or off the site of the Facility;
  - (3) preventive, routine, and non-routine maintenance and repairs are performed on a basis that ensures reliable long-term and safe operation, and are performed by

- knowledgeable, trained, and experienced personnel utilizing proper equipment and tools;
- (4) appropriate monitoring and testing are performed to ensure equipment is functioning as designed;
  - (5) equipment is not operated in a reckless manner, or in a manner unsafe to workers, the general public, or contrary to environmental laws or regulations or without regard to defined limitations such as flood conditions, safety inspection requirements, operating voltage, current, volt-ampere reactive (VAR) loading, frequency, rotational speed, polarity, synchronization, and/or control system limits; and (6) the equipment will function properly under both normal and reasonably expected Emergency conditions at the Facility.
- (v) "Grid" means the electrical transmission system that is beyond the Point of Delivery and controlled by the Transmission System Operator.
  - (w) "Inflation Adjustment Factor" shall mean a fraction, the numerator of which is the GDPIPD for the first (1st) quarter of the current calendar year and the denominator of which is the GDPIPD for the first (1st) quarter of the preceding year.
  - (x) "Interconnection Facilities" means all the land rights, materials, equipment, and facilities installed for the purpose of interconnecting the Wayne Industrial Park Wind Turbines to CITY's transmission line, including, but not limited to, electrical interconnection, switching, metering, relaying, and communication and safety equipment.
  - (y) "Interconnection Facilities Agreement" means the Generation Interconnection Agreement between Seller and Transmission System Operator that contains the rights and obligations of the parties with respect to the interconnection of the Facility to CITY's transmission line and the methods and procedures for the safe operation and maintenance of the Interconnection Facilities.
  - (z) "Metering Device(s)" means the electronic kilowatt-hour meter and associated potential transformers and current transformers used to measure the Energy Output from the Facility, as described in Section 5(c)(2) and Exhibit A
- I. (aa) "On-peak", "summer" and "winter" hours or seasons, as applicable, shall have the same definitions as those in the Nebraska Public Power District rate schedule GFPS;
- (bb) "Operating Committee" means the committee comprised of one delegate each from CITY and Seller pursuant to Section 9(e) of this Agreement.
  - (cc) "Seller's Computer Monitoring System" means the computer-based monitoring system comprised of computer hardware, software, and private communication system extending to each CITY Wind Turbine, which system gathers, archives and reports turbine operating data.
  - (dd) "Party" and/or "Parties" means Seller, CITY, or Seller and CITY.
  - (ee) "Point of Delivery" means the electric system point at which Seller makes the Energy Output available to CITY.
  - (ff) "Seller's Interconnection Facilities" means that portion of the Interconnection Facilities that are located outside of the boundary fence of the Facility Substation but with sufficient additional cable attached to reach to the Point of Delivery within the Facility Substation, as described in greater detail in Exhibit A.
  - (gg) "Transmission System Operator" means CITY's Transmission Business Line or any successor that controls and operates the Grid.

## 2. Term

### (a) Effectiveness; Basic Term

This Agreement shall become effective upon the date signed by both Parties (Effective Date) and shall remain in effect for a period of twenty (20) years from the Completion Date.

**(b) Survival of Terms and Conditions**

Applicable provisions of this Agreement shall continue in effect after termination to the extent necessary to provide for final billings and adjustments related to the period prior to termination, including repayment of any money due and owing to or by CITY pursuant to this Agreement.

**(c) Purchase of Facility**

CITY shall be given per this agreement the first right of refusal to purchase the Wayne Industrial Park Wind Project over any and all outside sources from the execution of this document.

**3. Exhibits**

The exhibits listed in the Table of Contents are incorporated into this Agreement by reference.

**4. Facility Description**

**(a) Summary Description**

Seller shall construct, operate, and maintain the Facility. Exhibit A provides a complete description of the Facility, including identification of the Wayne Industrial Park Wind Turbines and other equipment and components that comprise the Facility.

**(b) Site**

The Facility shall be located at the area generally described as:

Facility Name: Wayne Industrial Park Wind Project

Location: Sections 11, Township 26 North, Range 3, East of the 6th Principal Meridian, Wayne County, Nebraska, with a portion of Seller's Interconnection Facilities also located on site.

County/State: Wayne, Nebraska.

A scaled map that identifies the location of the Facility, the Wayne Industrial Park Wind Turbines, the Interconnection Facilities, and significant ancillary facilities, including the facilities located at Point of Delivery, is included in Exhibit A.

**(c) General Design and Construction of the Facility**

Seller shall construct the Facility in a workmanlike, professional manner according to Good Utility Industry Practice(s). The Facility shall be:

- (1) capable of supplying Energy Output in compliance with the requirements of the Interconnection Facilities Agreement;
- (2) capable of operating at power levels as specified in the Interconnection Facilities Agreement; and
- (3) equipped with protective devices and generator control systems designed and operating in accordance with the Interconnection Facilities Agreement and Good Utility Industry Practice(s).

**5. Interconnection Facilities and Metering**

**(a) Interconnection Facilities Agreement**

Seller shall negotiate in good faith and enter into an Interconnection Facilities Agreement that is reasonably acceptable to CITY for the purposes and in accordance with the schedules set forth in this Section 5(a). CITY shall diligently cooperate with Seller in these negotiations.

- (1) The Interconnection Facilities Agreement shall address and describe (i) the switching, metering, relaying, communications and safety equipment that will constitute the Interconnection Facilities, (ii) the processes, procedures for, and timing of the procurement, construction, testing and placement into operation of the Interconnection Facilities and their connection to the Point of Delivery, (iii) the billing and payment schedules for the construction, operation and maintenance of the Interconnection Facilities, (iv) the operating procedures and requirements of the Interconnection Facilities, including the requirements for the Wayne Industrial Park Wind Turbines to be capable of immediate disconnection from the Point of Delivery in accordance with Good Utility Industry Practice(s) or in the event of Emergency, and (v) the terms, conditions and other requirements relating to the construction, operation and maintenance of the Interconnection Facilities. As between CITY and Seller, all expenses associated with the procurement, construction, installation and operation of the Interconnection Facilities shall be paid by Seller in accordance with the Interconnection Facilities Agreement.
- (2) It is an objective of this Agreement that the First Delivery Date occur no later than September 1, 2010, provided that such date shall be extended day-for-day by any Force Majeure or any delay caused by CITY. Seller shall give CITY fifteen (15) calendar day's written notice prior to the First Delivery Date. If the Completion Date occurs more than thirty (30) days after the First Delivery Date, irrespective of the occurrence of any Force Majeure and otherwise not due to the negligence or fault of CITY, then Seller shall reimburse CITY for payments made for transmission services for the period commencing on the day following the thirtieth (30th) day after the First Delivery Date and continuing until the Completion Date; provided that CITY shall act in a commercially reasonable manner to minimize costs related to such transmission services.

**(b) Delivery Arrangements Agreement**

CITY shall enter into one or more agreements with the Transmission System Operator and/or with others that provide for the receipt of the Energy Output at the Point of Delivery and for the transmission and delivery of such Energy Output to points beyond the Point of Delivery (such agreements shall constitute the ("Delivery Arrangements Agreement")). CITY shall be solely responsible for negotiating, and maintaining during the term of this Agreement, the Delivery Arrangements Agreement. Seller shall diligently cooperate with CITY in these negotiations.

**(c) Other Provisions Related to Interconnection**

**(1) Access to Facility**

During the term of this Agreement, appropriate representatives of CITY shall at all reasonable times, including weekends and nights, and with reasonable prior notice, have access to the Facility, including the control room and the Interconnection Facilities, to read and maintain meters and to perform all inspections, maintenance, service, and operational reviews as may be appropriate to facilitate the performance of this Agreement. While at the Facility, such representatives shall observe such reasonable safety precautions as may be required by Seller and shall conduct themselves in a manner that will not interfere with the construction, operation or maintenance of the Facility.

**(2) Metering Devices**

- (i) All Metering Devices used to measure the Energy Output under this Agreement shall be subject to approval by CITY, owned by Seller, and installed in accordance with the Interconnection Facilities Agreement. Seller shall, at Seller's expense, install communication equipment that allows CITY to read

the Metering Devices from a remote location (such as CITY headquarters) at any time. Metering Devices shall be maintained directly by Seller or by agents or subcontractors directly under the Seller's control or by the Transmission System Operator. All Metering Devices used to measure the Energy Output under this Agreement shall be sealed and the seal may be broken only when such Metering Devices are to be inspected, and tested and/or adjusted. The number, type, and location of such Metering Devices shall be specified in the Interconnection Facilities Agreement.

- (ii) All Metering Devices shall be maintained, calibrated, and tested in conformance with the policies of the Transmission System Operator and the terms of the Interconnection Facilities Agreement. Seller shall arrange to test the Metering Devices at least once per calendar year. CITY, at its own expense, may require that Seller initiate testing and inspection of the Metering Devices. Seller shall permit a representative of CITY to witness and verify such inspections and tests, provided, however, that CITY shall comply with all of the Seller's safety standards. Seller shall provide CITY with copies of any periodic or special inspection or testing reports relating to the Metering Devices.
  - (iii) CITY may elect to install and maintain, at its own expense, Metering Devices and data gathering and communication equipment used to monitor, record, or transmit data relating to the Energy Output from the Wayne Industrial Park Wind Turbines. Seller shall arrange for a location within the Facility Substation control house accessible to Seller and CITY, for such data gathering and communication equipment that may be installed.
  - (iv) Seller shall notify CITY within 48 hours of Seller receiving actual notice of any inaccuracy or defect in a Metering Device. Seller shall cause the Metering Devices to be adjusted, repaired, replaced, and/or recalibrated as near as practicable to a condition of zero error at the expense of Seller or the Party owning the defective or inaccurate device.
- (3) Adjustment for Inaccurate Meters**

If a Metering Device fails to register or is found upon testing to be inaccurate by more than a quarter of one percent (0.25%), an adjustment shall be made correcting all measurements by the inaccurate or defective Metering Device, for both the amount of the inaccuracy and the period of the inaccuracy, in the following manner:

- (i) In the event that the Metering Device is found to be defective or inaccurate and an adjustment factor for the Metering Device cannot be reliably calculated, the Parties shall use the measurements from CITY-owned meters if they have been installed, fully operational and calibrated pursuant to Section 5(c)(2). If CITY-owned meters have not been installed or, if installed, are not fully operational or calibrated, the Parties shall use production data from Seller's Computer Monitoring System to determine the amount of such inaccuracy.
- (ii) In the event that Seller's Computer Monitoring System is found to be inaccurate by more than two percent (2.0%), the Parties shall estimate the amount of the necessary adjustment using the site meteorological information for the period of the inaccuracy based upon deliveries of Energy Output from the Wayne Industrial Park Wind Turbines during periods of similar operating conditions when the Metering Device was registering accurately. The adjustment shall be made for the period during which inaccurate measurements were made.
- (iii) In the event that the Parties cannot agree on the actual period during which the inaccurate measurements were made, the period during which the

measurements are to be adjusted shall be the shorter of (1) the last one-half of the period from the last previous test of the Metering Device to the test that found the Metering Device to be defective or inaccurate, or (2) the 180-day period immediately preceding the test that found the Metering Device to be defective or inaccurate.

- (iv) To the extent that the adjustment period overlaps with a period of deliveries for which payment has already been made to Seller by CITY, CITY shall use the corrected measurements as determined in accordance with this Section to recalculate the amount due for the period of the inaccuracy and shall subtract the previous payments by CITY for such period from such recalculated amount. If the difference is a positive number, the difference shall be paid by CITY to Seller; if the difference is a negative number, that difference shall be paid by Seller to CITY, or at CITY's discretion such difference may take the form of an offset to payments due Seller by CITY. Payment of such difference by the owing Party shall be made not later than thirty (30) days after the owing Party receives notice of the amount due, unless CITY elects payment via an offset.

**(4) Reliability Standards**

Seller shall operate the Wayne Industrial Park Wind Turbines in a manner that complies with the operating requirements set forth in the Interconnection Facilities Agreement.

**6. Obligation to Sell and Purchase Energy Output**

**(a) Conditional Obligation to Purchase**

Seller shall achieve the Completion Date by no later than September 1, 2010, or such later date permitted due to Force Majeure or any delay caused by CITY. In any event, irrespective of Force Majeure, Seller shall achieve the Completion Date no later than December 31, 2010. Breach of this Section 6(a) shall constitute an Event of Default as provided under Section 10(a)(1) and CITY may pursue remedies available to it including those available pursuant to Section 10(c).

**(b) Sale and Purchase**

CITY shall purchase any or all Energy Output generated by the Wayne Industrial Park Wind Turbines and delivered to the Point of Delivery prior to the Completion Date. Beginning on the Completion Date, and throughout the term of this Agreement, Seller shall supply from the Facility and sell to CITY, and CITY shall receive and purchase, the entire Energy Output of the Wayne Industrial Park Wind Turbines in accordance with the terms of this Agreement. Seller shall deliver the Energy Output to, and make such Energy Output available to CITY at, the Point of Delivery. Neither Party shall curtail or interrupt delivery, acceptance, sale and/or purchase of Energy Output for economic reasons.

**(c) Point of Delivery**

The Point of Delivery shall be at located at the 3-Phase transmission line across Nebraska Highway 35 from Pac-N-Save in Wayne, Nebraska.

**(d) Exception**

CITY shall not be obligated to purchase Energy Output that cannot be delivered due to disruptions, breakdowns, electrical system failures and/or mechanical failures, maintenance or repair, including, for reasons of Force Majeure, to the Facility Substation and/or the Grid; provided that such inability to deliver is not due, in whole

or in part, to CITY's negligence or its breach of, or default under, this Agreement or the Delivery Arrangements Agreement. As between CITY and Seller, Seller shall not be entitled to recover lost revenues for events covered in this Section 6(d) from CITY (other than as referred to in the proviso in the previous sentence).

