

**AGENDA
CITY COUNCIL MEETING
February 1, 2011**

5:30 Call to Order

1. [Approval of Minutes – January 18, 2011](#)

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. [Resolution 2011-4: Approving Specifications for the Purchase of New Dump Truck \(Would Replace the 1977 Dump Truck\) and Authorizing Staff to Advertise for Bids](#)

Background: The replacement schedule for our Public Works' truck fleet is about 30 years. Our two oldest trucks that we use for plowing and hauling snow and hauling dirt, wood chips, tree brush, etc., in the summer are a 1977 Chevy and a 1973 Chevy. Both of these trucks have been well maintained, but have had some reliability problems this winter when we need them. The hydraulics for the snowplow control are getting slow and need to be rebuilt. The 1977 is not the oldest, but the 1973 is the most reliable, so we plan to continue using it in the regular fleet.

Our current budget has \$90,000 allocated to replace either the 1977 or the 1973 truck. The attached specifications have been developed by Garry and the Public Works crew.

The snowplow on the 1977 truck is over 40 years old, and we plan to replace it on the new truck through the purchase of a new snowplow through the state bid program. The State of Nebraska bids out for purchases of patrol cars, pickups, snowplows, and many other utility types of equipment and allows local cities to buy those pre-bid items. The State doesn't bid out single-axle trucks in the size we use. We will also negotiate for the purchase of a snow box to mount on the truck. The total estimated cost of the truck fully equipped is \$115,000. The additional \$25,000 will be available in this budget year because we will not be replacing the skid loader.

Attachment: Bid specifications for the Public Works' cab and chassis truck

Recommendation: The recommendation of the Superintendent of Public Works and Utilities is to approve the bid specs as printed and to advertise for bids. The acceptance of bids must be done by City Council action. We would like to get the 1977 replaced, equipped and into service before next winter.

4. [Resolution 2011-5: Establishing Sewer Rates for Users Outside City Limits](#)

Background: To compensate for some of the overhead costs, around the clock coverage, and convenience provided by certified, experienced city personnel, most city utilities charge a double rate for water and some charge a double rate for sewer for those customers outside the city limits. Wayne currently charges double water rates, but not double sewer rates, to customers served outside the city limits. This Resolution adjusts the sewer rates to double the rates for sewer customers outside the city limits.

Recommendation: The recommendation of the City Administrator is to approve the rate increase for sewer customers outside the city limits

5. [Resolution 2011-6: Approving Wage and Salary Schedule](#)

Background: Each year, the City Council approves job descriptions and wage ranges for all full-time and part-time city staff. Funding, sufficient to provide an across the board 1% cost-of-living wage increase, is included in our current budget. The Resolution also changes the part-time job description “Recreation-Leisure Services Assistant II” to “Community Activity Center Director” and places that job description at a pay grade 17. This position will report directly to the City Administrator.

Recommendation: The recommendation of the City Administrator is to approve the Resolution as presented.

6. [Resolution 2011-7: Approving Wage and Salary Schedule for Police](#)

Background: The Wayne police officers and dispatchers have organized an FOP bargaining unit. The City has a wage contract with the FOP that is separate from the Wage and Salary Schedule included in Resolution 2011-6. The current three-year contract provides for the City Council to approve an annual cost-of-living increase between 0% and 2%.

Recommendation: Additional Council action is required to approve the 1% increase for the FOP. The recommendation of the City Administrator is to approve the 1% cost-of-living for the FOP.

7. [Resolution 2011-8: Approving LPA Program Agreement – STP Funds for the Wayne Underpass](#)

Background: In March 2010, Wayne was awarded Nebraska Department of Roads STP Enhancement Funding to cost-share on a conversion of the Phase II trail crossing of Highway 35 west of the High School. This agreement has been prepared by NDOR to obligate the state funds and authorize Wayne to solicit an engineering firm to design the project. In this agreement, the NDOR estimate of the total cost of the project is \$576,699, with the STP cost-share at \$403,689 and the local cost-share at \$173,010.

Recommendation: The recommendation of the City Administrator and Street Superintendent is to approve the funding agreement.

8. Action Authorizing Staff to Represent Positions of the City on the Following Legislative Bills: LB-48 (Illegal Immigration Enforcement Act), LB-84 (Build Nebraska Act) and LB-165 (Nebraska Telecommunications Services Occupation Tax Act)

LB-48: This bill adopts the requirements of the federal immigration law and requires state and local law enforcement to verify the immigration status of persons stopped or arrested for other issues when reasonable suspicion exists they are not U.S. citizens. The recommendation of the City Administrator is to advise the League of Municipalities to not oppose LB-48.

LB-84: This bill would reallocate the revenues from .5% of the current 5.5% state sales tax to a dedicated construction fund in the Nebraska Highway Trust Fund to be used exclusively for capital construction projects. That would raise about \$125 million per year for 15 years. Without a better alternative, the recommendation of the City Administrator is to advise the League to support this bill, because roads and bridges still must be rebuilt over time and gas tax revenues will continue to fall.

LB-165: This bill will gradually eliminate Nebraska cities' ability to collect occupation taxes on cell phones over the next five years. Wayne currently collects a 5% occupation tax on both landline phones and cell phones. Revenues from cell phones are about \$65,000 per year, and revenues from landline phones are about \$27,000 per year. These funds are deposited into the city's general fund to defray city property taxes. The recommendation of the Finance Director and City Administrator is to advise the League to oppose LB-165 because of the revenue loss for many Nebraska towns, and because it arbitrarily favors national companies that do very large amounts of business in Wayne but wouldn't be taxable because they aren't locally owned, and it penalizes the landline segment of the telephone communications industry and locally owned businesses.

9. Adjourn

APPROVED AS TO FORM AND CONTENT:

Mayor

City Administrator

January 18, 2011

The Wayne City Council met in regular session at City Hall on Tuesday, January 18, 2011, at 5:30 o'clock P.M. Mayor Ken Chamberlain called the meeting to order with the following in attendance: Councilmembers Brian Frevert, Jim Van Delden, Dale Alexander, Doug Sturm, Kaki Ley, Kathy Berry, and Jill Brodersen; City Attorney Mike Pieper; City Administrator Lowell Johnson; and City Clerk Betty McGuire. Absent: Councilmember Jon Haase.

Notice of the convening meeting was given in advance by advertising in the Wayne Herald on January 6, 2011, 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 Van Delden made a motion and seconded by Councilmember Sturm, whereas the Clerk has prepared copies of the Minutes of the meeting of January 4, 2011, and that each Councilmember has had an opportunity to read and study the same, and that the reading of the Minutes be waived and declared approved.

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

The following claims were presented to Council for their approval:

VARIOUS FUNDS: AMAZON, SU, 438.90; AMERITAS, SE, 2250.85; APPEARA, SE, 102.96; BAKER & TAYLOR BOOKS, SU, 702.36; BANK FIRST, FE, 195.00; BIG T ENTERPRISES, SU, 88.95; CITY EMPLOYEE, RE, 144.46; CHARLIE HARDER, RE, 150.69; CITY OF WAYNE, RE, 1250.00; CITY OF WAYNE, PY, 58313.76; CITY OF WAYNE, RE, 1783.71; COMMUNITY HEALTH, RE, 3.00; CULLIGAN, SE, 43.95; DAVE'S DRY CLEANING, SE, 69.00; DAVID SHELTON, RE, 700.00; DEMCO, SU, 431.14; DOUGLAS CO ENVIRONMENTALS, FE, 100.00; ECHO GROUP, SU, 283.70; EDM PUBLISHERS, SU, 99.00; ENERGY FEDERATION, SU, 2660.08; FBINAA-NE CHAPTER, FE, 90.00; FLOOR MAINTENANCE, SU, 329.11; GALE GROUP, SU, 471.02; GAYLEN BENNETT, RE, 90.52; GAYLORD BROS, SU,

147.06; GEMPLER'S, SU, 259.25; GREAT PLAINS ONE-CALL, SE, 37.48; HARDING & SHULTZ, SE, 1427.02; HAUFF MID-AMERICAN SPORTS, SU, 285.00; HUNTEL, SE, 1172.65; ICMA, SE, 5641.90; INGRAM BOOK COMPANY, SU, 519.98; IRS, TX, 18619.29; JACOB'S ROOM, SU, 203.64; JORGENSEN, JASON, RE, 51.18; JOYCE & BRAD HOSKINS, RE, 343.20; KEPSCO, SU, 14.80; KTCH, SE, 525.00; LEAGUE OF NEBRASKA, FE, 100.00; LOFGREN, LAUREN, RE, 500.00; LOGIN/IACP NET, FE, 250.00; CITY EMPLOYEE, RE, 343.97; LOVE SIGNS, SU, 1152.78; M.E. COLLINS, SE, 93313.44; MAIN STREET AUTO CARE, SE, 470.00; MARK HAMMER, RE, 500.00; MERIT MECHANICAL, SE, 9416.15; MICROFILM IMAGING SYSTEMS, SE, 527.63; MID-STATE ENGINEERING, SE, 255.00; MIDWEST LABORATORIES, SE, 340.90; MIDWEST TAPE, SU, 145.96; MOONLIGHT TOWING, SE, 79.88; MSC INDUSTRIAL, SU, 245.96; CITY EMPLOYEE, RE, 592.15; NE CODE OFFICIAL ASSOC, FE, 255.00; NE DEPT OF REVENUE, TX, 2888.12; NE DEPT OF REVENUE, TX, 39.24; NE DEPT OF ROADS, SE, 3150.00; NPPD, SE, 400943.73; NICP, FE, 350.00; NORTHEAST EQUIPMENT, SU, 958.74; NORTHEAST LIBRARY SYSTEM, SU, 6.00; N.E. NE AMERICAN RED CROSS, RE, 39.24; NNPPD, SE, 11634.98; OLSSON ASSOCIATES, SE, 2800.95; PAMIDA, SU, 109.38; PAUL DANGBERG, RE, 100.00; PEPSI-COLA, SU, 376.54; POSTMASTER, FE, 110.00; PRESTO X, SE, 44.29; PUSH-PEDAL-PULL, SE, 157.50; QUILL, SU, 572.19; QWEST, SE, 156.04; RANDOM HOUSE, SU, 145.50; CITY EMPLOYEE, RE, 815.68; RICHARD CARLSON, RE, 438.89; SPARKLING KLEAN, SE, 1476.00; STADIUM SPORTING GOODS, SU, 74.00; STANLEY SECURITY SOLUTION, SU, 925.49; STATE FARM INSURANCE, SE, 563.00; STATE NATIONAL BANK, SE, 94.53; THE WAKEFIELD REPUBLICAN, SU, 25.00; UNITED WAY, RE, 10.00; UNIVERSITY OF NE-LINCOLN, SE, 170.89; US BANK, SU, 3235.49; VAN METER & ASSOCIATES, FE, 260.00; WATSON LABEL PRODUCTS, SU, 141.83; WAED, RE, 10000.00; WAYNE AUTO PARTS, SU, 1533.39; WAYNE COUNTY CLERK, SE, 5.50; WAYNE COUNTY TREASURER, SE, 1050.00; WAYNE HERALD, SE, 1983.04; WEIGL PUBLISHERS, SU, 43.47; WAPA, SE, 35302.82; ZACH HEATING & COOLING, SE, 8889.90; BAUM HYDRAULICS, SU, 31.44; CITY EMPLOYEE, RE, 409.71; BLUE DEVIL BOOSTER CLUB, SE, 75.00; BOMGAARS, SU, 104.66; CARHART LUMBER, SU, 566.23; CITY OF WAYNE, RE, 20.00; CITY OF WAYNE, RE, 575.00; COVENTRY HEALTH, SE, 23348.74; DE LAGE LANDEN FINANCIAL, SE, 394.00; DGR & ASSOCIATES, SE, 226.00; EGAN SUPPLY, SU, 109.07; EKBERG AUTO SALVAGE, SU, 50.00; ELECTRONIC SYSTEMS, SE, 60.00; FLOOR MAINTENANCE, SU, 279.08; GEMPLER'S, SU, 12.00; GEMSTONE, SE, 5613.00; GRAHAM TIRE, SU, 335.76; HANSEN, GENE, RE, 125.80; HAUFF MID-AMERICAN SPORTS, SU, 20.45; JOANNE BONDHUS, RE, 700.00; KTCH, SE, 80.00; LAB SAFETY SUPPLY, SU, 119.16; LANGEMEIER, WAYNE, SE, 60.00; MAIN STREET AUTO CARE, SE, 2838.00; MARK KAI, RE, 57.36; MERCY MEDICAL CLINIC, SE, 70.00; MSC INDUSTRIAL, SU, 59.11; MURPHY TRACTOR, SU, 210.08; NE HARVESTORE, SU, 11.03; NE PUBLIC HEALTH, SU, 199.00; NMC, SU, 31.40; CITY EMPLOYEE, RE, 205.74; PITNEY BOWES, SE, 648.00; RON'S RADIO, SE, 131.03; SPARKLING KLEAN, SE, 287.00; STADIUM SPORTING GOODS, SU, 472.25; STANLEY SECURITY SOLUTION, SU, 1123.19; STATE NATIONAL BANK, RE, 110.99;

STEFFEN, SU, 837.52; TACO'S AND MORE, SU, 25.00; WAED, RE, 16000.00; WAYNE COMMUNITY SCHOOLS, SU, 135.00

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

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

Councilmember Haase arrived at 5:33 p.m.

Joe Jetensky, Director of Regulated Operations at American Broadband, provided Council with an update of what has been happening over the past couple of years. He advised the Council that over the past two years, they have invested \$1.2 million dollars in infrastructure improvements.

In addition, Mr. Jetensky advised the Council that he and staff have been negotiating the renewal of the Franchise Agreement with HunTel CableVision. The proposed Franchise Agreement will be for 15 years, with a 15-year extension. The longer term lease helps with the financing they have with their banks. This is a non-exclusive franchise agreement, and therefore if the City would ever get to a point where they feel HunTel is not providing the service as expected, the City can ask another cable company to provide service in Wayne. HunTel also has an agreement with the City to use the City's utility poles to make attachment of CATV facilities. This amount will be

increased from \$8.00 per pole to \$9.00 per pole for the first five years, \$10.00 per pole for the next five years, and \$11.00 per pole for the remaining five years.

Councilmember Sturm introduced Ordinance 2011-1, and moved for its approval; Councilmember Ley seconded.

ORDINANCE NO. 2011-1

AN ORDINANCE GRANTING A NON-EXCLUSIVE FRANCHISE TO HUNTEL CABLEVISION, INC., A NEBRASKA CORPORATION, ITS SUCCESSORS AND ASSIGNS TO OPERATE, AND MAINTAIN A CABLE TELEVISION SYSTEM IN THE CITY OF WAYNE, NEBRASKA, SETTING FORTH CONDITIONS ACCOMPANYING THE GRANT OF FRANCHISE PROVIDING FOR CITY REGULATION AND USE OF THE CABLE TELEVISION SYSTEM, REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH, AND PROVIDING WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT

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

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

Councilmember Ley made a motion and Councilmember Sturm seconded to move for final approval of Ordinance No. 2011-1. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Councilmember Alexander introduced Resolution No. 2011-2 and moved for its approval; Councilmember Ley seconded.

RESOLUTION NO. 2011-2

A RESOLUTION APPROVING POLE USE AGREEMENT BETWEEN THE CITY OF WAYNE AND HUNTEL CABLEVISION.

Garry Poutre, Supt. of Public Works & Utilities, stated several communities were polled to come up with the amounts in the Pole Agreement. We have been at \$8.00 per pole for approximately 8 years.

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

Mayor Chamberlain declared the time was at hand for the public hearing to consider the Planning Commission's recommendation regarding an Application for Zoning Use by Exception Permit of Dr. Rob Burrows to allow for a dental clinic at 617 Pearl Street.

Administrator Johnson stated that the Planning Commission held a public hearing on this matter and recommended approval thereof, with the condition that a six foot privacy fence be placed on the south side of the property. This is the second time this matter has come before the Planning Commission and the Council, for the reason that the time allowed on the first permit has expired. The first time this application was approved there was also a condition to install low luminary lighting. Johnson would also like to see that as a condition of this permit. Johnson has visited with Dr. Borrows, who did not have a problem with the low luminary lighting condition. He also noted that the Planning Commission's "Findings of Fact" were that this was consistent with the comprehensive plan and the current and future land use maps.

Dr. Burrows, the developer, was present to answer questions, as well as his consultant, Ed Cable. Mr. Cable stated there was just a slight change in the site plan layout of the parking, but essentially there were no other changes to the building size, etc.