**(e) Exclusions**

The Parties acknowledge that the Wayne Industrial Park Wind Turbines have the potential to produce substantial carbon dioxide credits and other environmental air quality credits and related emissions reduction credits or benefits (economic and otherwise) related to the generation of energy after Commercial Operation. The Parties agree that any and all such credits or benefits shall be the property of CITY. In furtherance of the foregoing, Seller hereby transfers to CITY all right, title and interest Seller has or will have in, to, and under such credits or benefits. Seller agrees to provide such further evidence of the right, title and interest of CITY in such credits or benefits, and such information with respect to such credits or benefits, as CITY shall reasonably request.

**7. Payment for Energy Output**

**(a) Price for Energy Output**

CITY agrees to purchase from Seller any Energy Output produced for sale by Seller at a base rate of \$0.041 per kWh (summer) and \$0.034 per kWh (winter), subject to annual review and subsequent change/true-up as agreed upon by both CITY and Seller. 'True-up', for purposes of this agreement, is broadly considered to be the difference between (actual proven Seller costs (including expected margin) and base) and (actual proven avoided City costs and base). For the period following the 30-day period specified in Section 5(a)(2) until the Completion Date, Seller shall be responsible for payment of all fixed charges required under the Delivery Arrangements Agreement for the use of the Grid, except as such delay is caused by CITY's negligence or its breach of, or default under, this Agreement or the Delivery Arrangements Agreement.

**8. Billing and Payment**

**(a) Billing Statement and Invoices**

The monthly billing period shall be the calendar month. No later than fifteen (15) calendar days after the end of each calendar month, Seller shall prepare, and provide to CITY, a statement showing Energy Output and an invoice for any amounts due from CITY to Seller under the terms of this Agreement, for the previous calendar month billing period. The statement and invoice shall be sent to the address specified in Section 12(a). The form of the invoice shall as shown in Exhibit C.

**(b) Metered Billing Data**

All billing data based on metered deliveries to CITY shall be collected by the Metering Device(s) in accordance with Section 5(c)(2).

**(c) Payment Dates; Late Payments**

Payments due Seller or CITY, as the case may be, shall be due and payable by electronic funds transfer, or by wire transfer, as designated by the owed Party, on or before the thirtieth (30th) calendar day following owing Party's receipt of owed Party's proper billing invoice. If the amount due is not paid on or before the due date, a late payment charge shall be applied to the unpaid balance and shall be added to the next invoice. Such late payment charge shall be calculated based on an annual interest rate consistent with the Prompt Payment Act (31 U.S.C. §§ 3901-3909) and effective in the month in which the invoice is rendered.

**(d) Billing Disputes**

- (1) Either CITY or Seller may contest invoiced amounts if a reasonable basis exists therefor (a "Billing Dispute"). The contesting Party's representative shall notify in writing the representative of the other Party of a Billing Dispute within thirty (30) calendar days from the receipt of a disputed invoice rendered under Section 8 of this Agreement.
- (2) Uncontested portions of invoiced amounts shall be paid on or before the due date or shall be subject to the late payment interest charges set forth above.

**9. Operations and Maintenance**

**(a) Conditions Precedent to Facility Completion Date**

Seller shall advise CITY in writing when Seller believes that all of the Conditions Precedent have been or will shortly be completed. In so doing, Seller shall provide evidence reasonably requested by CITY of the satisfaction or occurrence of all Conditions Precedent. CITY shall use its best efforts to respond in writing within two (2) Business Days (but in any event shall respond within six (6) Business Days) of Seller's written notification either confirming to Seller that all of the Conditions Precedent have been satisfied. Seller shall be responsible for any and all maintenance of the facility for as long as they own the facility. The maintenance of the facility shall be transferred to the CITY if and when the CITY purchases the Facility.

**10. Default and Termination**

**(a) Events of Default of Seller**

- (1) The occurrence of any of the following shall constitute an immediate Event of Default without the opportunity to cure:
  - (i) Seller dissolution or liquidation;
  - (ii) Seller assignment of this Agreement or any of its rights under it for the benefit of creditors;
  - (iii) Seller abandonment of construction and/or operation of the Facility; and Seller filing of a petition in bankruptcy or insolvency or for reorganization or arrangement under the bankruptcy laws of the United States or under any insolvency act of any state, or Seller voluntarily taking advantage of any such law or act by answer or otherwise.
- (2) The occurrence of any of the following shall constitute an Event of Default of Seller unless Seller shall have cured the same within ninety (90) days after receipt by Seller of written notice thereof from CITY:

- (i) Seller's failure to meet the Completion Date as set forth in Section 6(a) (subject to the extensions of time available to Seller under Section 6(a));
  - (ii) The filing of a case in bankruptcy or any proceeding under any other insolvency law against Seller as debtor or its parent or any other affiliate that could materially impact Seller's ability to perform its obligations hereunder; provided, however, that Seller does not obtain a stay or dismissal of the filing within ninety (90) days of the date of such filing;
  - (iii) After the Completion Date, Seller tampering with or adjustment of the Metering Devices for the Wayne Industrial Park Wind Turbines in ways not expressly permitted by Sections 5(c)(2) and 5(c)(3);
  - (iv) After the Completion Date, the sale by Seller to a third party, or diversion by Seller for any use, of the Energy Output committed to CITY by Seller absent CITY's prior written consent to such diversion or use;
  - (v) After the Completion Date, Seller's failure to maintain in effect any material agreements required to deliver the Energy Output to the Point of Delivery;
  - (vi) Seller's failure to acquire or maintain permits needed to construct and operate the Facility;
  - (vii) Seller's failure to acquire or maintain land rights needed to access, construct, and operate the Facility; or
  - (viii) Seller's failure to comply with any other material obligation under this Agreement.
- (3) Seller's failure to make any payment when required under this Agreement shall constitute an Event of Default of Seller unless (1) Seller shall have cured the same within thirty (30) days after receipt by Seller of written notice thereof from CITY or (2) Seller has filed in good faith a Billing Dispute with respect to such unpaid amounts and complied with Section 8(d).
- (b) Events of Default of CITY**
- (1) The following shall constitute Events of Default of CITY upon their occurrence and no cure period shall be applicable:
    - (i) CITY's dissolution or liquidation, provided that division of CITY into multiple entities shall not constitute dissolution or liquidation; or
    - (ii) CITY's general assignment of this Agreement or any of its rights hereunder for the benefit of creditors.
  - (2) The following shall constitute Events of Default of CITY upon their occurrence unless cured within ninety (90) days after the receipt by CITY of written notice thereof from Seller:
    - (i) CITY fails to purchase the entire Energy Output of the Wayne Industrial Park Wind Turbines in accordance with Section 6(b);
    - (ii) CITY defaults on its obligations under the Delivery Arrangements Agreement, and such default renders Seller unable to deliver the Energy Output at the Point of Delivery or affects Seller's right to be paid under this Agreement for delivery at the Point of Delivery for its Energy Output;
    - (iii) CITY's assignment of this Agreement or any of CITY's rights under this Agreement without obtaining Seller's prior written consent pursuant to Section 18; or
    - (iv) CITY's failure to comply with any other material obligation under this Agreement after receipt of notice thereof.

(3) CITY's failure to make any payment when required under this Agreement shall constitute an Event of Default unless (1) CITY shall have cured the same within thirty (30) days after receipt by CITY of written notice thereof or (2) CITY has filed in good faith a Billing Dispute with respect to such unpaid amounts and complied with Section 8(d).

**(c) Termination for Cause**

In addition to any other right or remedy available at law or in equity or pursuant to this Agreement, including the right to seek damages for breach of this Agreement, the non-defaulting Party may, upon written notice to the other Party, terminate this Agreement if any one or more of the Events of Default described in this Section occur and are not cured within the time periods set forth herein. In the event of a termination by CITY due to an Event of Default under Section 10(a)(2)(i), neither Party shall have any further liability or obligation to the other Party with respect to this Agreement, except Seller shall, after receipt of a detailed, written itemization and description, reimburse CITY for reasonable payments made by CITY pursuant to the Delivery Arrangements Agreement. Neither Party shall have the right to terminate this Agreement except as provided for upon the occurrence of an Event of Default as described above or as otherwise may be explicitly provided for in this Agreement. All remedies in this Agreement shall survive termination or cancellation of this Agreement and are cumulative.

**(d) No Consequential Damages**

In no event shall either Party be liable for the other Party's alleged lost profits or other consequential damages; provided, however, that any amounts which are expressly provided herein to be payable shall not be construed as lost profits or consequential damages.

**11. [RESERVED]**

**12. Contract Administration and Notices**

**(a) Notices**

All notices, demands or other communications required from or given by a Party pursuant to this Agreement shall be provided to the other Party in accordance with the requirements set forth in this section. All notices, demands or other communications required hereunder shall be given or made in writing and shall be delivered personally, sent by facsimile (fax), sent by a courier service, or mailed by registered or certified mail, postage prepaid to the parties at the following addresses, or at such other address as may be designated by notice given pursuant hereto:

If to Seller: Renewable Energy Development, LLC  
6722 West 146<sup>th</sup> Terrace  
Suite 6101  
Overland Park, KS 66223  
Attn: Wind Project Manager  
Phone: 816-591-7872  
Fax: 913-402-7416

If to Buyer: City of Wayne  
Attn: City Clerk, Betty McGuire  
306 Pearl Street  
Wayne, Nebraska 68787  
Phone: (402) 375-1733  
Fax: (402) 375-4712

Notices given by hand, telegraphically transmitted, or sent by telecopy shall be deemed given the day so given, transmitted or sent. Notices mailed or sent by a courier service as provided herein shall be deemed given on the third Business Day following the date so mailed or on the date of actual receipt, whichever is earlier.

**(b) Representative for Notice**

Each Party shall maintain a designated representative to receive notices. Such representative may, at the option of each Party, be the same person as that Party's representative or alternate representative on the Operating Committee, or a different person. Either Party may, by written notice to the other, pursuant to Section 12(a) above, change the representative or the address to which such notices and communications are to be sent.

**(c) Authority of Representatives**

The Parties' representatives designated in Section 12(b) above shall have authority to act for their respective principals in all technical matters relating to performance of this Agreement and to attempt to resolve disputes or potential disputes. However, they shall not have the authority to amend or modify any provision of this Agreement.

**(d) Operating Records**

Seller and CITY shall each keep complete and accurate records and all other data required by each of them for the purposes of proper administration of this Agreement, including such records as may be required by state or Federal regulatory authorities.

**(e) Billing and Payment Records**

To facilitate payment and verification, Seller and CITY shall keep all books and records necessary for billing and payments in accordance with the provisions of Section 7 and grant the other Party reasonable access to those records.

**(f) Examination of Records**

Seller and CITY may examine the billing and operating records and data kept by the other relating to transactions under, and administration of, this Agreement at any time during the period the records are required to be maintained, upon request and during normal business hours.

**13. Dispute Resolution**

- (a)** The Parties shall make a good faith effort to negotiate a resolution of disputes before initiating litigation. During a contract dispute or contract issue between the Parties arising out of this Agreement, the Parties shall continue performance under this Agreement pending resolution of the dispute, unless to do so would be impossible or impracticable. Seller reserves the right to seek judicial resolution of any dispute arising under this Agreement that is not subject to arbitration under this Section 13.
- (b)** Final actions subject to section 9(e) of the Northwest Power Act are not subject to binding arbitration and shall remain within the exclusive jurisdiction of the United States Ninth Circuit Court of Appeals. Any dispute regarding any rights of the Parties under any CITY policy, including the implementation of such policy, shall not be subject to arbitration under this Agreement. Seller reserves the right to seek judicial resolution of any dispute arising under this Agreement that is not subject to arbitration under this Section 13. For purposes of this Section 13, CITY policy means any written document adopted by CITY as a final action in a decision record or record of decision that establishes a policy of general application, or makes a determination under an applicable statute. If either Party asserts that a dispute is excluded from arbitration under this Section 13, either Party may apply to the

Federal court having jurisdiction for an order determining whether such dispute is subject to arbitration under this Section 13.

- (c) Any contract dispute or contract issue between the Parties arising out of this Agreement, except for disputes that are excluded through Section 13(a) above, shall be subject to binding arbitration. The Parties shall make a good faith effort to resolve such disputes before initiating arbitration proceedings. During arbitration, the Parties shall continue performance under this Agreement pending resolution of the dispute, unless to do so would be impossible or impracticable.
- (d) Any arbitration shall take place in Omaha, Nebraska, unless the Parties agree otherwise. The CPR Institute for Dispute Resolution's arbitration procedures for commercial arbitration, Non-Administered Arbitration Rules (CPR Rules), shall be used for each dispute; provided, however, that: (1) the Parties shall have the discovery rights provided in the Federal Rules of Civil Procedure unless the Parties agree otherwise; and (2) for claims of \$1 million or more, each arbitration shall be conducted by a panel of three neutral arbitrators. The Parties shall select the arbitrators from a list containing the names of 15 qualified individuals supplied by the CPR Institute for Dispute Resolution. If the Parties cannot agree upon three arbitrators on the list within 20 Business Days, the Parties shall take turns striking names from the list of proposed arbitrators. The Party initiating the arbitration shall take the first strike. This process shall be repeated until three arbitrators remain on the list, and those individuals shall be designated as the arbitrators. For disputes involving less than \$1 million, a single neutral arbitrator shall be selected consistent with section 6 of the CPR Rules.
- (e) Except for arbitration awards, which declare the rights and duties of the Parties under this Agreement, the payment of monies shall be the exclusive remedy available in any arbitration proceeding. Under no circumstances shall specific performance be an available remedy against CITY. The arbitration award shall be final and binding on both Parties, except that either Party may seek judicial review based upon any of the grounds referred to in the Federal Arbitration Act, 9 U.S.C. §1-16 (1988). Judgment upon the award rendered by the arbitrators may be entered by any court having jurisdiction thereof.
- (f) Each Party shall be responsible for its own costs of arbitration, including legal fees. The arbitrators may apportion all other costs of arbitration between the Parties in such manner as they deem reasonable taking into account the circumstances of the case, the conduct of the Parties during the proceeding, and the result of the arbitration.