Wes Blecke, Director of WAED, was in favor of the Planning Commission's recommendation.

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

City Clerk McGuire noted that she received one objection to this request, which was from Dianna Buerger, who preferred that the area stay residential.

Councilmember Sturm introduced Resolution 2011-3, and moved for its approval, subject to the conditions that a six foot privacy fence be placed on the south side of the property and that low luminary lighting be installed; Councilmember Alexander seconded.

RESOLUTION NO. 2011-3

A RESOLUTION APPROVING APPLICATION FOR ZONING USE BY EXCEPTION PERMIT TO ALLOW FOR A DENTAL CLINIC AT 617 PEARL STREET.

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

Gene Hansen, Electric Production Superintendent, updated the Council on the new EPA air quality standards that will take effect in 2013 for reciprocating internal combustion engines, a/k/a the "RICE" rule. The City has a generating plant with 8 diesel generators, all over 500 hp, which fall under the mandate of the RICE rules. These 8 generators are leased to NPPD. The RICE regulations have been a long time coming from the EPA. Since the new administration in the White House, there is real emphasis on trying to restrain all of the CO as much as possible that can be emitted into the atmosphere. Our power plant is already under the guise of the regulations of the Nebraska EPA Air Quality Division. Our power plant emits CO into the air each year,

but that amount is getting less and less every year because we don't operate that much. However, for each ton that we do emit into the air, we pay a dollar amount back to the air quality division so they can run their department. The RICE mandate will take effect May 3, 2013. The reason we need to comply with the RICE regulations is that NPPD has no use for our contract if we can't run our power plant under the new EPA regulations. Our contract with NPPD runs until 2022. We will probably need to spend approximately \$600,000 for this emission equipment. We receive about \$650,000 plus each year from NPPD for the lease agreement. This emission equipment would have a one-year payback. Therefore, it would behoove the City to install the necessary equipment to come into compliance with the RICE regulations. If we would do nothing, we would probably receive very minimal payments, if any, from NPPD. In addition, we would only be allowed to run 15 hours per year.

There being no further discussion, Mayor Chamberlain moved onto the next agenda item.

Wes Blecke, Director of Wayne Area Economic Development, gave the required semi-annual LB 840 activity report to the Council. There have been two applications approved by the City Council since the last report -- the Wayne Hospitality Group for \$250,000 which was changed from a 15-year loan to a grant, and the \$10,000 grant to WAED.

Councilmember Van Delden questioned whether or not funds could be withheld from a recipient, if it was discovered that the recipient had more of their own money in the kitty. In this case, the grant has already been given to this particular recipient, but he has found out now that there is more money in the war chest.

In response, Mr. Blecke stated it would depend on what was in the original agreement. In his opinion, unless something is stated in the agreement, it's a done deal.

Attorney Pieper opined it would be a done deal in the absence of fraud on the application.

Mr. Blecke then explained the matrix process and how that works. He advised the Council that when the committee starts the scoring and discussion process, the applicants are not in the room. He then calls the applicants to advise them what the committee's recommendation was.

There being no further discussion, Mayor Chamberlain moved onto the next agenda item.

Attorney Pieper stated the following ordinance would rescind or repeal the action taken by Ordinance 2010-29, which released all of the side-yard utility easements on Lots 8 and 9 in Fairway Estates Subdivision. The only easements that should have been released and abandoned were the East 7' of the side-yard utility easement located on Lot 8 and the West 7' of the side-yard utility easement located on Lot 9. Ordinance 2011-3 will release and abandon the correct side-yard utility easements.

Councilmember Alexander introduced Ordinance 2011-2, and moved for its approval; Councilmember Sturm seconded.

ORDINANCE NO. 2011-2

AN ORDINANCE RESCINDING ORDINANCE NO. 2010-29 WHICH RELEASED AND ABANDONED ALL OF THE SIDE-YARD UTILITY EASEMENTS IN LOTS 8 AND 9, FAIRWAY ESTATES SUBDIVISION TO THE CITY OF WAYNE, WAYNE COUNTY, NEBRASKA.

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

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

Councilmember Alexander made a motion and Councilmember Haase seconded to move for final approval of Ordinance No. 2011-2. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Councilmember Sturm introduced Ordinance 2011-3, and moved for its approval; Councilmember Alexander seconded.

ORDINANCE NO. 2011-3

AN ORDINANCE AUTHORIZING THE RELEASE AND ABANDONMENT OF THE SIDE-YARD UTILITY EASEMENTS CONSISTING OF THE EAST 7 FEET OF SIDE-YARD UTILITY EASEMENT IN LOT 8 AND THE WEST 7 FEET OF SIDE-YARD UTILITY EASEMENT IN LOT 9, FAIRWAY ESTATES SUBDIVISION TO THE CITY OF WAYNE, WAYNE COUNTY, NEBRASKA.

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

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

Councilmember Sturm made a motion and Councilmember Ley seconded to move for final approval of Ordinance No. 2011-3. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Administrator Johnson stated a pay request has been received from Eriksen Construction Company for the Wastewater Treatment Plant Project in the amount of \$851,015.94. The engineer on the project has approved the same.

Councilmember Sturm made a motion and seconded by Councilmember Ley approving Application for Payment No. 5 for the Wastewater Treatment Plant Project in the amount of \$851,015.94 for Eriksen Construction Company. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Mayor Chamberlain requested Council consideration to the following appointment: Dr. Jeff Carstens to the Planning Commission (replacing Sharon Braun).

Councilmember Haase made a motion and seconded by Councilmember Alexander approving the appointment of Dr. Jeff Carstens to the Planning Commission (replacing Sharon Braun).

Mayor Chamberlain publicly thanked Sharon Braun for the hard work and effort she has put into the Planning Commission. She has been a real asset on that Commission.

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

Councilmember Alexander made a motion and seconded by Councilmember Brodersen to adjourn the meeting. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried and the meeting adjourned at 6:12 p.m.

CLAIMS LISTING FEBRUARY 1, 2010

AMERITAS LIFE INSURANCE	POLICE RETIREMENT	2,266.78
APPEARA	LINEN & MAT SERVICE	97.83
BANK FIRST	FRATERNAL ORDER OF POLICE DUES	195.00
BAUM HYDRAULICS CORP	SEAL	24.33
BLACK HILLS ENERGY	GAS BILLINGS	1,671.36
CITY EMPLOYEE	HEALTH REIMBURSEMENT	140.81
CITY EMPLOYEE	VISION REIMBURSEMENT	671.83
CARTRIDGE WORLD	POLICE TONER REFILL	59.99
CITY EMPLOYEE	HEALTH REIMBURSEMENT	32.80
CITY OF WAYNE	AUDITORIUM DEPOSIT REFUND	150.00
CITY OF WAYNE	BUILDING PERMIT DEPOSIT REFUND	1,500.00
CITY OF WAYNE	PAYROLL	58,670.87
CITY OF WAYNE	UTILITY REFUNDS	699.93
CITY OF WAYNE	WAED HEALTH REIMBURSEMENT	99.38
COMMUNITY HEALTH	HEALTH CHARITIES	3.00
CONNIE WEBBER	ENERGY AUDIT	100.00
DE LAGE LANDEN FINANCIAL	PROPERTY TAX ON COPIERS	232.69
DUTTON-LAINSON COMPANY	FUSE LINK	155.75
ECHO GROUP INC JESCO	CONTACTORS	61.10
EGAN SUPPLY CO	BATTERY FOR CAC SCRUBBER	1,041.58
ERIKSEN CONSTRUCTION CO,	TREATMENT PLANT	851,015.94
FIRST CONCORD GROUP LLC	CAFETERIA PLAN/FLEX FEES	3,954.70
FORT DEARBORN LIFE	LIFE/DISABILITY INSURANCE	1,599.23
GODFATHERS	COUNCIL RETREAT MEAL	69.00
CITY EMPLOYEE	HEALTH REIMBURSEMENT	136.80
HEIKES AUTOMOTIVE SERVICE	TOWING	69.23
HUNTEL CABLEVISION	INTERNET CHARGES	330.00
ICMA RETIREMENT TRUST-457	ICMA RETIREMENT	5,693.82
INDUSTRIAL ELECTRIC MOTOR	GENERATOR REPAIRS	1,895.25
INTERNATIONAL PUBLIC	DISPATCHER TESTING	115.50
IRS	FEDERAL WITHHOLDING	18,963.99
JACOB'S ROOM	KIDS GYM SUPPLIES	205.61
CITY EMPLOYEE	HEALTH REIMBURSEMENT	203.86
CITY EMPLOYEE	FIREARM PROTECTION PURCHASE	1,030.93
KRIZ-DAVIS COMPANY	PADMOUNT	5,542.26
MERCY MEDICAL CLINICS	SAMPLE TESTING	70.00
MIDWEST OFFICE AUTOMATION	COPY OVERAGE	960.42
MIDWEST SERVICE & SALES	TUBULAR POST	195.00
MOONLIGHT TOWING LLC	TOWING	122.48
MURPHY TRACTOR & EQUIPMENT	ENGINE WIRING HARNESS	696.75
CITY EMPLOYEE	HEALTH REIMBURSEMENT	126.44
NE DEPT OF REVENUE	STATE WITHHOLDING	2,955.30
NE PLANNING & ZONING	MEMBERSHIP DUES	40.00
NORTHEAST LIBRARY SYSTEM	REGISTRATIONS	66.00
NORTHEAST NE PUBLIC POWER	ELECTRICITY	2,493.41

OVERHEAD DOOR COMPANY	PWD GARAGE DOOR DRAW BAR	766.00
PIEPER, MILLER & DAHL	ATTORNEY FEES	2,527.00
CITY EMPLOYEE	HEALTH REIMBURSEMENT	211.75
PRESTO X COMPANY	PEST CONTROL	32.91
CITY EMPLOYEE	HEALTH REIMBURSEMENT	49.50
PUSH-PEDAL-PULL	WARRANTY REPAIR ON CAC STAIR ARM	150.00
QUILL CORPORATION	OFFICE SUPPLIES	884.07
QWEST	TELEPHONE CHARGES	309.57
RADIANT HEAT, INC	RPM MOTOR PUMP	498.85
ROBERT WOHLER & SONS	FILL WESTERN RIDGE POND	18,429.12
STADIUM SPORTING GOODS	REC WRESTLING T-SHIRTS	372.25
THE COFFEE SHOPPE	COUNCIL RETREAT MEAL	95.85
TIM SCHAEFER	LASER TAG RENTAL	39.50
CITY EMPLOYEE	CLOTHING REIMBURSEMENT	81.32
VERIZON WIRELESS SERVICES	CELL PHONES	263.68
VIAERO	CELL PHONES	135.36
VOSS LIGHTING	LIGHT BULBS	342.68
CITY EMPLOYEE	HEALTH REIMBURSEMENT	1,772.14
CITY EMPLOYEE	HEALTH REIMBURSEMENT	99.38
WESCO DISTRIBUTION INC	NAVIGATOR FAULT INDICATOR	3,386.70

RESOLUTION NO. 2011-4

A RESOLUTION APPROVING FOUR-WHEEL DRIVE CAB AND CHASSIS TRUCK SPECIFICATIONS AND AUTHORIZING BIDS TO PURCHASE.

WHEREAS, the Wayne Public Works Department has prepared specifications for a new four-wheel drive cab and chassis truck; and

WHEREAS, the operation of the Public Works Department requires reliable equipment and vehicles; and

WHEREAS, the Public Works Department's 1977 dump truck is in need of replacement, and the necessary funds have been allocated in the FY 10-11 budget.

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

1. That the specifications for the four-wheel drive cab and chassis truck be and the same are hereby approved.
2. That the estimate of cost of \$85,000 for the four-wheel drive cab and chassis truck be and the same is hereby approved.
3. That the advertisement for and receiving of bids on the aforesaid four-wheel drive cab and chassis truck by the City Clerk in a timely manner are hereby directed.

PASSED AND APPROVED this 1st day of February, 2011.

THE CITY OF WAYNE, NEBRASKA,

By _____
Mayor

ATTEST:

City Clerk



SPECIFICATIONS AND PROPOSALS

FOR

**ONE (1) FOUR WHEEL DRIVE
MEDIUM DUTY
CAB AND CHASSIS TRUCK**

FOR

THE CITY OF WAYNE, NEBRASKA

FEBRUARY, 2011

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Advertisement for Bids..... AB-1

Specifications for Four Wheel Drive Medium Duty Cab & Chassis Truck S-1-5

Proposal P-1

ADVERTISEMENT FOR BIDS

The City of Wayne, Nebraska, will receive sealed bids until 2 p.m., CDT, on the 25th day of February, 2011, at the office of the City Clerk, 306 Pearl Street, Wayne, Nebraska 68787, for the purchase of one (1) four wheel drive cab and chassis truck. At that time all bids will be opened and read aloud in the Council Chambers at the Wayne City Hall.

Bid proposals shall offer a new, 2011-2012 standard model of an American manufacturing company and shall be submitted only by a regularly franchised dealer for said vehicles.

Specifications and bid forms must be obtained from the City Clerk's office between the hours of 9:00 a.m. and 5:00 p.m. Monday through Friday. The City of Wayne has and reserves the right to reject any and all bids.

No bid may be withdrawn without the consent of the City of Wayne. The City agrees to make a selection as soon as possible after the letting based on price, guarantees, service ability, time of delivery, and any other pertinent facts and features, and to enter into a contract with the bidder who submits the best bid proposal.

Any questions concerning this request for bids should be directed to Garry Poutre, Superintendent of Public Works and Utilities, at (402) 375-2896.

Dated at Wayne, Nebraska, this _____ day of _____, 2011.

THE CITY OF WAYNE, NEBRASKA

By: Betty A. McGuire, City Clerk

SPECIFICATIONS

The following specifications shall be the minimum requirements for a new four wheel drive cab and chassis truck for the Wayne Public Works Department called for in the attached advertisement for bids.

GENERAL

The 4 x 4 medium duty truck to be furnished shall meet or exceed all the following requirements or the bid may be rejected.

Unit shall be of standard design and a current model under regular production by the manufacturer.

Furnish all accessories necessary for proper and satisfactory operation of the truck whether or not specifically called for below.

A description to indicate any deviation of items being bid from the specifications shall be noted on the Bid Proposal form. Failure to do so may result in bid rejection. The City of Wayne reserves the right to evaluate the exceptions on an individual basis and determine whether exceptions are within the intent of the specifications and will reasonably meet the service requirements of the using department.

BID PROPOSAL

TO BETTY MCGUIRE, CITY CLERK

CITY OF WAYNE, NEBRASKA

The _____ Company of _____, state that we are a franchise dealer and distributor for the _____ Company, manufacturers of four wheel drive medium duty trucks. We further affirm that we have read the specifications and conditions pertaining to a four wheel drive truck for the City of Wayne, Nebraska.

Base Bid

We propose to offer to the City of Wayne Nebraska one (1) _____, Model _____, four wheel drive truck for the sum of _____, (\$ _____), which is considered the base bid and included all the items called for in the specifications, unless otherwise noted.

Delivery Date

Proposed delivery date: _____, 2011.

Exceptions, if any: _____

ITEM: One 2011-2012 Model, 35,000 GVW 4x4 Cab and Chassis Truck

DEPARTMENT: Public Works Department

The 4x4 truck to be furnished shall meet or exceed all the following requirements or the bid may be rejected. Unit shall be of standard design and a current model under regular production by the manufacturer. Furnish all accessories necessary for proper and satisfactory operation of the truck whether or not specifically called for below. A description to indicate any deviation of items being bid from the specifications shall be noted on the Bid Proposal form. Failure to do so may result in bid rejection. The City of Wayne reserves the right to evaluate the exceptions on an individual basis and determine whether exceptions are within the intent of the specifications and will reasonably meet the service requirements of the using department.