#### **14. Force Majeure**

##### **(a) Definition of Force Majeure**

The term "Force Majeure," as used in this Agreement, means causes or events beyond the reasonable control of, and without the fault or negligence of the party claiming Force Majeure, including, without limitation, acts of God, sudden actions of the elements such as floods, earthquakes, hurricanes, wind speeds in excess of safe working limits, or tornadoes; sabotage; vandalism beyond that which could reasonably be prevented by Seller; terrorism; war; riots; fire; explosion; severe cold or hot weather or snow or other extreme or severe weather conditions; blockage, insurrection, strike, slow down, or labor disruptions (even if such difficulties could be resolved by conceding to the demands of a labor group); and requirements, actions or failures to act by Transmission System Operator, but only if such requirements, actions or failures to act prevent or delay performance; the adoption or change in any rule or regulation or judicial decision lawfully imposed by Federal, state, or local government bodies; inability, despite due diligence, to obtain required licenses, permits, or approvals for the construction and operation of the Facility under the terms of this Agreement; and the mechanical or equipment breakdown of the Grid to the extent not

caused by the party claiming the Force Majeure. The term "Force Majeure" does not include any full or partial curtailment in the electric output of the Facility that is caused by or arises from the act or acts of any third party, including, without limitation, any vendor, material man, customer, or supplier of Seller, unless such act or acts is or are itself or themselves excused by reason of Force Majeure. The term "Force Majeure" does not include any full or partial curtailment in the electric output of the Facility that is caused by or arises from a mechanical or equipment breakdown of the Facility, or fires, explosions, or other mishap or events or conditions attributable to normal wear and tear or flaws related to the Facility, unless caused by a Force Majeure event specifically listed in the first sentence of this Section 14(a).

**(b) Applicability of Force Majeure**

Neither Party shall be responsible or liable for any delay or failure in its performance under this Agreement due to conditions or events of Force Majeure (except that any and all obligations to pay money shall not be delayed or excused by conditions or events of Force Majeure), provided that:

- (1) the non-performing Party gives the other Party prompt written notice describing the particulars of the occurrence of the Force Majeure;
- (2) the suspension of performance is of no greater scope and of no longer duration than is required by the Force Majeure;
- (3) the non-performing Party proceeds with reasonable diligence to remedy its inability to perform and provides weekly progress reports to the other Party describing actions taken to end the Force Majeure; and
- (4) the non-performing Party shall provide written notice of its ability to resume performance of its obligations under this Agreement.

**(c) Limitations on Effect of Force Majeure**

In no event will any delay or failure of performance caused by any conditions or events of Force Majeure extend this Agreement beyond its stated term. In the event of any delay or failure of performance caused by conditions or events of Force Majeure, which would otherwise constitute an Event of Default pursuant to Section 10, the cure provisions of Section 10 shall not apply and such delay or failure of performance, if not previously cured, shall be extended day-for-day by the event of Force Majeure; provided that such delay or failure shall become an Event of Default one (1) year from the date of notice provided for in Section 10. The other Party may, at any time following the end of such one-year period, terminate this Agreement upon written notice to the affected Party, without further obligation by the terminating Party except as to costs and unpaid balances incurred prior to the effective date of such termination. The other Party may, but shall not be obligated to, extend such one year period, for such additional time as it, at its sole discretion, deems appropriate, if the affected Party is exercising due diligence in its efforts to cure the conditions or events of Force Majeure.

**(d) Delays Attributable to CITY**

Seller shall be excused from delays in meeting performance deadlines under this Agreement, on a day-for-day basis, for any delays attributable to CITY, including, without limitation, delays in CITY obtaining any required permits, consents, or approvals and agreements, including, without limitation, the Delivery Arrangements Agreement, from governmental authorities or third parties required for CITY to perform its obligations under this Agreement. Seller shall provide CITY with timely written notice that a delay allegedly attributable to CITY has occurred or is expected to occur. The notice shall specify the length of any extension to a performance deadline to which Seller feels entitled.

**15. Representations and Warranties**

**(a) Seller's Representations and Warranties**

Seller hereby represents and warrants that as of the date hereof:

- (1) Seller is an Nebraska corporation, duly organized, validly existing and in good standing under the laws of the State of Nebraska, and is qualified to perform its obligations under this Agreement in Nebraska and in each other jurisdiction where the failure to so qualify would have a material adverse effect upon the business or financial condition of Seller; and Seller has all requisite power and authority to conduct its business, to own its properties, and to execute, deliver, and perform its obligations under this Agreement.
- (2) The execution, delivery, and performance of its obligations under this Agreement by Seller have been duly authorized by all necessary corporate action, and do not and will not:
  - (i) require any consent or approval of Seller's members other than that which has been obtained and is in full force and effect;
  - (ii) violate any provision of law, rule, regulation, order, writ, judgment, injunction, decree, determination, or award currently in effect having applicability to Seller or violate any provision in any charter documents of Seller, the violation of which could have a material adverse effect on the ability of Seller to perform its obligations under this Agreement;
  - (iii) result in a breach or constitute a default under Seller's charter documents, or under any agreement relating to the management or affairs of Seller or any indenture or loan or credit agreement, or any other agreement, lease, or instrument to which Seller is a party or by which Seller or its properties or assets may be bound or affected, the breach or default of which could reasonably be expected to have a material adverse effect on the ability of Seller to perform its obligations under this Agreement; or
  - (iv) result in, or require the creation or imposition of any mortgage, deed of trust, pledge, lien, security interest, or other charge or encumbrance of any nature (other than as may be contemplated by this Agreement) upon or with respect to any of the assets or properties of Seller now owned or hereafter acquired, the creation or imposition of which could reasonably be expected to have a material adverse effect on the ability of Seller to perform its obligation under this Agreement.
- (3) This Agreement is a valid and binding obligation of Seller.
- (4) The execution and performance of this Agreement will not conflict with or constitute a breach or default under any contract or agreement of any kind to which Seller is a party or any judgment, order, statute, or regulation that is applicable to Seller or the Facility.
- (5) To its best knowledge, all approvals, authorizations, consents, or other action required by any governmental authority to authorize Seller's execution, delivery, and performance under this Agreement have been duly obtained and are in full force and effect.

**(b) CITY's Representations and Warranties**

CITY hereby represents and warrants the following:

- (1) The execution and performance of CITY's obligations under this Agreement has been duly authorized by all necessary agency action, and does not and will not:
  - (i) require any further agency consent or approval;
  - (ii) to the knowledge of CITY violate any provision of Federal law, rule, regulation, order, writ, judgment, injunction, decree, determination, or award currently in effect having applicability to CITY, or conflict with or constitute a breach or default under any contract or agreement of any kind to which CITY is a party, the violation, conflict, or breach or default of which could have a material adverse effect on the ability of CITY to perform its obligations under this Agreement.
- (2) This Agreement is a valid and binding obligation of CITY.

**16. Insurance and Indemnity**

**(a) Evidence of Insurance**

- (1) During the construction of the Facility, Seller shall, at Seller's expense, maintain or cause to be maintained property damage insurance covering all wind-electric generation facilities at the Facility on an "all-risk" basis, for the full replacement value of such facilities.
- (2) Commencing on the Completion Date, Seller shall, at Seller's expense, maintain or cause to be maintained appropriate property and casualty loss insurance for the value of the Facility, and other appropriate insurance for the Facility in accordance with prudent wind industry practice, including as follows:
  - (i) Commercial General Liability covering bodily injury and property damage, boiler and machinery, products/completed operations, contractual and personal injury liability, with limits not less than \$1,000,000 combined single limit per occurrence;
  - (ii) All-risk property insurance including earthquake, tornado, and flood, subject to appropriate sub limits, covering physical loss or damage to all real and personal property located at the Facility.
- (3) The insurance shall acknowledge CITY, its officers, agents, employees, and successors in interest as additional insured.
- (4) The insurance shall not affect Seller's liability under the indemnity provisions of this Agreement and shall not be terminated, expire nor be materially altered except on thirty (30) days prior written notice to CITY and with CITY's written concurrence. Such concurrence shall not be unreasonably withheld.
- (5) As evidence that policies do in fact provide the required coverage's and limits of insurance and are in full force and effect, Seller, and/or its contractor or representative, shall, at least fourteen (14) days prior to the Completion Date, furnish to CITY certificates of insurance.

**(b) Limitation on Liability**

Neither CITY nor Seller ("First Party") shall be liable, whether in warranty, tort or strict liability, to the other Party ("Second Party") for any injury or death to any person, or for any loss or damage to any property, caused by or arising out of any electric disturbance of the First Party's electric system, whether or not such electric disturbance resulted from the First Party's negligent act or omission. Each Second Party shall release the First Party from, and shall indemnify and hold harmless the First Party from, any such liability. As

used in this Section, (1) the term "Party" means, in addition to such Party itself, its agents, directors, officers, contractors and employees; (2) the term "damage" means all damage, including consequential damage; and (3) the term "persons" means any person, including those not connected with either Party to this Agreement.

**17. Regulatory Jurisdiction and Compliance**

**(a) Governmental Jurisdiction and Regulatory Compliance**

Each party shall at all times comply with all applicable laws, ordinances, rules, and regulations applicable to it. As applicable, each party shall give all required notices, shall procure and maintain all necessary governmental permits, licenses, and inspections necessary for performance of this Agreement, and shall pay its respective charges and fees in connection therewith.

**(b) Provision of Support**

Seller shall make available, upon CITY's reasonable request, any personnel of Seller and any records relating to the Facility to the extent that CITY requires the same in order to fulfill any regulatory reporting requirements, or to assist CITY in litigation, including, but not limited to, proceedings before utility regulatory commissions. CITY shall make available, upon Seller's reasonable request, any personnel of CITY and any records relating to the Facility to the extent that Seller requires the same in order to fulfill any regulatory reporting requirements, or to assist Seller in litigation, including, but not limited to, proceedings before utility regulatory commissions.

**18. Assignment and Other Transfer Restrictions**

**(a) No Assignment Without Consent**

This Agreement shall be binding upon and inure to the benefit of, or may be performed by, the successors and assigns of the Parties. No Party may assign or otherwise transfer its rights or obligations under this Agreement unless it has obtained the prior written consent of the other Party. Seller may assign and/or delegate, or transfer or permit the transfer of all or any portion of its interests in the Facility or this Agreement, to any person or entity after obtaining the prior written consent of CITY, which shall not be unreasonably withheld, delayed or conditioned; provided that such other person or entity assumes, or is otherwise bound to perform, all of Seller's obligations under this Agreement. Seller may assign and/or delegate, or transfer or permit the transfer of all or any portion of its interests in the Facility or this Agreement, to any lender as collateral. No assignment, delegation, pledge, or transfer shall relieve or release Seller to any extent of any of its pre-transfer obligations under this Agreement. No assignment, pledge, or other transfer of this Agreement by any Party shall operate to release the assignor, pledger, or transferor from any of its obligations under this Agreement unless consent to the release, which shall not be unreasonably withheld, delayed or conditioned, is given in writing by the other Party.

**19. Confidential Information**

**(a) Availability**

The Parties have and will develop certain information, processes, know-how, techniques and procedures concerning the Facility (collectively, "Information") which they consider confidential and proprietary. Notwithstanding the confidential and proprietary nature of such Information, CITY and Seller (each, the "Disclosing Party") may make this Information available to the other (each, a "Receiving Party") subject to the provisions of this section.

**(b) Designation**

At the time of furnishing or making available for inspection such confidential or proprietary Information, the Disclosing Party shall expressly designate by label, stamp, or oral communication (to be confirmed in writing) the Information which it considers to be confidential and/or proprietary.

**(c) Obligations**

The Receiving Party's obligations with respect to the use or disclosure of such Information thereafter will be as set forth in this section.

**(d) Conditions and Restrictions**

Upon receiving or learning of Information designated as confidential and/or proprietary by the Disclosing Party, the Receiving Party shall:

- (1) treat such Information as confidential and use reasonable care not to divulge such Information to any third party except as required by law, subject to the restrictions set forth below;
- (2) restrict access to such Information to employees (and others who agree to be bound by this Agreement) whose access is reasonably necessary in developing the Facility and for the purposes of this Agreement;
- (3) use such Information solely for the purpose of developing the Facility and for the purposes of this Agreement; and
- (4) upon the termination of this Agreement, destroy or return any such Information in written or other tangible form and any copies thereof, if asked to do so in writing by the Disclosing Party.

**(e) Exceptions**

The restrictions in this section do not apply to:

- (1) the contents of this Agreement, which becomes a public document upon execution;
- (2) information which is, or becomes, publicly known or available otherwise than through the action of the Receiving Party in violation of this Agreement;
- (3) information which is in the possession of the Receiving Party prior to receipt from the Disclosing Party or is independently developed by the Receiving Party; provided that the person or persons developing same have not had access to such Information; or
- (4) information which is, in the reasonable written opinion of counsel to the Receiving Party, required to be disclosed pursuant to applicable law or regulation (including any Freedom of Information Act request); provided, however, that the Receiving Party, prior to such disclosure, shall provide reasonable advance notice to the Disclosing Party of the time and scope of the intended disclosure in order to permit the Disclosing Party opportunity to obtain a protective order or otherwise seek to prevent or limit the scope or otherwise impose conditions upon such disclosure.