SPECIFICATIONS

Equipment	The vehicle to be bid must be the current year model and shall be unused. All equipment that is standard on the machine shall be furnished whether named in the specifications or not. Any additions, deletions, or variations from the following specifications must be noted. Any items, appearing in the manufacturer's regular published specifications furnished by the bidder are assumed to be included in the "Bidder's Proposal". Any additions, deletions, or variations from the manufacturer's regular published specifications must be outlined in an attached letter.	MFG _____ MODEL _____ YEAR _____
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Engine	Diesel, 4 cycle, 650 ft. lbs. Min. Torque at 2200 RPM - 550 lbs. Min.
H.P.	250 Min.
Air Filter	Dry Type
Oil Filter	Full Flow spin on type Front mount hydraulic pump (see Hydraulics)

Transmission- Base Bid	Allison automatic 3000 RDS. Must have auxiliary transmission oil cooler and filter. Provide 3 year warranty
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Wheels	Disc, front and rear 10 stud
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Steering	Power (integral)
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Weight	35,000 GVW Min.
Shocks	Heavy Duty Front
Hood	Tilt hood w/stationary grill not to interfere with snow equipment or front mount P.T.O.. Hood to be tapered to provide increased visibility
Suspension	
Front Axle	14,000 lbs. GAWR Front min.-multi-leaf springs only
Rear Axle	21,000 lbs. GAWR min.
Aux. Rear Springs	2,250 lbs. min. each (leaf type)
Front Drive Axle	Full floating front driving steering axle 14,000 lbs. min.
Gear Ratio	5:38 to 5:65 / 65 mph minimum Steel forged axle housing
Transfer Case	Two-speed Integral air shift controls for front axle engage and high-low range 5,000 lbs. ft. input Torque min.
Hydraulic Pump	Gear type, 13 GPM to 23 GPM @ 1000 RPM, Muncie Model PB13, Chelsea Model DVP 16-150A or comparable equal. Pump control must be dry valve air shift. <i>Please specify model.</i>
Frame	110,000 PSI, heat-treated frame 149" Wheelbase minimum 84" Cab to axle minimum Vehicle will carry 2000 lbs. of snow plow weight on front frame extension, frame extension to be 24"
Backup Lights	Standard
Brakes	16 1/2" x 7" S-Cam actuated 20 sq. inch chambers min. Air with piggy back parking brakes Automatic discharge air dryer
Fuel Capacity	50 gallon step type

Tires	11R 22.5 Radial tubeless 14 ply tires On/Off highway tread on front and rear
Battery	Dual - 850 CCA min. - commercial grade
Radiator	Shall be built for front mount PTO shaft clearance.
Charging System	105 Amp Alternator min.
Exhaust	Side mounted vertical exhaust stack, right side only 90 degree rear facing exhaust tip, no rain cap, should be no higher than necessary to clear cab cover
Paint	Manufacturers standard red
Windshield Wipers	Dual electric intermittent wipers with electrical washers
Rear View Mirrors	Dual stainless or aluminum rear view, 6" x 16" west coast style with 4" convex mirror on upper right corner of right mirror and upper left corner of left mirror
Radio	AM-FM
Cab	All steel with tinted safety glass-all windows. Power Windows Air Conditioning Heater/ defroster to be heavy duty w/ high speed fan motor. Forward tilt seat back, air ride on driver's side Cab Entry Steps
Accessories	Mud flaps Electric back-up alarm Cab assist handles both sides Cab Mounted Amber Strobe Light Snow Plow Light
Lights	Directional signal lights 4 rear stop/tail/turn lights. 2 placed in standard position on truck frame
Instruments	Ampmeter gauge or voltmeter Oil pressure gauge Tachometer Water temperature gauge

Valves Three spool Gresen control valve
Model #25P or comparable equal
Rated at 30 GPM min.
Relief valve
1" inlet; 1" outlet; 3/4" service ports

Controls Morse remote valve control cables, mounted in cab
Spool for the following:

1. Single acting for dump body with lowering in the forward position. Mount this furthest from the operator
2. Double acting for snow plow angling. Mount this in the middle.
3. Single acting for snow plow lift, with detent for lowering in forward position. Mount this nearest operator.

All above to be spring loaded to neutral.

Hyd. Reservoir Min. 30 gal. with filter system and indicator gauge on return line
with a valve on each side of filter

Rear Axle Gear Ratio 5:38 to 5:65
No spin differential

GENERAL SPECIFICATIONS

Manuals 1 Operator Manual
1 Repair parts
1 Shop service
To be furnished to city at time of delivery of 4x4 truck

Brochures The bidder shall furnish manufacturer's specification sheets and descriptive brochures describing the vehicle that they propose to furnish.

Safety At time of delivery, the truck must meet or exceed all federal, state, and local health, safety, lighting, and noise standards.

Warranty The bidder shall submit a copy of or a description of the warranty that they will furnish along with the bid proposal.

DOT Regulations At time of delivery, the truck must meet or exceed all existing DOT regulations and US EPA emission standards that are applicable to this type vehicle

Taxes The lump sum bid shall include all taxes except the Nebraska Sales Tax and the Federal Excise Tax

Delivery

Vehicle shall be delivered to the bidder's dealership address on or before June ____, 2011, fully equipped in accordance with the specifications and proposal; fully serviced and washed. The service shall be equivalent to that given by the dealer to the retail segment of his trade as prescribed by the manufacturer. The original Manufacturer's State of Origin, a service authorization card, and a properly executed service and warranty policy will accompany the pickup.

Vehicle will be completely checked by the vendor to ensure conformance with the manufacturer's specifications and the City of Wayne's requirements as stated herein. Any and all exceptions to this specification must be attached to the quotation requirements, in typewritten format. Noncompliance can void your quotation.

General Information This specification shall be complied with in its entirety before final payment will be made.

The vehicle bid must meet or exceed the above minimum specifications.

All items specified must be factory installed, inspected, tested and calibrated, as required, except that manufacturer's policies pertaining to dealer installation of minor accessories will be honored.

Payment

Payment will be made by the City within thirty (30) days after delivery.

BIDDER (NAME OF FIRM) _____

ADDRESS _____

CITY, STATE & ZIP CODE _____

PHONE _____

AUTHORIZED SIGNATURE _____

DATE _____

RESOLUTION NO. 2011-5

A RESOLUTION AMENDING SEWER SERVICE AND USE RATES.

BE IT RESOLVED that the customer service charge shall be a minimum monthly amount based upon the customer's water meter size and the commodity use rate shall be based upon the amount of water metered each month in thousands of gallons or parts thereof; and

BE IT FURTHER RESOLVED by the Mayor and Council of the City of Wayne, Nebraska, that the following Sewer Service and Use Rates are established for all customers pursuant to the Wayne Municipal Code Section 82-156 (residential and commercial rates) and Section 82-160 (special use water rate):

1. Net Monthly Customer Service Charge

<u>Meter Size</u>	<u>Inside City</u>	<u>Outside (Rural)</u>
3/4" or les	\$ 6.50	\$13.00
1	9.43	18.86
1 1/4	13.20	26.40
1 1/2	17.94	35.88
2	29.84	59.68
3	63.77	127.54
4	111.35	222.70
6	247.33	494.66

2. Net Monthly Commodity, Use Rate per Thousand Gallons

- (a) Inside City - \$ 5.12
(b) Outside City - \$10.24

BE IT FURTHER RESOLVED that all residential rates shall be based on an average of the water usage during the months of December, January and February; and

BE IT FURTHER RESOLVED that the sewage contribution of a residential user, who has not established an average for the months of December, January and February, shall be charged, based on proven averages, in the following manner:

Single occupancy - 2,000 gal. per month
Double or more occupancy - 5,000 gal. per month

BE IT FURTHER RESOLVED that this Resolution shall take effect and be in force from and after its passage, approval, and posting as required by law, and the rates provided herein shall be applicable to all services used after meters are read for billing purposes in **February**, 2011.

PASSED AND APPROVED this 1st day of February, 2011.