**(f) Term of Obligations**

The obligations of the Parties under this section shall remain in full force and effect for two (2) years following the termination of this Agreement.

**20. Miscellaneous**

**(a) Waiver**

The failure of either Party to enforce or insist upon compliance with or strict performance of any of the terms or conditions of this Agreement, or to take advantage of any of its rights thereunder, shall not constitute a waiver or relinquishment of any such terms, conditions, or rights, but the same shall be and remain at all times in full force and effect.

**(b) Taxes**

Seller shall be responsible for any and all present or future Federal, state, municipal, or other lawful taxes applicable by reason of the ownership and operation of the Facility and the sale of energy under this Agreement and all ad valorem taxes relating to the Facility and the Interconnection Facilities.

**(c) Disclaimer of Third Party Beneficiary Rights**

In executing this Agreement, CITY does not, nor should it be construed to, extend its credit or financial support for the benefit of any third parties lending money to or having other transactions with Seller. Nothing in this Agreement shall be construed to create any duty to, or standard of care with reference to, or any liability to, any person not a party to this Agreement.

**(d) Relationship of the Parties**

This Agreement shall not be interpreted to create an association, joint venture, or partnership between the Parties or to impose any partnership obligation or liability upon either Party. Neither Party shall have any right, power, or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as an agent or representative of, the other Party.

Seller shall be solely liable for the payment of all wages, taxes, and other costs related to the employment of persons to perform such services, including all Federal, state, and local income, social security, payroll, and employment taxes and statutorily mandated workers' compensation coverage. None of the persons employed by Seller shall be considered employees of CITY for any purpose; nor shall Seller represent to any person that he or she is or shall become a CITY employee.

**(e) Survival of Obligations**

Cancellation, expiration, or earlier termination of this Agreement shall not relieve the Parties of obligations that by their nature should survive such cancellation, expiration, or termination, including, without limitation, warranties, remedies, or indemnities.

**(f) Severability**

In the event any of the terms, covenants, or conditions of this Agreement, its Exhibits, or the application of any such terms, covenants, or conditions, shall be held invalid, illegal, or unenforceable by any court having jurisdiction, all other terms, covenants, and conditions of the Agreement and their application not adversely affected thereby shall remain in force and effect, provided that the remaining valid and enforceable provisions materially retain the essence of the parties' original bargain.

**(g) Interpretation**

Unless the context of this Agreement otherwise requires, (a) words of any gender include each other gender; (b) words using the singular or plural number also include the plural or singular number, respectively; (c) the terms "hereof," "herein," "hereby" and derivative or similar words refer to this entire Agreement including Exhibits; (d) the terms "Section" or

“Exhibit” refer to the specified Section or Exhibit of this Agreement; and (e) any reference to the entirety or any part of this Agreement shall refer to any amendment, supplement or replacement of the same. Whenever this Agreement refers to a number of days, such number shall refer to calendar days unless Business Days are specified.

**(h) Complete Agreement; Amendments**

The terms and provisions contained in this Agreement and referenced documents constitute the entire Agreement between CITY and Seller and shall supersede all previous communications, representations, or agreements, either verbal or written, between CITY and Seller with respect to the sale of electric capacity and energy from the Facility. This Agreement may be amended, changed, modified, or altered; provided that such amendment, change, modification, or alteration shall be in writing and signed by both Parties hereto.

**(i) Binding Effect**

This Agreement, as it may be amended from time to time pursuant to this Section, shall be binding upon and inure to the benefit of the Parties’ respective successors-in-interest, legal representatives, and assigns.

**(j) Headings**

Captions and headings used in the Agreement are for ease of reference only and do not constitute a part of this Agreement.

**(k) Counterparts**

This Agreement may be executed in any number of counterparts, and each executed counterpart shall have the same force and effect as an original instrument.

**(l) Choice of Law**

This Agreement shall be governed by and construed in accordance with the laws of the State of Nebraska (without reference to choice of law doctrine), except to the extent the Parties’ rights and obligations are required to be governed by United States Federal law, then such rights and obligations shall be governed by United States Federal law.

**(m) Equal Employment Opportunity Compliance Certification**

Seller acknowledges that CITY is subject to various Federal laws, executive orders, and regulations regarding equal employment opportunity and affirmative action. Only to the extent that such Federal laws, executive orders and regulations are applicable to Seller as a vendor to CITY due to the sale of Energy Output under the terms of this Agreement and are required by law to be incorporated herein, such Federal laws, executive orders and regulations, including, but not limited to, 41 C.F.R. § 60-1.4(a)(1-7), are incorporated by reference into this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement.

RENEWABLE ENERGY DEVELOPMENT, LLC

CITY OF WAYNE, NEBRASKA

By: \_\_\_\_\_  
Clint E. Boger  
Member

By: \_\_\_\_\_  
Lois Shelton  
Mayor

**EXHIBIT A**  
**Facility Description and Map**

The Facility is known as the Wayne Industrial Park Wind Project and is located Wayne, Nebraska.  
The Facility consists of two (2) Nordic Corp., model N1000 wind turbines. Each wind turbine is connected to the next by a 1,000-kV underground collector system. Wind turbines are grouped in "strings" of two (2) turbines, each spaced approximately 700 feet from the next.

**Description of Facility:**

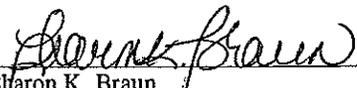
**REPORT OF OWNERSHIP**  
Compiled pursuant to *Neb. Rev. Stat. §76-537 (9)* (Reissue 1996)

I, Sharon K. Braun, a Nebraska Registered Abstractor on behalf of First Source Title & Escrow Co. holding Certificate of Authority No. 525, do hereby certify that the following property owners and their last known address, listed on the attached one (1) page, constitute all of the property owners within 300 feet of the East half of the Southeast Quarter (E½SE¼) of Section 11, Township 26 North, Range 3, East of the 6th P.M., Wayne County, Nebraska, excepting those portions thereof conveyed to the State of Nebraska by Warranty Deed recorded September 24, 1959, in Deed Book 41 at Pages 489-490, and on August 13, 1997, on Microfilm No. 970948, and further excepting that portion thereof conveyed to John Miller and Amy K. Miller recorded on March 16, 2010, on Document No. 100269, in the records of Wayne County, Nebraska, owned by Brian J. Bowers and Amy J. Bowers; as of the effective date shown below.

This Report of Ownership is not an abstract of title in that it is not a complete compilation of all facts of record relative to the property, nor is it a complete chain of title search. This Report of Ownership does not purport to constitute an opinion as to the state of the title, nor is it a policy of title insurance, and has been prepared pursuant to *Neb. Rev. Stat. §76-537 (11)* (Cumm Supp 2002).

Effective date October 12, 2010, at 8:00 a.m.

FIRST SOURCE TITLE & ESCROW CO.  
Certificate of Authority No. 525

BY:   
Sharon K. Braun  
Registered Abstractor

**Map of Facility:**

The following site map indicates the location and layout of the Wayne Industrial Park Wind Turbines. The following diagram shows the location of Metering Devices and other equipment installed at the Facility Substation.



Describe Interconnection Facility:

Electrical Power System Schematic Diagram:

Electrical Systems Outline

NWP/ENG/T/101527-01

### 3. ELECTRICAL POWER SYSTEM

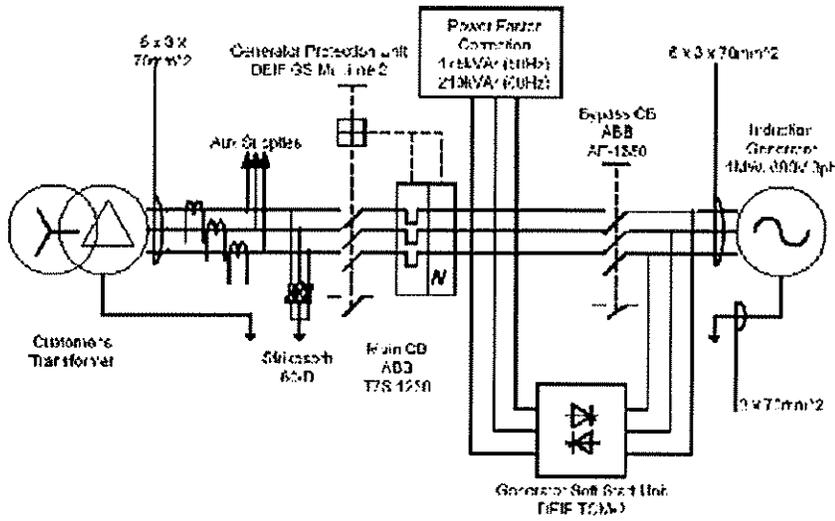


Figure 1 Electrical power system

**EXHIBIT B**  
**Form of Notice**

All of the deliverables hereunder, including any required notice (collectively, a "Notice"), must be in writing signed by the Party that is giving the Notice. Such Notice shall be considered given either (i) when delivered to the recipient named below, whether by a courier or an overnight delivery service or (ii) when sent, if sent by facsimile during normal business hours, or otherwise on the next business day, to the number set forth below subject to the confirmation of a successful transmission, in each case addressed by name and address to the Party and the officer or representative of such Party intended as follows (or to such other address as either Party may notify the other in writing):

If delivered to CITY:

**City of Wayne**  
306 Pearl Street  
Wayne, Nebraska 68787  
Attn: City Clerk, Betty McGuire  
Fax: (402) 375-4712

If delivered to SELLER:

**Renewable Energy Development, LLC**  
6722 West 146<sup>th</sup> Terrace  
Suite 6101  
Overland Park, KS 66223  
Attn: Fred Cramer  
Facsimile: (913) 402-7416

Either party may, by giving notice at any time or from time to time, require subsequent notice to be given to another individual, whether a party or an officer or representative of a party, or to a different address, or both. Notices given before actual receipt of notice of change shall not be invalidated by the change.





980 E. 25TH ST.  
P.O. Box 83  
WAHOO, NE 68066

(402) 443-3663  
FAX: (402) 443-5013

October 18, 2010

JEO Consulting Group, Inc.  
Attn: Terry Mead, P.E.  
803 West Norfolk Avenue  
P.O. Box 1424  
Norfolk, Nebraska 68702

RE: 2010 Sidewalk Replacement  
Wayne, Nebraska

Terry:

Please consider the following request for a time extension for the above referenced project. M.E. Collins Contracting Co., Inc. (MECC) desires a time extension to December 17, 2010 for substantial completion and April 15, 2011 for final completion.

*The specified completion date is November 1, 2010.*

MECC proposes the following timeline for completion of the project.

3<sup>rd</sup> Street on the west side of HWY 15 will started 10/20/10 and should be completed by 10/30/10.

2<sup>nd</sup> and 3<sup>rd</sup> Street on the east side of HWY 15 will be started the week of 10/25/10 and should be completed 11/19/10.

The individual ramps will then be constructed. This work is easily protected from inclement weather and should be completed near the 12/17/10 date. The remaining cleanup and incidental work would then be completed by 4/15/11.

Please note the following facts as related to why MECC will not meet the specified start date:

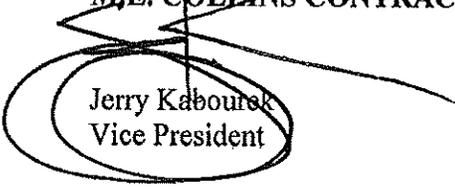
1. Record rainfall during May, June, July and August delayed the completion of the projects crews were on prior to mobilizing to Wayne. Bid date mobilization was 8/1/10 actual mobilization was 8/23/10.
2. Not mobilizing additional MECC resources (crews) to try to increase production.
3. Additional work, ideas, utility conflicts, material delivery for water service replacement (private), plan changes have all contributed to additional time being required.

In summary, MECC is generally pleased with the quality and performance of the work. The most time consuming portion of the project is nearly complete (1<sup>st</sup> street) and the remaining blocks should move along quickly. Although the last several weeks have been favorable for weather, much time the first several weeks were spent looking to the sky and we hope that is not forgotten.

MECC will be in attendance at the October 19, 2010 City of Wayne council meeting to answer any additional questions.

Please feel free to contact this office with any questions you may have.

Sincerely,  
**M.E. COLLINS CONTRACTING CO., INC.**



Jerry Kabourek  
Vice President

Copy to: File #: BO1893  
Universal Surety Company  
Woods & Aitken, LLP

APPLICATION FOR PAYMENT NO. 2

To: City of Wayne, Nebraska  
From: ME Collins Contracting Co., Inc.  
Contract For: 2010 Wayne Sidewalk Replacment  
ENGINEER's Project No. 90836  
For Work accomplished through the date of: October 22, 2010

1. Original Contract Price:	\$ 624,616.70
2. Net change by Change Orders and Written Amendments (+ or -):	\$ -
3. Current Contract Price (1 plus 2):	\$ 624,616.70
4. Total completed and stored to date:	\$ 308,060.80
5. Percent of Project Completed <u>49%</u>	
6. Retainage (per agreement):	
<u>10%</u> of completed Work and Stored Materials:	\$ 30,806.08
(10% of the first 50% of work completed & stored)	
Total Retainage:	\$ 30,806.08
7. Total completed and stored to date less retainage (4 minus 6):	\$ 277,254.72
8. Less previous Application for Payments:	\$ 126,964.71
9. DUE THIS APPLICATION (7 MINUS 8):	\$ 150,290.01

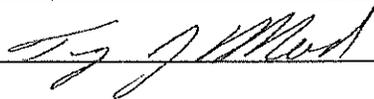
Accompanying Documentation:

CONTRACTOR'S Certification:

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

Dated: \_\_\_\_\_ ME Collins Contracting Co., Inc.  
By: \_\_\_\_\_

Payment of the above AMOUNT DUE THIS APPLICATION is recommended.