THE CITY OF WAYNE, NEBRASKA,

By: _____
Mayor

ATTEST:

City Clerk

RESOLUTION NO. 2011-6

WHEREAS, the City of Wayne desires to amend Resolution No. 2010-39, a standard wage and salary schedule which was effective June 15, 2010;

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

CITY OF WAYNE
NON-EXEMPT WAGE AND EXEMPT SALARY SCHEDULES
Effective January 1, 2011

NON-EXEMPT WAGE SCHEDULE

<u>LABOR GRADE</u>	<u>HOURLY RATE RANGE</u>	<u>JOB CLASSIFICATION(S)</u>
5	7.25 - 9.51	Community Activity Center/Recreation Program Aide Part-Time General Help Life Guard Laborer -- PW / PU Library Aide Senior Center Activities Assistant
6	7.53 - 9.88 7.61 9.98	Clerk/Secretary Life Guard
7	7.97 - 10.45 8.05 10.56	Assistant Librarian I Custodian Recreation-Leisure Services Asst-I Senior Center Operations Assistant
8	8.37 - 10.99 8.45 11.09	Transfer Station Operator
9	8.79 - 11.54 8.88 11.65	Account Clerk-I Assistant Librarian II
10	9.23 - 12.11 9.32 12.23	
11	9.70 - 12.73 9.80 12.86	Accountant Apprentice Light Plant Oper. Handi-Van Driver Line Groundsman
12	10.18 - 13.36 10.28 13.49	Building Inspector/Planner-I Librarian I

13	10.69 14.03 10.80 14.17	Chief Custodian Executive Secretary
14	11.21 14.71 11.32 14.86	Heavy Equipment Operator-I Light Plant Operator-I Public Works Operations Tech.-I Water/Sewer Operator-I
15	11.79 15.47 11.91 15.63	Apprentice Lineman Mechanic I Staff Assistant
16	12.37 16.24 12.49 16.40	Account Clerk-II Accountant/Asst. Treasurer Administrative Assistant Building Manager/Custodian Heavy Equipment Operator-II Water/Wastewater Operator-II Recreation Leisure Services Asst-II
17	13.02 17.08 13.15 17.26	Light Plant Operator-II Lineman-I Public Works Operations Tech.-II Community Activity Center Director
18	13.62 17.87 13.76 18.05	
19	14.31 18.78 14.45 18.97	Assistant Street Foreman Class A Licensed Electrician Mechanic II
20	14.98 19.66 15.13 19.85	Certified Street Superintendent Street Foreman
21	15.77 20.69 15.93 20.90	Power Plant Foreman Water/Wastewater Operator III
22	16.52 21.68 16.69 21.90	Building Inspector/Planner II Lineman-II Technology Support Specialist
23	17.35 22.77 17.52 23.00	Water/Wastewater Foreman Chief of Electric Production
24	18.72 24.56 18.91 24.81	
25	20.20 26.50 20.40 26.77	Line Foreman/Asst. Supt.

~~21.00~~ — ~~27.56~~
 21.21 27.83

EXEMPT SALARY SCHEDULE

<u>JOB CLASSIFICATION</u>	<u>Hourly</u>	<u>MONTHLY SALARY RANGE</u>	<u>Hourly</u>
Recreation-Leisure Services Director	\$12.48	\$2,142 - \$3,254 \$2,163 - \$3,287	(\$18.77) (\$18.96)
Sr. Citizens Center Coordinator	\$12.48	\$2,142 - \$3,254 \$2,162 - \$3,287	(\$18.77) (\$18.96)
Library Director	\$12.48	\$2,142 - \$3,800 \$2,163 - \$3,838	(\$21.92) (\$22.14)
Police Lieutenant	\$13.98	\$2,550 - \$4,439 \$2,736 - \$4,483	(\$24.10) (\$24.34)
City Clerk	\$14.86	\$2,550 - \$4,612 \$2,576 - \$4,658	(\$26.61) (\$26.87)
Finance Director	\$14.86	\$2,550 - \$4,638 \$2,576 - \$4,684	(\$26.76) (\$27.03)
Electric Superintendent- Production	\$17.83	\$3,060 - \$4,584 \$3,091 - \$4,688	(\$26.45) (\$27.05)
Police Chief	\$16.78	\$3,060 - \$5,498 \$3,091 - \$5,553	(\$29.85) (\$30.15)
Supt. of Public Works & Utilities	\$18.72	\$3,213 - \$5,862 \$3,245 - \$5,921	(\$33.82) (\$34.16)
City Administrator		- \$7470 \$7,545	(\$43.10) (\$43.53)

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

BE IT FURTHER RESOLVED that employees who are serving in a probationary period and/or receiving wage rates less than rates scheduled herein above shall have their wage rates adjusted only upon satisfactory evaluation at their next normal evaluation time.

PASSED AND APPROVED this 1st day of February, 2011.

THE CITY OF WAYNE, NEBRASKA

By _____
Mayor

ATTEST:

City Clerk

City of Wayne 2011 wage Scale

	P	A	B	C	D	E	F	G	H	I	J
	0/6 mo	6 mo/1 yr	1 - 2 yr	2 - 3 yr	3 - 4 yr	4 - 5 yr	5 - 6 yr	6 - 7 yr	7 - 8 yr	8 - 9 yr	9 yr & beyond
5	7.25 - 9.51	7.45	7.65	7.87	8.08	8.31	8.53	8.77	9.01	9.26	9.51
6	7.61 - 9.98	7.81	8.03	8.25	8.48	8.71	8.95	9.20	9.45	9.71	9.98
7	8.05 - 10.56	8.27	8.50	8.73	8.97	9.22	9.48	9.74	10.00	10.28	10.56
8	8.45 - 11.09	8.69	8.93	9.17	9.42	9.68	9.95	10.23	10.51	10.80	11.09
9	8.88 - 11.65	9.12	9.37	9.63	9.90	10.17	10.45	10.74	11.03	11.34	11.65
10	9.32 - 12.23	9.58	9.84	10.11	10.39	10.68	10.97	11.28	11.59	11.91	12.23
11	9.80 - 12.86	10.07	10.34	10.63	10.92	11.22	11.53	11.85	12.18	12.51	12.86
12	10.28 - 13.49	10.57	10.86	11.16	11.46	11.78	12.10	12.44	12.78	13.13	13.49
13	10.80 - 14.17	11.09	11.40	11.71	12.04	12.37	12.71	13.06	13.42	13.79	14.17
14	11.32 - 14.86	11.63	11.95	12.28	12.62	12.97	13.33	13.69	14.07	14.46	14.86
15	11.91 - 15.63	12.24	12.57	12.92	13.28	13.64	14.02	14.40	14.80	15.21	15.63
16	12.49 - 16.40	12.84	13.19	13.56	13.93	14.31	14.71	15.11	15.53	15.96	16.40
17	13.15 - 17.26	13.51	13.88	14.27	14.66	15.06	15.48	15.91	16.34	16.79	17.26
18	13.76 - 18.05	14.14	14.52	14.92	15.34	15.76	16.19	16.64	17.10	17.57	18.05
19	14.45 - 18.97	14.85	15.26	15.68	16.11	16.56	17.01	17.48	17.96	18.46	18.97
20	15.13 - 19.85	15.55	15.97	16.42	16.87	17.33	17.81	18.30	18.80	19.32	19.85
21	15.93 - 20.90	16.37	16.82	17.28	17.76	18.25	18.75	19.27	19.80	20.34	20.90
22	16.69 - 21.90	17.14	17.62	18.10	18.60	19.11	19.64	20.18	20.74	21.31	21.90
23	17.52 - 23.00	18.01	18.50	19.01	19.54	20.07	20.63	21.20	21.78	22.38	23.00
24	18.91 - 24.81	19.43	19.96	20.51	21.08	21.66	22.26	22.87	23.50	24.15	24.81
25	20.40 - 26.77	20.96	21.54	22.14	22.74	23.37	24.02	24.68	25.36	26.06	26.77
26	21.21 - 27.83	21.79	22.39	23.01	23.65	24.30	24.97	25.65	26.36	27.09	27.83

RESOLUTION NO. 2011-7

WHEREAS, the City of Wayne shall establish a separate standard wage and salary schedule for the “Wayne Chapter No. 54 – Fraternal Order of Police 2010-2012” which shall be effective January 1, 2011.

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

CITY OF WAYNE
WAYNE CHAPTER NO. 54 FRATERNAL ORDER OF POLICE
SALARY SCHEDULE
Effective January 1, 2011

<u>JOB CLASSIFICATION</u>	<u>HOURLY RATE RANGE</u>	
Part-Time Dispatcher	\$ 9.98	\$13.09
	\$10.08	\$13.23
Dispatcher	\$12.13	\$15.92
	\$12.25	\$16.08
Dispatch Supervisor	\$13.01	\$17.25
	\$13.14	\$17.44

The following is based upon 2,184 hours per year:

Patrolman	\$14.39	\$19.39
	\$14.53	\$19.57
Senior Patrolman	\$15.96	\$20.85
	\$16.12	\$21.04
Police Sergeant	\$17.53	\$22.30
	\$17.71	\$22.53

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

BE IT FURTHER RESOLVED that employees who are serving in a probationary period and/or receiving wage rates less than rates scheduled herein above shall have their wage rates adjusted only upon satisfactory evaluation at their next normal evaluation time.

PASSED AND APPROVED this 1st day of February, 2011.

THE CITY OF WAYNE, NEBRASKA

By _____
Mayor

ATTEST:

City Clerk

City of Wayne
2011 Wage Scale

	P	A	B	C	D	E	F	G	H	I	J
	0/6 mo	6 mo/1 yr	1 - 2 yr	2 - 3 yr	3 - 4 yr	4 - 5 yr	5 - 6 yr	6 - 7 yr	7 - 8 yr	8 - 9 yr	9 yr & beyond
Range	10.08	10.36	10.64	10.94	11.24	11.55	11.87	12.19	12.53	12.87	13.23
Part time Dispatcher	10.08	10.36	10.64	10.94	11.24	11.55	11.87	12.19	12.53	12.87	13.23
Dispatcher	12.25	12.59	12.94	13.29	13.66	14.03	14.42	14.82	15.23	15.65	16.08
Dispatch Supervisor	13.14	13.52	13.91	14.30	14.71	15.14	15.57	16.02	16.48	16.95	17.44
This scale is based on 2184 hours per year											
Patrolman	14.53	14.97	15.43	15.89	16.37	16.87	17.37	17.90	18.44	19.00	19.57
Senior Patrolman	16.12	16.55	17.00	17.46	17.93	18.42	18.91	19.42	19.95	20.49	21.04
Police Sergeant	17.71	18.14	18.58	19.03	19.50	19.97	20.46	20.96	21.47	22.00	22.53

RESOLUTION NO. 2011-8

A RESOLUTION APPROVING LPA AGREEMENT - STP FUNDS FOR THE WAYNE UNDERPASS

Whereas: The City of Wayne is proposing a transportation project for which it would like to obtain Federal funds; and

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

Whereas: The City of Wayne and Nebraska Department of Roads (NDOR) wish to enter into a Project Program Agreement setting out the various duties and funding responsibilities for the Federal-aid project.

Be It Resolved: by the City Council of the City of Wayne that Ken Chamberlain, Mayor, is hereby authorized to sign the attached Project Program Agreement between the City of Wayne and the NDOR. The City of Wayne is committed to providing local funds for the project as required by the Project Program Agreement.

NDOR Project Number ENH-90(6),

NDOR Control Number 32153,

Wayne Underpass .

PASSED AND APPROVED this 1st day of February, 2011, at Wayne, Nebraska.

The City Council of the City of Wayne

Board/Council Member _____

Moved the adoption of said resolution

Member _____ Seconded the Motion
Roll Call: _____ Yes _____ No _____ Abstained _____ Absent
Resolution adopted, signed and billed as adopted

ATTEST:

City Clerk

LPA PROGRAM AGREEMENT- STP FUNDS

CITY OF WAYNE, NEBRASKA
STATE OF NEBRASKA, DEPARTMENT OF ROADS
PROJECT NO. ENH-90(6)
STATE CONTROL NO. 32153
WAYNE UNDERPASS

COPY

THIS AGREEMENT, made and entered into by and between the City of Wayne, Nebraska hereinafter referred to as the "LPA", and the State of Nebraska, Department of Roads, hereinafter referred to as the "State", and collectively referred to as the "Parties".

WITNESSETH:

WHEREAS, certain bicycle/pedestrian trails in the LPA 's jurisdiction have been designated as being eligible for the Enhancement Program portion of the Surface Transportation Program (STP) Funds by the Department of Transportation, Federal Highway Administration, hereinafter called the FHWA, in compliance with Federal laws pertaining thereto, and

WHEREAS, STP Enhancement Funds have been made available by Title 23 of the United States Code, providing for improvements on eligible trails, and

WHEREAS, the Federal share payable on any portion of a STP project will be a maximum of 70% percent of the eligible costs, and

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

WHEREAS, the regulations further permit the use of funds other than State funds in matching Federal Funds for the improvements of those trails, and

WHEREAS, the State is willing to assist LPA to the end of obtaining Federal approval of the proposed work and Federal Funds for the construction of the proposed improvement, with the understanding that this project is not a State project and that no State Funds are to be expended on this project, and

WHEREAS, the LPA has designated an available fully-qualified public employee or elected official to act as "Responsible Charge" (RC) for the subject Federal-aid Transportation project, and

WHEREAS, the RC has successfully completed training required by the State to serve as an RC for the Federal-aid Transportation project, and

WHEREAS, the RC will be in day-to-day responsible charge of all aspects of the project, from planning through post-construction activities and maintain the project's eligibility for Federal-aid Transportation project funding, and

WHEREAS, the LPA understands that it must comply with all terms of 23 C.F.R. 635.105 in order for this Federal-aid transportation project to be eligible for Federal funding, and

WHEREAS, the LPA will support the RC and is ultimately responsible to ensure that, at a minimum:

1. The project receives independent and careful development, supervision and inspection,
2. The project is constructed in compliance with the plans and specifications,
3. All aspects of the project from planning through construction activities, including all environmental commitments remain eligible for Federal funding, and
4. Decisions made and actions taken for the project have adequate supporting documentation filed in an organized fashion, and

WHEREAS, if the LPA is to receive Federal participation for any portion of the work on the proposed project, it is necessary for all phases of work to comply with Federal requirements and procedures, and

WHEREAS, the State and the LPA agree the State, on behalf of LPA, will advertise, conduct a letting and receive bids for the project and will pay all eligible costs directly to the Consultant and Contractors, and

WHEREAS, the State's role is only federal funding eligibility, including providing quality assurance and project assistance to ensure that the project is designed, constructed and managed according to federal rules and regulations. The State will coordinate with the LPA on federal funding issues, and

WHEREAS, Trans*Port Site Manager will be used as the construction record-keeping system for construction and construction engineering services for this project, and

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

WHEREAS, the funding for the project under this agreement includes pass-through monies from the Federal Highway Administration (FHWA). If a non-federal entity expends \$500,000 or more in total federal awards in a fiscal year, then OMB Circular A-133 audit requirements must be addressed as explained further in this agreement, and

WHEREAS, the total cost of the project, including preliminary engineering, is currently estimated to be \$576,699.00, but such costs may increase or decrease due to variations between the estimated and actual project costs, and

WHEREAS, the LPA has earmarked and will place in its fiscal budget sufficient funds to pay all project costs not paid for by Federal funds; such costs are currently estimated to be \$173,010.00 (30% of \$576,699), but such costs may increase or decrease due to variations between the estimated and actual project costs, and

WHEREAS, the project is described as follows:

Design and build a concrete trail 8 feet wide for 600 feet that will pass underneath Nebraska Highway 35 and connect with proposed trails on the north side of Highway 35 and with the trail on the south side and

WHEREAS, the LPA desires that this project as shown on attached EXHIBIT "A" be constructed under the designation of Project No. ENH-90(6), as evidenced by the Resolution of the LPA dated the _____ day of _____, 2011, attached as EXHIBIT "B" and made a part of this agreement.

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

SECTION 1. PURPOSE OF AGREEMENT

The LPA wishes to implement, plan, design, construct, operate, and maintain a Federal-aid transportation project on a street, highway, road or other transportation related facility under LPA's jurisdiction. The LPA and the State understand that the Federal Highway Administration (FHWA) will not provide funding directly to LPA for this project; instead, FHWA provides funding for the project through the State. The State, pursuant to Neb.Rev.Stat. §39-1305, will act under this agreement as a steward of federal funds and as a liaison between LPA and FHWA. The purpose of this agreement is to set forth the understanding of the LPA and the State concerning their respective duties to enable the project to be eligible for federal-aid funding. Under this agreement, the LPA shall continue to have all duties concerning any aspects of project management, planning, design, construction, operation and maintenance. Nothing in this agreement shall be construed to create any duty of the State to LPA concerning such matters. LPA further agrees that LPA shall have no claim or right of action against the State under this agreement if FHWA determines that the project is not eligible in whole or in part, for federal-aid funding. The following sections of this agreement include the program requirements and other conditions State believes in good faith that LPA must meet for this project to be eligible for federal funding.

SECTION 2. DEFINITIONS

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

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

"ADA" means the Americans with Disabilities Act.

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

"CFDA" means Catalog of Federal Domestic Assistance.

"CFR" means the Code of Federal Regulations.