Dated: 10-22-10 \_\_\_\_\_ JEO CONSULTING GROUP, INC.  
By:  \_\_\_\_\_

APPLICATION APPROVED BY: City of Wayne, Nebraska

By: \_\_\_\_\_  
Title: \_\_\_\_\_ Date: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_ Title: \_\_\_\_\_

**CONTRACTOR'S PROGRESS ESTIMATE**

Owner: City of Wayne, Nebraska

Date: <sup>10</sup>8/22/10

Project: 2010 Wayne Sidewalk Replacement

Estimate No.: 2

Contractor: ME Collins Contracting Co., Inc.

JEO Project No.: 090836

ITEM NO.	CONTRACT QTY	UNIT	DESCRIPTION	QTY TO DATE	UNIT PRICE	TOTAL
<b>GROUP "A" - REMOVALS</b>						
1	1	LS	Mobilization	1	\$24,700.00	\$24,700.00
2	27,281	SF	Remove Sidewalk	11692	\$2.20	\$25,722.40
3	388	SY	Remove Driveway Paving	349	\$10.00	\$3,490.00
4	124	SY	Remove Pavement	111	\$10.00	\$1,110.00
5	931	SY	Remove Pavement & Salvage Brick	832	\$16.00	\$13,312.00
6	473	LF	Remove Concrete Curb and Gutter	473	\$6.00	\$2,838.00
7	204	SY	Remove Alley Paving	98	\$14.00	\$1,372.00
8	8	EA	Remove & Reset Sign and Post		\$100.00	\$0.00
9	1	LS	Remove Step & Planters	1	\$700.00	\$700.00
10	118	SF	Remove & Salvage Brick	44	\$4.00	\$176.00
11	15	LF	Remove Trench Drain	6	\$10.00	\$60.00
12	12	EA	Remove Tree	8	\$300.00	\$2,400.00
13	4	EA	Remove Inlet	1	\$400.00	\$400.00
14	1	EA	Remove Junction Box		\$500.00	\$0.00
15	1	EA	Remove Existing Concrete Ramp Structure		\$3,000.00	\$0.00
16	8	LF	Remove Steps		\$50.00	\$0.00
17	1	EA	Remove Existing Concrete Stoop Structure		\$600.00	\$0.00
18	1	EA	Remove Existing Wood Ramp Structure		\$300.00	\$0.00
19	1	EA	Remove Manhole Ring and Cover		\$200.00	\$0.00
20	3	CY	Place Flowable Fill		\$165.00	\$0.00
<b>TOTAL GROUP "A" - REMOVALS</b>						\$76,280.40
<b>GROUP "B" - SIDEWALK/PAVING IMPROVEMENTS</b>						
1	25,382	SF	Build 5" Concrete Sidewalk	9841	\$4.80	\$47,236.80
2	1,094	SY	Build 8" PCC Pavement w/Integral Curb & Gutter	1076	\$47.00	\$50,572.00
3	389	SY	Build 8" PC Concrete Driveway Pavement	333	\$47.00	\$15,651.00
4	208	SY	Build 8" PC Concrete Alley Pavement	112	\$50.00	\$5,600.00
5	510	LF	Remove and Replace Concrete Curb and Gutter	117	\$30.00	\$3,510.00
6	143	SY	Build Brick Paving w/Salvaged Brick	37	\$80.00	\$2,960.00
7	1	EA	Ramp/Wall/Handrail Structures - "A" 3/D1.1		\$4,955.00	\$0.00

8	1	EA	Ramp/Wall/Handrail Structures – "B" 4/D1.1	0.69	\$4,480.00	\$3,078.00
9	1	EA	Ramp/Wall/Handrail Structures – "C" 6/D1.1		\$5,789.00	\$0.00
10	1	EA	Ramp/Wall/Handrail Structures – "D" 7/D1.1		\$8,799.00	\$0.00
11	1	EA	Ramp/Wall/Handrail Structures – "E" 8/D1.1		\$1,785.00	\$0.00
12	1	EA	Ramp/Wall/Handrail Structures – "F" 9/D1.1		\$10,810.00	\$0.00
13	1	EA	Ramp/Wall/Handrail Structures – "G" 10/D1.1		\$6,050.00	\$0.00
14	1	EA	Ramp/Wall/Handrail Structures – "H" 11/D1.1		\$17,899.00	\$0.00
15	1	EA	Ramp/Wall/Handrail Structures – "I" 1/D1.2		\$2,618.00	\$0.00
16	1	EA	Ramp/Wall/Handrail Structures – "J" 2/D1.2		\$4,182.00	\$0.00
17	1	EA	Ramp/Wall/Handrail Structures – "K" 3/D1.2		\$4,481.00	\$0.00
18	1	EA	Ramp/Wall/Handrail Structures – "L" 4/D1.2		\$1,505.00	\$0.00
19	1	EA	Ramp/Wall/Handrail Structures – "M" 5/D1.2		\$4,252.00	\$0.00
20	2	EA	Adjust Manholes to Grade	1	\$270.00	\$270.00
21	3	EA	Adjust Gas Valve Box to Grade	2	\$180.00	\$360.00
22	13	EA	Adjust Curb Stop to Grade	7	\$180.00	\$1,260.00
23	2	EA	Adjust Electrical Box to Grade		\$687.00	\$0.00
24	1,379	SY	Subgrade Preparation (12")	1076	\$2.10	\$2,259.60
25	3,704	SY	Subgrade Modification (12" Depth)	1538	\$20.00	\$30,760.00
26	227	LF	Build Barrier Curb	158	\$31.00	\$4,898.00
27	24	EA	Build Curb Ramp with Truncated Dome Panels	9	\$718.00	\$6,462.00
28	201	EA	Drill and Grout Tie Bars	230	\$8.00	\$1,840.00
29	8	EA	Structural Stoop		\$802.00	\$0.00
30	16	LF	Build Trench Drain	6	\$63.00	\$378.00
31	1	EA	Remove and Rebuild Curb Inlet Box Lid	1	\$1,583.00	\$1,583.00
32	1	EA	Build Drop Curb Grate Inlet (reuse existing grate)		\$2,518.00	\$0.00
33	1	EA	Build Curb Inlet Y=4', A=4'-0"		\$2,684.00	\$0.00
34	1	EA	Build Curb Inlet Y=12', A=4'-0"		\$3,448.00	\$0.00
35	1	EA	Build Curb Inlet Y=6', A=2'-8"		\$3,066.00	\$0.00
36	494	LF	Build 12" RCP Storm Sewer	348	\$30.00	\$10,440.00
37	4	VF	Build 48" Storm Sewer Manhole	4	\$515.00	\$2,060.00
38	1	EA	Manhole Ring and Cover	1	\$662.00	\$662.00
39	5	EA	Plug and Abandon Existing Storm Sewer		\$352.00	\$0.00
<b>TOTAL GROUP "B" - SIDEWALK/PAVING IMPROVEMENTS</b>						<b>\$191,840.40</b>

GROUP "C" - ELECTRICAL CONDUIT						
1	1,920	LF	Install 1-1/4" PVC Conduit Schedule 40 (Trenched)	442	\$2.60	\$1,149.20
2	525	LF	Install 1-1/4" PVC Conduit Schedule 80 (Trenched)	156	\$2.80	\$436.80
3	108	LF	Install 1-1/4" PVC Conduit Schedule 80 (Bored)		\$9.00	\$0.00
4	11	EA	1-1/4" PVC Cap	4	\$14.00	\$56.00
5	2	EA	Connect to Existing Pull Box	1	\$40.00	\$40.00
6	3	EA	Connect to Existing Conduit	1	\$40.00	\$40.00
<b>TOTAL GROUP "C" - ELECTRICAL CONDUIT</b>						\$1,722.00
GROUP "D" - WATER MAIN						
1	424	LF	Install 8" PVC C900 Water Main	424	\$29.00	\$12,296.00
2	2	EA	Cap and Abandon Existing 8" Water Main	2	\$700.00	\$1,400.00
3	24	LF	Install 6" PVC C900 Water Main		\$30.00	\$0.00
4	1	EA	Cap and Abandon Existing 6" Water Main		\$700.00	\$0.00
5	28	LF	Install 4" PVC C900 Water Main	28	\$30.00	\$840.00
6	1	EA	Cap and Abandon Existing 4" Water Main	1	\$697.00	\$697.00
7	2	EA	Install 8" 45 Degree Bend	2	\$328.00	\$656.00
8	2	EA	Install 8" 90 Degree Bend	2	\$338.00	\$676.00
9	1	EA	Install 8"x4" Tee	1	\$378.00	\$378.00
10	3	EA	Install 8"x6" Tee	3	\$414.00	\$1,242.00
11	2	EA	Install 6" 45 Degree Bend		\$216.00	\$0.00
12	2	EA	Install 4" 90 Degree Bend	2	\$198.00	\$396.00
13	1	EA	Install 8" Gate Valve & Box	1	\$1,351.00	\$1,351.00
14	1	EA	Install 6" Gate Valve & Box		\$967.00	\$0.00
15	1	EA	Install 4" Gate Valve & Box	1	\$888.00	\$888.00
16	1	EA	Install 8" Bolted Flex Coupling	1	\$359.00	\$359.00
17	1	EA	Install 6" Bolted Flex Coupling		\$315.00	\$0.00
18	1	EA	Install 4" Bolted Flex Coupling	1	\$207.00	\$207.00
19	5	EA	Install 1" Corp Stop w/ Saddle	5	\$327.00	\$1,635.00
20	5	EA	Install 1" Curb Stop & Box	5	\$273.00	\$1,365.00
21	169	LF	Install 1" PE Service Line	251	\$20.00	\$5,020.00
22	5	EA	Connect to existing service line	6	\$80.00	\$480.00
23	2	EA	Install 3-Way Fire Hydrant w/Auxiliary Valve	2	\$3,817.00	\$7,634.00
24	2	EA	Remove & Salvage Existing Hydrant	2	\$349.00	\$698.00
<b>SUBTOTAL GROUP "D" - WATER MAIN</b>						\$38,218.00
<b>TOTAL BASE BID</b>						\$308,060.80

**RESOLUTION NO. 2010-88**

**A RESOLUTION APPROVING THE APPLICATION FOR ZONING USE BY EXCEPTION PERMIT TO OPERATE A VEHICLE TOWING SERVICE IN A B-3 NEIGHBORHOOD COMMERCIAL ZONING DISTRICT (614 MAIN STREET).**

WHEREAS, the Planning Commission has considered an application for a zoning use by exception permit submitted by Main Street Auto Care, LLC, to operate a vehicle towing service in a B-3 Neighborhood Commercial Zoning District (614 Main Street); and

WHEREAS, the Planning Commission, subsequent to a public hearing held November 1, 2010, recommended approval of the use by exception permit subject to the following "Findings of Fact":

WHEREAS, the City Council considered the aforesaid application to allow for a vehicle towing service in a B-3 Neighborhood Commercial Zoning District (614 Main Street) subsequent to a public hearing held November 2, 2010.

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

PASSED AND APPROVED this 2<sup>nd</sup> day of November, 2010.

THE CITY OF WAYNE, NEBRASKA,

By \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

**RESOLUTION NO. 2010-89**

**A RESOLUTION APPROVING THE APPLICATION FOR ZONING USE BY EXCEPTION PERMIT TO CONSTRUCT A TWO-TOWER WINDMILL ENERGY PROJECT IN AN A-2 AGRICULTURAL RESIDENTIAL ZONING DISTRICT (812 PHEASANT RUN ROAD).**

WHEREAS, the Planning Commission has considered an application for a zoning use by exception permit submitted by Brian Bowers to construct a two-tower windmill energy project in an A-2 Agricultural Residential Zoning District (812 Pheasant Run Road); and

WHEREAS, the Planning Commission, subsequent to a public hearing held November 1, 2010, recommended approval of the use by exception permit subject to the following "Findings of Fact":

WHEREAS, the City Council considered the aforesaid application to allow for the construction of a two-tower windmill energy project in an A-2 Agricultural Residential Zoning District (812 Pheasant Run Road) subsequent to a public hearing held November 2, 2010.

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

PASSED AND APPROVED this 2<sup>nd</sup> day of November, 2010.

THE CITY OF WAYNE, NEBRASKA,

By \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk



LETTER AGREEMENT FOR  
PROFESSIONAL SERVICES

July 28, 2010

City of Wayne  
Attn: Lowell Johnson  
306 Pearl Street  
Wayne, NE 68787

Re: **AGREEMENT FOR PROFESSIONAL SERVICES**  
Logan Creek Stabilization "Project"  
Wayne, NE

Dear Lowell:

It is our understanding that the City of Wayne ("Client") requests Olsson Associates ("Olsson") to perform the following services pursuant to the terms of this Letter Agreement for Professional Services, any signed Master Agreement, Olsson's General Provisions and any exhibits attached thereto (hereinafter "the Agreement") for the Project.

1. Olsson has acquainted itself with the information provided by Client relative to the Project and based upon such information offers to provide the services described below for the Project. Client warrants that it is either the legal owner of the property to be improved by this Project or that Client is acting as the duly authorized agent of the legal owner of such property. Client acknowledges that it has reviewed the General Provisions (and any exhibits attached thereto), which are expressly made a part of and incorporated into the Agreement by this reference. In the event of any conflict or inconsistency between this Letter Agreement, any Master Agreement and/or the General Provisions regarding the services to be performed by Olsson, the requirements of this Letter Agreement shall take precedence.
2. Olsson shall provide Client all Basic Services for the Project as more specifically described in Exhibit A hereto. Should Client request work not described and included in the above Description of Basic Services, such as Additional Services, Olsson shall invoice Client for such services on the basis of Salary Costs times a factor of 2.5 for services rendered by our principals and employees engaged directly on the Project plus Reimbursable Expenses, unless otherwise agreed to by both parties. Olsson shall not commence work on Additional Services without Client's prior approval in writing.

Olsson agrees to provide all of its services in a timely, competent and professional manner, in accordance with applicable standards of care, for projects of similar geographic location, quality and scope.

### **SCHEDULE FOR OLSSON'S SERVICES**

3. Unless otherwise agreed, Olsson would expect to begin performing its services under the Agreement promptly upon your signing.

Anticipated Start Date: <sup>Dec 1st</sup> ~~August 9~~, 2010

Olsson will endeavor to start its services on the Anticipated Start Date. However, the Anticipated Start Date, and any milestone dates are approximate only, and Olsson reserves the right to readjust its schedule and any or all of those dates at its sole discretion, for any reason, including, but not limited to, delays caused by Client or delays caused by third parties.

### **COMPENSATION**

4. Compensation for Olsson's services, as described in Exhibit A, shall be as follows:

Location 1 – Highway 15 Bridge and Check Wier shall be a fixed fee of Four Thousand Three Hundred Dollars (\$4,300.00).

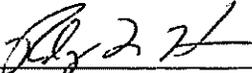
Location 2 – Outlet structure, approximately 900 feet downstream of the Highway 15 bridge shall be a fixed fee of Six Thousand One Hundred Dollars (\$6,100.00).

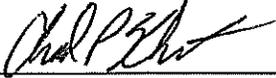
These financial arrangements are proposed with the assumption Olsson's bills will be paid promptly and the Project will progress orderly and continuously. Client agrees to pay Olsson the amounts due for services rendered and expenses incurred pursuant to the terms of this Agreement within thirty (30) days after Olsson has provided its invoice for such services. In the event Client disputes any invoice item, Client shall give Olsson written notice of such disputed item within fifteen (15) days after receipt of such invoice and shall pay to Olsson the undisputed portion of the invoice according to the provisions hereof. If Client fails to pay any invoiced amounts when due, interest will accrue on each unpaid amount at the rate of thirteen percent (13%) per annum from the date due until paid according to the provisions of this Agreement. Interest shall not be charged on any disputed invoice item which is finally resolved in Client's favor. Payment of interest shall not excuse or cure any default or delay in payment of amounts due.

### **TERMS AND CONDITIONS OF SERVICE**

5. We have discussed with you the risks, rewards and benefits of the Project and our fees for services and the Agreement represents the entire understanding between Client and Olsson with respect to the Project. The Agreement may only be modified in writing signed by both parties.
6. If this proposal satisfactorily sets forth your understanding of our agreement, please sign in the space provided below (indicating Client's designated Project representative if different from the party signing). Retain a copy for your files and return an executed original to Olsson. This proposal will be open for acceptance for a period of 60 days from the date set forth above, unless changed by us in writing.
7. By signing below, you acknowledge that you have full authority to bind Client to the terms of the Agreement.

**OLSSON ASSOCIATES**

By   
Rodney L. Hanson

By   
Chad P. Kehrt

If you accept the preceding proposal and the Agreement,  
please sign:

City of Wayne "Client"

By \_\_\_\_\_

Title \_\_\_\_\_

Dated: \_\_\_\_\_

If different from above,

\_\_\_\_\_  
Client's Designated Project Representative

G:\OASStandards\AGREEMENTS\NE\Letter Agreement.DOC

EXHIBIT "A" to GENERAL PROVISIONS ATTACHED TO  
LETTER AGREEMENT FOR PROFESSIONAL SERVICES  
BETWEEN CLIENT AND OA, DATED 26 July 2010

DESCRIPTION OF BASIC PROFESSIONAL SERVICES AND RELATED MATTERS

This is an exhibit attached to and made a part of the General Provisions attached to the Proposed Letter Agreement for Professional Services dated 28 July 2010 between the City of Wayne (Client) and Olsson Associates (OA) providing for professional services. The Basic Services of OA are as indicated below.

**GENERAL**

OA shall perform for Client professional services in all phases of the Project to which this Agreement applies as hereinafter provided. These services will include serving as Client's professional representative for the Project, providing professional consultation and advice and furnishing customary services incidental thereto. These services are in addition to the data collection, hydrologic analysis, and survey work that has already been completed. The project includes development of concept-level design plans for stabilization of the north bank of South Logan Creek in two locations, one immediately downstream of the Highway 15 bridge and check weir, and the other approximately 900 ft further downstream at the outfall of a storm sewer system. The north channel bank is experiencing scour and erosion in these areas. Bank instability threatens the bike trail, roads, storm sewers, and other adjacent infrastructure.

Hydrology and Hydraulics – Determine existing velocities, shear stress, and potential scour conditions at the two bank stabilization sites. Olsson will use calculated values to develop recommendations for bank stabilization and armoring measures.

Evaluate Alternatives – Develop conceptual alternatives for bank stabilization and armoring measures that will reduce potential for future scour and bank degradation at the two sites. To the extent possible, develop alternatives that do not conflict with existing utilities or structures. Use available information, such as trail design or check weir plans to identify potential conflicts, if possible.

Concept Grading Plan – Develop a conceptual grading plan incorporating the proposed stabilization measures at the two sites. The focus of the grading plan will be providing adequate conveyance of South Logan Creek flows, minimizing erosion and scour potential, and avoiding conflicts with existing infrastructure, where possible.

Sketch Concept Design – Special consideration is required for the concept design of the stabilization measures in the storm sewer outfall area. The existing stream bank is nearly vertical and approximately 20 ft in height. The area will likely require some form of retaining wall(s) to prevent progressive headcutting up the storm sewer alignment. It is likely the banks around the outlet of the structure will require hard armoring or even structural measures in order to protect the storm sewer outlets.

Meetings – Meet with client and/or regulatory agencies to discuss proposed ditch. Attend a maximum of two meetings. The first meeting will be to discuss the potential alignments of the proposed ditch. The alignment alternatives will be reviewed and a

preferred alignment will be selected. The second meeting will be to discuss the final alignment plans. The plans will be reviewed and any necessary corrections or revisions to the plans will be incorporated before the final submittal. Olsson will prepare typical sections and concept grading plans for each site.

Quantities/Opinion of Probable Costs – Preparation of detailed construction plans and specifications for construction of the proposed stabilization measures is not included in this scope. Concept plans will be provided and will include typical detail drawings for installing any required channel armoring or protection measures at the two sites, as described above. Concept plans will also include estimates of quantities for construction activities and materials.

Permitting – Permitting services are not included in this scope of work.

- Unknown costs will be reimbursable -



Application and Certificate for Payment, containing Contractor's signed certification is attached. In tabulations below, amounts are stated to the nearest Dollar.

Application Number: 3  
Application Date: 10/28/10  
Period From: 09/28/10  
Period To: 10/28/10  
Eng. Project No.: 617S7

Use Column 1 on Contracts where variable retainage for line items may apply.

Retainage: 10%

A No.	B Description of Work	C Scheduled Value	D Work Completed			G Total Completed and Stored to Date D+E+F	H % G/C	I Retainage 10%	
			Previous Applications	Work In Place	Stored Materials				
									E This Application
1	Bonds and Insurance	75,000.00	75,000.00	0.00	0.00	75000.00	100%	0.00	7500.00
2	Mobilization	68,680.00	50,000.00	2,000.00	0.00	52000.00	76%	16680.00	5200.00
3	Site Clearing	85,360.00	80,000.00	0.00	0.00	80000.00	94%	5360.00	8000.00
4	Grading	25,660.00	5,000.00	0.00	0.00	5000.00	19%	20660.00	500.00
5	Excavation	50,724.00	30,000.00	0.00	0.00	30000.00	59%	20724.00	3000.00
6	Aquarius Tank Rock Base & Sub	39,780.00	39,780.00	0.00	0.00	39780.00	100%	0.00	3978.00
7	Fill	9,780.00	0.00	0.00	0.00	0.00	0%	9780.00	0.00
8	Backfill	80,126.00	0.00	0.00	0.00	0.00	0%	80126.00	0.00
9	Surcharge	19,375.00	15,000.00	4,375.00	0.00	19375.00	100%	0.00	1937.50
10	Staging Area	34,607.00	34,607.00	0.00	0.00	34607.00	100%	0.00	3460.70
11	Demolition	2,120.00	0.00	0.00	0.00	0.00	0%	2120.00	0.00
12	Rock Around Lift Station	2,163.00	0.00	0.00	0.00	0.00	0%	2163.00	0.00
13	Errosion Control	15,000.00	9,000.00	0.00	0.00	9000.00	60%	6000.00	900.00
14	Fence	40,783.00	21,000.00	0.00	0.00	21000.00	51%	19783.00	2100.00
15	Seeding	5,000.00	0.00	0.00	0.00	0.00	0%	5000.00	0.00
16	Pavement	32,000.00	0.00	0.00	0.00	0.00	0%	32000.00	0.00
17	Concrete	294,000.00	10,000.00	55,000.00	0.00	65000.00	22%	229000.00	6500.00
18	Rebar	196,100.00	10,000.00	40,000.00	0.00	50000.00	25%	146100.00	5000.00
19	Hollow Core	2,500.00	0.00	0.00	0.00	0.00	0%	2500.00	0.00
20	Masonry	151,450.00	0.00	0.00	0.00	0.00	0%	151450.00	0.00
21	Misc. Metals	65,000.00	0.00	0.00	0.00	0.00	0%	65000.00	0.00
22	Handrails/Stairs/Grating	21,000.00	0.00	0.00	0.00	0.00	0%	21000.00	0.00
23	Final Clarifier Demo	4,400.00	0.00	0.00	0.00	0.00	0%	4400.00	0.00
24	Flat Covers	250,000.00	0.00	0.00	0.00	0.00	0%	250000.00	0.00
25	Carpentry	28,500.00	0.00	0.00	0.00	0.00	0%	28500.00	0.00
26	Trusses	10,500.00	0.00	0.00	0.00	0.00	0%	10500.00	0.00
27	Water Repellants	3,500.00	0.00	0.00	0.00	0.00	0%	3500.00	0.00
28	Insulation	1,000.00	0.00	0.00	0.00	0.00	0%	1000.00	0.00
29	Gutters	3,000.00	0.00	0.00	0.00	0.00	0%	3000.00	0.00
30	Joint Sealants	8,000.00	0.00	0.00	0.00	0.00	0%	8000.00	0.00
31	Doors & Hardware	7,800.00	0.00	0.00	0.00	0.00	0%	7800.00	0.00
32	Overhead Doors	12,000.00	0.00	0.00	0.00	0.00	0%	12000.00	0.00
33	Drywall	1,000.00	0.00	0.00	0.00	0.00	0%	1000.00	0.00
34	Painting	45,000.00	0.00	0.00	0.00	0.00	0%	45000.00	0.00
35	Toilet Accessories	4,700.00	0.00	0.00	0.00	0.00	0%	4700.00	0.00
36	Grit and Screw Classifier System	200,000.00	0.00	0.00	0.00	0.00	0%	200000.00	0.00
37	Submersible Lift Station Pumps	33,000.00	0.00	0.00	0.00	0.00	0%	33000.00	0.00
38	Rotary Lobe Pumps	4,800.00	0.00	0.00	0.00	0.00	0%	4800.00	0.00
39	Scraper Clarifiers	165,000.00	0.00	0.00	0.00	0.00	0%	165000.00	0.00
40	Verticle Fine Screen	98,000.00	0.00	0.00	0.00	0.00	0%	98000.00	0.00
41	Interally Fed Drum Screen & Comp	142,500.00	0.00	0.00	0.00	0.00	0%	142500.00	0.00
42	Gates	14,000.00	0.00	0.00	0.00	0.00	0%	14000.00	0.00
43	Aquarius MSABP	1,326,600.00	0.00	0.00	0.00	0.00	0%	1326600.00	0.00

Application and Certificate for Payment, containing Contractor's signed certification is attached. In tabulations below, amounts are stated to the nearest Dollar.

Application Number: 3  
 Application Date: 10/28/10  
 Period From: 09/28/10  
 Period To: 10/28/10  
 Eng. Project No.: 617S7

Use Column 1 on Contracts where variable retainage for line items may apply.

Retainage: 10%

A No.	B Description of Work	C Scheduled Value	E Work Completed			G Total Completed and Stored to Date D+E+F	H % G/C	I Retainage 10%	
			D Previous Applications	E Work In Place	F Stored Materials				
									This Application
44	Positive Displacement Blower	64,050.00	0.00	0.00	0.00	0.00	0%	64050.00	0.00
45	Casework/Counter Top	11,865.00	0.00	0.00	0.00	0.00	0%	11865.00	0.00
46	Hoist/Trolley/Crane	13,650.00	0.00	0.00	0.00	0.00	0%	13650.00	0.00
47	Valves	117,600.00	0.00	0.00	0.00	0.00	0%	117600.00	0.00
48	Yard Piping	238,975.00	0.00	0.00	0.00	0.00	0%	238975.00	0.00
49	Manholes	174,900.00	0.00	0.00	0.00	0.00	0%	174900.00	0.00
50	Process Piping	98,322.00	0.00	0.00	0.00	0.00	0%	98322.00	0.00
51	Mechanical	86,000.00	0.00	500.00	0.00	500.00	1%	85500.00	50.00
52	Electrical	613,900.00	2,500.00	500.00	0.00	3000.00	0%	610900.00	300.00
53		0.00	0.00	0.00	0.00	0.00	0%	0.00	0.00
		5,098,770.00	381887.00	102,375.00	0.00	484262.00	9%	4614508.00	48426.20

Lowell D. Johnson  
City Administrator  
City of Wayne  
PO Box 8  
Wayne, NE 68787

RE: Wayne, NE  
2009-2010 Wastewater Treatment Facility Improvements, Phase I  
JEO Project No. 090621 / 617S7

Dear Lowell:

Enclosed for the Council's consideration are four (4) copies of Application for Payment No. 3 for the above referenced project. Work completed to this month includes surcharge work, and portions of the Aquarius tank base slab and walls. The Contractor is seeking payment on \$484,262.00 less retainage and previous payment. JEO recommends payment in the amount of \$92,137.50 to Eriksen Construction Co. Inc.

A progress meeting was held on October 28, 2010 and meeting minutes will be forwarded. Also enclosed with the pay application are copies of the daily field reports with a copy also being forwarded to staff for review. This month the Contractor completed the Aquarius tank floor, poured the first wall pour, and poured portions of the blower and headworks building wall footings. In the next month more of the tank walls should be poured, and some of the building masonry may be completed.

Also this month we met with Alan Kreisler, representing the USEPA for the funding portion of the project. He should be issuing a report of his initial observations and based on our discussions with him we do not foresee any major concerns to be addressed.

Upon approval of the pay application, please forward one copy with payment to the Contractor, and return one copy to JEO. You can provide photocopies to NDEQ or USEPA for reimbursement through the funding agencies.

Sincerely,



Roger S. Protzman, P.E.  
Project Manager

RSP:skw  
Enclosures

Pc: Gary Poutre w/Field Reports (via email)

## FIELD ENGINEERING REPORT NO. \_\_\_\_\_

DATE: October 1, 2010	PROJECT NO.: 617S7
PROJECT NAME: 2009-2010 WWTF Improvements	LOCATION: Wayne, Nebraska
CONTRACTOR: Eriksen Construction	
CONTRACTOR HOURS WORKED:	JEO HOURS WORKED:
TEMP: 70 F	WEATHER: Sunny
Eriksen Construction: Bill Welch (Superintendent), Laborers (5)	
Wortman Concrete Pumping: Operator (1)	
Terracon: Testing technician (1)	

**WORK IN PROGRESS:**

Placing of concrete in NW quarter of Aquarius slab began at approximately 10:30 AM and concluded at 2:00 PM. Wortman Concrete Pumping (Norfolk, NE) provided pumping via 32m pump truck. Gerhold Concrete (Wayne, NE, approximately 1 mile east of site) provided 10 truckloads, which totaled approximately 94 CY of 47BD-4000 concrete (per plans and specs), which was put into place by Eriksen Construction. Neither Davis JD Steel (rebar) nor Gana Excavating was on site.

**OBSERVATIONS:**

Wortman Concrete Pumping set up the pump truck on the NW corner of the Aquarius excavation. Concrete was pumped into place, struck off, and float finished (rough). 2"x6" (exterior) and 2"x4" (interior) keyway was set into place per plans and specs. 6" Greenstreak 705 waterstop was placed in exterior walls and at construction joints. Grades were taken across slab during pour to ensure correct elevation. Concrete was dropped from a distance < 5ft. Maximum truck waiting time was approximately 20 minutes, but averaged much less (~10 min).

Rebar in NE quarter is nearly complete. A few 40' bars need to be installed into top mat, along with finishing the placement of dowels in the extreme NE corner.

Gana had removed both surcharges and hauled them to the open field to the W of the site for drying. The headworks building and blower building sites will be brought to final grade as soon as JEO stakes the corners and elevations for the building, which is to occur on Monday (10/4).

**PERSONS CONFERRED WITH, SUBJECT, UNDERSTANDING:**

Terracon (Sioux City) was contacted for concrete testing. 1 test was performed (1<sup>st</sup> truck). Slump and air tests were performed. Results from on-site concrete tests are as follows:

- Test 1: Slump = 3.75 in. Air Content = 6.2%

Both of these values are within the specified ranges.

Concrete cylinders were taken from the 4<sup>th</sup> truck (4) and left on-site. Will be picked up later this week, and tested at 7 and 28 days.

**NECESSARY ACTION, VERIFICATIONS:**

Staking of building corners (headworks and blower building). To be completed by JEO on Monday (10/4) per Jeff Ryan (JEO).

**UPCOMING:**

- Finish of rebar placement in NE quarter
- Removal of bulkhead and forms from third pour
- Pour NE quarter Tuesday (10/5), final slab pour.
- Grading building sites
- Setting of footings for buildings
- Forming and rebar for tank walls

**NOTES:**

\_\_\_\_\_  
 \_\_\_\_\_

ATTACHMENTS: Terracon testing results

EST. % COMPLETION: \_\_\_\_\_ CONFORMANCE W/SCHEDULE: Yes

CLIENT: \_\_\_\_\_ SWPPP MANUAL ON-SITE:  YES \_\_\_\_\_ NO

APPROVAL AGENCY: \_\_\_\_\_ EROSION CONTROL MAINTAINED:  YES \_\_\_\_\_ NO

PHOTOS: 0100110 ROAD/STREET CLEAN  YES \_\_\_\_\_ NO

REPORT BY: Nick Reigle

## FIELD ENGINEERING REPORT NO. \_\_\_\_\_

DATE: October 4, 2010	PROJECT NO.: 617S7
PROJECT NAME: 2009-2010 WWTF Improvements	LOCATION: Wayne, Nebraska
CONTRACTOR: Eriksen Construction	
CONTRACTOR HOURS WORKED:	JEO HOURS WORKED:
TEMP: 60 F	WEATHER: Sunny, windy
Eriksen Construction: Bill Welch (Superintendent), Laborers (4), Operator (1)	
Gana Excavating: Operator (1)	
JEO Consulting Group: Jeff Ryan and Brian Benson (Surveyors), Nick Reigle	

**WORK IN PROGRESS:**

Wall forms were beginning to be set in the SE quarter of the tank. As of 12:30 PM, two corner forms had been set. Wall forms for the rest of the tank were being constructed. Gana Excavating was bringing the headworks and blower building sites to grade (subgrade). JEO was on-site setting corners for the headworks and blower buildings.

**OBSERVATIONS:**

Bulkhead and slab forms from previous pour had been removed. Rebar for last slab pour had been set, and the last slab pour will occur tomorrow. Corner wall forms were beginning to be set, and corner bars will begin to be placed tomorrow. The crane had been moved from the south side of the site to the SE corner of the site facing W. Corner bars are to be placed at 8" centers (#6, 7'x1').

Building corners were set, and Gana began bringing the sites to final grade. The loading dock on the E side of the headworks building was being excavated. Final floor elevation in the headworks building is 1448.25, with the loading dock having a final slab grade of 1445.75.

**PERSONS CONFERRED WITH, SUBJECT, UNDERSTANDING:**

**NECESSARY ACTION, VERIFICATIONS:**

**UPCOMING:**

- Pour NE quarter tomorrow (10/5), final slab pour.
- Grading building sites
- Setting of footings for buildings
- Forming and rebar for tank walls

**NOTES:**

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**ATTACHMENTS:** \_\_\_\_\_

EST. % COMPLETION: _____	CONFORMANCE W/SCHEDULE: <u>Yes</u> _____
<input type="checkbox"/> CLIENT: _____	SWPPP MANUAL ON-SITE: <u>X</u> YES _____ NO
<input type="checkbox"/> APPROVAL AGENCY: _____	EROSION CONTROL MAINTAINED: <u>X</u> YES _____ NO
<input type="checkbox"/> PHOTOS: <u>0100410</u>	ROAD/STREET CLEAN <u>X</u> YES _____ NO

REPORT BY: Nick Reigle

## FIELD ENGINEERING REPORT NO. \_\_\_\_\_

DATE: October 5, 2010 (Tuesday)	PROJECT NO.: 617S7
PROJECT NAME: 2009-2010 WWTF Improvements	LOCATION: Wayne, Nebraska
CONTRACTOR: Eriksen Construction	
CONTRACTOR HOURS WORKED:	JEO HOURS WORKED:
TEMP: 70 F	WEATHER: Sunny
Eriksen Construction: Bill Welch (Superintendent), Laborers (4), Operator (1), Form Setter (1)	
Wortman Concrete Pumping: Operator (1)	
Terracon: Testing technician (1)	
Davis JD Steel: Ironworkers (2)	

**WORK IN PROGRESS:**

Placing of concrete in NE quarter of Aquarius slab began at approximately 1:45 PM and concluded at 5:30 PM. Wortman Concrete Pumping (Norfolk, NE) provided pumping via 32m pump truck. Gerhold Concrete (Wayne, NE, approximately 1 mile east of site) delivered 122.75 CY of 47BD-4000 concrete (per plans and specs), which was put into place by Eriksen Construction.

**OBSERVATIONS:**

Wortman Concrete Pumping set up the pump truck on the NE corner of the Aquarius excavation, just to the W of the entrance ramp. Concrete was pumped into place, struck off, and float finished (rough). 2"x6" (exterior) and 2"x4" (interior) keyway was set into place per plans and specs. 6" Greenstreak 705 waterstop was placed in exterior walls and at construction joints. Grades were taken across slab during pour to ensure correct elevation. Concrete was dropped from a distance < 5ft. Maximum truck waiting time was approximately 20 minutes, but averaged much less (~10 min).

Wall forms were being set in place in the SE quarter of the tank. Wood forms were being used. Interior faces were being set first to allow for rebar to be set into place. Wall rebar mats were being tied on a flat surface and swung into place. Rebar appears to be in accordance to plans and specs at this point.

Eriksen had driven stakes to anchor batter boards at both the blower building and headworks building.

**PERSONS CONFERRED WITH, SUBJECT, UNDERSTANDING:**

Terracon (Sioux City) was contacted for concrete testing. 2 tests were performed. Slump and air tests were performed. Results from on-site concrete tests are as follows:

- Test 1: Slump = 2.75 in.      Air Content = 7.4%
- Test 2: Slump =              Air Content =

Both of these values are within the specified ranges.

Concrete cylinders were taken and left on-site. Will be picked up later this week, and tested at 7 and 28 days. Testing results will be received after the cylinders are broken at 7 days.

Adam Christensen and Paul Martin with Larson Engineering were contacted regarding the size of wall pour that was allowable. Bill Welch's method of wall pour was tentatively accepted, but will be verified with Paul's visit on Thursday (10/7).

**UPCOMING:**

- Paul Martin (Larson) will be on site Thursday afternoon to inspect wall rebar for first wall pour.
- Removal of slab forms
- Setting of footings for buildings
- Forming and rebar for tank walls

**NOTES:**

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ATTACHMENTS: Terracon testing results

EST. % COMPLETION: \_\_\_\_\_ CONFORMANCE W/SCHEDULE: Yes

CLIENT: \_\_\_\_\_ SWPPP MANUAL ON-SITE: X YES \_\_\_\_\_ NO

APPROVAL AGENCY: \_\_\_\_\_ EROSION CONTROL MAINTAINED: X YES \_\_\_\_\_ NO

PHOTOS: 0100510 ROAD/STREET CLEAN X YES \_\_\_\_\_ NO

REPORT BY: Nick Reigle

**FIELD ENGINEERING REPORT NO. \_\_\_\_\_**

<b>DATE:</b> October 7, 2010 (Thursday)	<b>PROJECT NO.:</b> 617S7
<b>PROJECT NAME:</b> 2009-2010 WWTF Improvements	<b>LOCATION:</b> Wayne, Nebraska
<b>CONTRACTOR:</b> Eriksen Construction	
<b>CONTRACTOR HOURS WORKED:</b>	<b>JEO HOURS WORKED:</b>
<b>TEMP:</b> 75 F	<b>WEATHER:</b> Sunny
Eriksen Construction: Bill Welch (Superintendent), Laborers (4), Operator (1)	
Davis JD Steel: Ironworkers (2)	

**WORK IN PROGRESS:**

Construction of blockouts for lip that lids sit on and entrance ports. Wall forms were also being set. Wall rebar was being tied on the E exterior wall.

**OBSERVATIONS:**

Rebar for nearly the entire E wall has been swung and tied into place. Approximately ¾ of the inside wall forms for the E exterior wall section have been set into place. Block outs for the concrete lip that the tank lids sit on were being constructed. The y measured 3"x6 ¼" and will be placed on the 20' long sections of the cells (N-S). All block outs for the bottom ports had been constructed and set into place.

It was noticed on the plans that there was a mistake on the depth of the lids. The wall section sheets show the depth to be 1', but the accepted shop drawings show the lids to be only 6" deep. The accepted shop drawings for rebar use the 1' depth, therefore the rebar is 6" too short on the faces that require the lip. One wall (E exterior) that requires this lip has already been put into place. The others have not yet been tied.

**PERSONS CONFERRED WITH, SUBJECT, UNDERSTANDING:**

Larson Engineering was contacted regarding the rebar height issue. The recommended alterations are as follows:

- The wall that has already been set will receive 2' extensions, with a 1'-6" lap to achieve the 6" rise, on every other vertical bar. This can also be achieved by untying every other vertical bar and raising it 6". The contractor may select the method that will be used. Another horizontal bar will need to be tied into place at the top of the 6" extensions.
- For all remaining faces that require the lip, every other vertical bar will be raised 6" and the top 4 horizontal bars will be spaced at 6" rather than the 4" shown on the plans

These changes were confirmed and accepted by both Larson and JEO.

Bill (Eriksen) intends to pour the N wall first and then work around to the E. This allows for the crane to be removed from the blower building site, which allows him to begin on the footings for the blower building.

**UPCOMING:**

- Paul Martin (Larson) will be on site next week to inspect wall rebar for first wall pour.
- Setting of footings for buildings
- Forming and rebar for tank walls

**NOTES:**

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ATTACHMENTS: \_\_\_\_\_

EST. % COMPLETION: \_\_\_\_\_ CONFORMANCE W/SCHEDULE: Yes

CLIENT: \_\_\_\_\_ SWPPP MANUAL ON-SITE: X YES \_\_\_\_\_ NO

APPROVAL AGENCY: \_\_\_\_\_ EROSION CONTROL MAINTAINED: X YES \_\_\_\_\_ NO

PHOTOS: 0100710 \_\_\_\_\_ ROAD/STREET CLEAN X YES \_\_\_\_\_ NO

REPORT BY: Nick Reigle

## FIELD ENGINEERING REPORT NO. \_\_\_\_\_

DATE: October 12, 2010 (Tuesday)	PROJECT NO.: 617S7
PROJECT NAME: 2009-2010 WWTF Improvements	LOCATION: Wayne, Nebraska
CONTRACTOR: Eriksen Construction	
CONTRACTOR HOURS WORKED:	JEO HOURS WORKED:
TEMP: 65 F	WEATHER: Sunny
Eriksen Construction: Bill Welch (Superintendent), Laborers (4), Operator (1)	
Davis JD Steel: Ironworkers (2)	
Larsen Engineering: Paul Martin	

**WORK IN PROGRESS:**

Wall forms for first wall pour being set (S end of E wall). Corresponding rebar being tied. Blockouts for first pour being finished.

**OBSERVATIONS:**

Davis JD was working on raising the rebar on the faces with a ledge, per WCD #2. Every other vertical bar was being raised 6" (leaving a 1' lap at the bottom tie point) and the top 4 horizontal bars were being spaced at 6" rather than the 4" called for in the plans. At the end of the day, approximately half of the standing faces that required this change had been altered. Block outs for the first pour were mostly in place, save for a few ledge block outs. Waterstop and keyway and not yet been installed for the vertical construction joints. Inside forms for first pour were mostly in place. Outside faces would be put into place starting later in the week.

**PERSONS CONFERRED WITH, SUBJECT, UNDERSTANDING:**

Paul Martin with Larson Engineering was on site to inspect wall rebar. He inspected the changes to the inside faces, which were approved. Paul also inspected the corner bars, which were also satisfactory. Paul inquired on how the waterstop and keyway were going to be installed. Bill stated that he planned to sandwich the waterstop in the middle of the keyway, and then hang the keyway from the bulkhead. Paul was ok with this plan. Overall, Paul seemed to be satisfied with the progress thus far.

Bill showed Paul the locations of his planned construction joints. Paul stated that this size of pour is pushing the limits, but was ok with it. Shrinkage and the formation of cold joints are the two biggest concerns with pouring this amount of concrete at one time.

Bill plans on pouring the S end of the E wall next week, and then moving his forms to the NW corner for the next pour. Bill would like to begin footings for the buildings as soon as possible, and wants to pour the walls in the NW section of the tank prior to pouring the footings for the blower building. He plans on setting his crane on the blower building site in order to set forms and pour concrete for the NW section of the tank.

**UPCOMING:**

- First wall pour (E wall, next week)
- Setting of footings for buildings
- Forming and rebar for tank walls (NW corner)

**NOTES:**

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ATTACHMENTS: \_\_\_\_\_

EST. % COMPLETION: \_\_\_\_\_ CONFORMANCE W/SCHEDULE: Yes

CLIENT: \_\_\_\_\_ SWPPP MANUAL ON-SITE: X YES \_\_\_\_\_ NO

APPROVAL AGENCY: \_\_\_\_\_ EROSION CONTROL MAINTAINED: X YES \_\_\_\_\_ NO

PHOTOS: 101210 \_\_\_\_\_ ROAD/STREET CLEAN X YES \_\_\_\_\_ NO

REPORT BY: Nick Reigle

## FIELD ENGINEERING REPORT NO. \_\_\_\_\_

DATE: October 19, 2010 (Tuesday)	PROJECT NO.: 617S7
PROJECT NAME: 2009-2010 WWTF Improvements	LOCATION: Wayne, Nebraska
CONTRACTOR: Eriksen Construction	
CONTRACTOR HOURS WORKED:	JEO HOURS WORKED:
TEMP: 65 F	WEATHER: Sunny
Eriksen Construction: Bill Welch (Superintendent), Laborers (4), Operator (1)	
Davis JD Steel: Ironworkers (2)	

**WORK IN PROGRESS:**

Wall forms for first pour being tied and closed off. Tying of wall rebar.

**OBSERVATIONS:**

Wall form ties have arrived and corner forms and interior faces have been closed off and bulkheads have been set. Both inlet blockouts have been put in place. Stainless steel angles have not yet been delivered. Eriksen will proceed with first pour and then bolt in angles later. Mastic was put in place on blockouts to allow room for angles. Footings for N side of headworks have been dug and Styrofoam has been put into place. Rebar for the footings has not yet been delivered. Keyway and penetrators for inlet splitter box will be installed before first pour. A large number of pipe fittings have been delivered (Star Pipe Products). Pipe is to be delivered in near future.

**PERSONS CONFERRED WITH, SUBJECT, UNDERSTANDING:**

Loader tire has been repaired and loader is back in operation.

**UPCOMING:**

- First wall pour (E wall, later this week)
- Setting of rebar and tying of rebar for footings of headworks building
- Forming and rebar for tank walls

**NOTES:**

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**ATTACHMENTS:** \_\_\_\_\_

EST. % COMPLETION: \_\_\_\_\_ CONFORMANCE W/SCHEDULE: Yes

CLIENT: \_\_\_\_\_ SWPPP MANUAL ON-SITE: X YES \_\_\_\_\_ NO

APPROVAL AGENCY: \_\_\_\_\_ EROSION CONTROL MAINTAINED: X YES \_\_\_\_\_ NO

PHOTOS: 101910 ROAD/STREET CLEAN X YES \_\_\_\_\_ NO

REPORT BY: Nick Reigle

## FIELD ENGINEERING REPORT NO. \_\_\_\_\_

<b>DATE:</b> October 20, 2010 (Wednesday)	<b>PROJECT NO.:</b> 617S7
<b>PROJECT NAME:</b> 2009-2010 WWTF Improvements	<b>LOCATION:</b> Wayne, Nebraska
<b>CONTRACTOR:</b> Eriksen Construction	
<b>CONTRACTOR HOURS WORKED:</b>	<b>JEO HOURS WORKED:</b>
<b>TEMP:</b> 72 F	<b>WEATHER:</b> Sunny, windy
Eriksen Construction: Bill Welch (Superintendent), Laborers (3), Operator (1)	
Davis JD Steel: Ironworkers (2)	

**WORK IN PROGRESS:**

Wall forms for first pour being tied and closed off. Tying of wall rebar in interior walls.

**OBSERVATIONS:**

Wall sleeves for bypass piping and penetrators for inlet splitter box have not arrived on site. Rather than pour around the bypass pipes and then coring them out, the first pour will be shortened. The first pour (which is to occur on Friday, 10/22) will essentially start S of the splitter box and run to the first bypass pipe in the SE corner. The interior wall separating Cells 1A and 2A will be poured to the second lap (approximately 8').

**PERSONS CONFERRED WITH, SUBJECT, UNDERSTANDING:**

Bill Welch (Eriksen): Blower building piping to arrive Monday (check for lining), and blower building piping and footings will be set next week. Some site piping to arrive this week. Block layers are to arrive next week.

Garry Poutre (City): Will select color of brick for buildings tomorrow (10/21).

**UPCOMING:**

- First wall pour (E wall, Friday AM)
- Setting and tying of rebar for footings of headworks building
- N footing of headworks building to be poured (Friday PM)
- Forming and rebar for tank walls.
- Block layers are to begin next week on buildings

**NOTES:**

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ATTACHMENTS: \_\_\_\_\_

EST. % COMPLETION: _____	CONFORMANCE W/SCHEDULE: <u>Yes</u>
<input type="checkbox"/> CLIENT: _____	SWPPP MANUAL ON-SITE: <u>X</u> YES _____ NO
<input type="checkbox"/> APPROVAL AGENCY: _____	EROSION CONTROL MAINTAINED: <u>X</u> YES _____ NO
<input type="checkbox"/> PHOTOS: <u>102010</u>	ROAD/STREET CLEAN <u>X</u> YES _____ NO

REPORT BY: Nick Reigle

## FIELD ENGINEERING REPORT NO. \_\_\_\_\_

DATE: October 22, 2010 (Friday)	PROJECT NO.: 617S7
PROJECT NAME: 2009-2010 WWTF Improvements	LOCATION: Wayne, Nebraska
CONTRACTOR: Eriksen Construction	
CONTRACTOR HOURS WORKED:	JEO HOURS WORKED:
TEMP: 70 F	WEATHER: Sunny, calm
Eriksen Construction: Bill Welch (Superintendent), James Ward (Project Manager), Laborers (4), Operator (1)	
Davis JD Steel: Ironworkers (2)	
Terracon: Field Technician (1)	

**WORK IN PROGRESS:**

S end of E exterior wall poured (32 CY) in AM. Rebar for N exterior footing at headworks building was tied and set in place. This footing was then poured in the PM.

**OBSERVATIONS:**

Exterior wall was checked for thickness and alignment prior to pour. The wall was somewhat wavy, so adjustments were made to align the wall correctly. Exterior wall section was poured beginning at approximately 9 AM. Concrete was swung in via crane and bucket. The crane set up on the SE corner of the tank, and concrete was delivered to the N side of the crane. A tremie was utilized to place lower lifts of concrete. Concrete was vibrated heavily, especially near interior face. During pour, one form tie broke. The tie was an additional tie, and did not affect the results of the pour. The tie was found to be a 16" tie rather than an 18" tie. This caused an insufficient amount of thread to be used, which resulted in a broken tie.

Davis JD tied and set the rebar for the N footing at the headworks building. This included rebar for the retaining wall on the NW corner of the building. After the wall pour was completed, the extra concrete from the wall pour was used in this footing. The entire footing was then poured with 4,000 psi concrete. Masonry dowels were set in place at 40" centers, and retaining wall dowels were placed at 12" centers. The footing was finished at the specified grade.

**PERSONS CONFERRED WITH, SUBJECT, UNDERSTANDING:**

Terracon was on site for concrete testing of the 47BD-4000 concrete mix. Results of the testing are as follows:

- Slump = 3 in. (Specs call for max of 4 in.)
- Air Content = 7% (Specs call for 5-7.5%)

In field testing results meet specified values.

**UPCOMING:**

- Building footings to be excavated and poured
- Forming and rebar for tank walls.
- Relocation of wall forms to next section of tank
- Block layers to arrive the week of November 1st

**NOTES:**

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ATTACHMENTS: \_\_\_\_\_

EST. % COMPLETION: _____	CONFORMANCE W/SCHEDULE: <u>Yes</u>
<input type="checkbox"/> CLIENT: _____	SWPPP MANUAL ON-SITE: <u>X</u> YES _____ NO
<input type="checkbox"/> APPROVAL AGENCY: _____	EROSION CONTROL MAINTAINED: <u>X</u> YES _____ NO
<input type="checkbox"/> PHOTOS: <u>102210</u>	ROAD/STREET CLEAN <u>X</u> YES _____ NO

REPORT BY: Nick Reigle

## FIELD ENGINEERING REPORT NO. \_\_\_\_\_

DATE: October 25, 2010 (Monday)	PROJECT NO.: 617S7
PROJECT NAME: 2009-2010 WWTF Improvements	LOCATION: Wayne, Nebraska
CONTRACTOR: Eriksen Construction	
CONTRACTOR HOURS WORKED:	JEO HOURS WORKED:
TEMP: 60 F	WEATHER: Cloudy, rain off and on
Eriksen Construction: Bill Welch (Superintendent), James Ward (Project Manager), Laborers (4), Operator (1)	
Davis JD Steel: Ironworkers (2)	
Terracon: Field Technician (1)	

**WORK IN PROGRESS:**

Stripping of exterior wall forms from first wall pour. Excavation and pouring of S blower building footing.

**OBSERVATIONS:**

Outside wall forms from first wall pour were stripped. Wall looks pretty decent other than a rather large gouge approximately 6' from top of wall near N end of pour. This gouge is likely due to lack of vibration in this area. This area will be chipped out and grinded clean, then grouted.

The footing for the S exterior wall of the blower building was excavated and rebar was set into place. The step in elevation to the interior wall footing was tied into the exterior wall footing prior to pour. Electrical and plumbing sleeves were put into place prior to pour. The footing was poured using 3,500 lb. concrete from Gerhold at approximately 4pm. Terracon was on-site for testing and to collect sample cylinders.

**PERSONS CONFERRED WITH, SUBJECT, UNDERSTANDING:**

**UPCOMING:**

- Building footings to be excavated and poured
- Forming and rebar for tank walls.
- Relocation of wall forms to next section of tank
- Block layers to arrive next week

**NOTES:**

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ATTACHMENTS: \_\_\_\_\_

EST. % COMPLETION: \_\_\_\_\_ CONFORMANCE W/SCHEDULE: Yes \_\_\_\_\_

CLIENT: \_\_\_\_\_ SWPPP MANUAL ON-SITE: X YES \_\_\_\_\_ NO

APPROVAL AGENCY: \_\_\_\_\_ EROSION CONTROL MAINTAINED: X YES \_\_\_\_\_ NO

PHOTOS: 102210 ROAD/STREET CLEAN X YES \_\_\_\_\_ NO

REPORT BY: Nick Reigle