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

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

"FULL-TIME PUBLIC EMPLOYEE" means a public employee who meets all the requirements and is afforded all the benefits of full-time employees as that phrase is applied to other employees of the employing entity. A person is not a full-time employee if that person provides outside private consulting services, or is employed by any private entity, unless that person can prove to the State in advance, that employee's non-public employment is in a field unrelated to any aspect of the project for which Federal-aid is sought.

"FULLY QUALIFIED" means a person who has satisfactorily completed all applicable State training courses and who has met the other requirements necessary to be included on the State list of qualified LPA "Responsible Charge" (RC's).

"LPA" means Local Public Agency sponsoring a federally funded transportation project and determined to be qualified to assume the administrative responsibilities for such projects by the State.

"LPD" means the Local Projects Division at Nebraska Department of Roads, in Lincoln, Nebraska.

"NEB. REV. STAT" means the Nebraska Revised Statutes as set forth in Nebraska law.

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

"PUBLIC EMPLOYEE" for the purpose of selecting an RC for this project means a person who is employed solely by a county, a municipality, a political subdivision, a Native American tribe, a school district, another entity that is either designated by statute as public or quasi-public, or entity included on a list of entities determined by the State and approved by the Federal Highway Administration (FHWA), as fulfilling public or quasi-public functions.

"RESPONSIBLE CHARGE" or "RC" means the public employee or elected official who is fully empowered by the LPA and has actual day-to-day working knowledge and responsibility for all decisions related to all aspects of the Federal-aid project from planning and development through construction project activities, including all environmental commitments before, during and after construction. The RC is the day-to-day project manager, and the LPA's point-of-contact for the project. Responsible charge does not mean merely delegating the various tasks; it means active day-to-day involvement in identifying options, working directly with stakeholders, making decisions, and actively monitoring project construction. It is understood that RC may delegate or contract certain technical tasks associated with the project so long as RC actively manages and represents the LPA's interests in the delegated technical tasks.

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

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

"STATE REPRESENTATIVE" means an individual from the Nebraska Department of Roads District Office assigned to the project, who will perform State's federal funding eligibility duties under this agreement.

SECTION 3. TERM OF THE AGREEMENT

This agreement will begin upon proper execution and continue in effect until the LPA's Federal-aid project is finished and final financial settlement has been completed, except that any terms of this agreement that contemplate long term activities of the LPA such as environmental, maintenance, and operational commitments, will remain in effect as long as required by law or agreement. If the LPA determines that for any reason it

will not continue with the development of this project as a Federal-aid project, the LPA shall notify the State and negotiate any necessary project termination conditions, and the LPA shall pay or repay the State for all costs incurred by the State prior to the LPA notifying the State that it is discontinuing work on the project.

SECTION 4. RESPONSIBLE CHARGE (RC) REQUIREMENTS

The LPA must immediately and formally appoint an RC for this project according to or consistent with the following requirements:

- A. The LPA hereby designates Joel Hansen as the RC for this project.
- B. Duties and Assurances of the LPA concerning its designated RC for this project.
 - 1. The LPA has authorized and fully empowered the RC to be in day-to-day responsible charge of the subject Federal-aid project; this does not mean merely supervising, overseeing or delegating various tasks, it means active day-to-day involvement in the project including identifying issues, investigating options, working directly with stakeholders, and decision making.
 - 2. The RC is a full-time employee or elected official of the LPA or of another entity as defined in "Public Employee" above.
 - 3. The RC is fully qualified and has successfully completed required training to serve as an RC.
 - 4. The LPA shall allow the RC to spend all time reasonably necessary to properly discharge all duties associated with the project, including ensuring that all aspects of the project, from planning through post-construction activities, remain eligible for Federal-aid highway project funding.
 - 5. The LPA shall not assign other duties to the RC that would affect his or her ability to properly carry out the duties set out in this agreement.
 - 6. The LPA shall provide necessary office space, materials and administrative support for the RC.
 - 7. The LPA shall fully cooperate with, support and not unreasonably interfere with day-to-day control of the RC concerning the acts necessary for making the project eligible for Federal funding.
 - 8. The LPA shall take all necessary actions and make its best good faith efforts to comply and assist the RC in complying with all Federal and State requirements and policies applicable to Federal-aid transportation projects, including, but not limited to, all applicable requirements of 23 CFR 635.105.

9. The LPA agrees to take all necessary actions and make its best good faith efforts to ensure that the RC's work on the project would be deemed to meet the same standards that the State must meet under 23 CFR 635.105.
 10. The LPA shall comply with the conflict-of-interest requirements of 23 CFR 1.33 and 49 CFR 18.36(b)(3) as described elsewhere in this agreement.
 11. If, for whatever reason, the designated RC is no longer assigned to the project during the design phase, the LPA shall, within one day or sooner if possible, notify verbally and in writing the State's LPD Quality Management Engineer and the LPD Project Coordinator; after such notification the LPA shall replace the RC no later than thirty calendar days or sooner if possible. If the designated RC must be replaced during the letting or construction phases, the LPA shall, within one day or sooner if possible, notify verbally and in writing the State's LPD Quality Management Engineer, the LPD Project Coordinator, and the State District Representative; after such notification, the LPA shall replace the RC no later than ten calendar days or sooner if possible. The State will require the LPA to sign a supplemental agreement designating the replacement RC.
 12. The LPA agrees that it is ultimately responsible for complying with all Federal and State requirements and policies applicable to Federal-aid highway projects. This includes meeting all post-construction environmental commitments. The LPA understands that failure to meet any eligibility requirements for Federal funding may result in the loss of all Federal funding for the project. In the event that the acts or omissions of RC, the LPA or its agents or representatives result in a finding that a project is ineligible for Federal funding, the LPA will repay the State all previously paid Federal funds, as determined by the State, and any costs or expenses the State has incurred for the project, including but not limited to, any costs reimbursed for the time and expenses of the RC.
- C. The LPA understands that the following are the duties of the RC:
1. Serve as the LPA's contact for issues or inquiries for Federal-aid projects assigned by the LPA.
 2. Ensure that all applicable Federal, State and local laws, regulations, policies and guidelines are followed during the development and construction of the project.
 3. Know and follow the State's LPA Guidelines Manual for Federal-Aid Projects.

4. Ensure that funds have been authorized by FHWA, in writing, prior to doing work in any phase that the LPA expects to be reimbursed with Federal funds.
5. Have active day-to-day involvement in identifying issues, investigating options, working directly with stakeholders, and decision making.
6. Ensure that the project plans and specifications are sealed, signed and dated by a professional licensed engineer in the State of Nebraska, and that estimates have been prepared and the construction has been observed by a professional engineer licensed in the State of Nebraska or a person under direct supervision of a professional engineer licensed in the State of Nebraska (reference Neb. Rev. Stat. §81-3445).
7. Competently manage and coordinate the project day-to-day operations, including all project related decisions, on behalf of the LPA, which includes the LPA's governing body, staff and any extended staff dedicated to the project such as consulting engineers.
8. Ensure that project documents are thoroughly checked, reviewed and have had quality control measures applied, prior to submitting to the State and/or FHWA.
9. Monitor the progress and schedule of the project and be responsible for ensuring that the project is completed on time in accordance with established milestone dates.
10. Notify and invite the State to all coordination meetings, environmental scoping meetings, Plan-In-Hand review, public meetings and hearings.
11. Keep the State informed of all project issues.
12. Arrange preconstruction conference.
13. Keep the State's District Construction Representative informed of project start, and ending dates and other scheduled construction milestones.
14. Be trained in the use of Trans*Port Site Manager if the LPA is providing the construction engineering services.
15. Prepare contractor change orders.
16. Notify the State when consultant services agreements need to be supplemented.
17. Properly serve as the LPA's representative, and to visit the project site during construction frequency commensurate with the magnitude and complexity of the project.

18. Ensure that proper construction management processes have been developed and implemented for the project.
19. Serve as a steward of the public funds, i.e. ensure that the public gets what it is paying for.
20. Attend all required training including the annual LPA RC workshop.
21. Fulfill continuing education requirements as specified in the State's LPA Guidelines Manual for Federal-aid projects.
22. Review and approve Professional Services invoices in accordance with the LPA Reimbursement Procedures located at <http://www.dor.state.ne.us/gov-aff/lpa-guide-man.html#forms4>.

SECTION 5. FEDERAL AID

The LPA understands and agrees that the LPA, its RC, agents, and Contractor have the sole duty of proper prosecution of the project, in accordance with the approved plans, and that failure to properly prosecute and construct the project in accordance with the approved plans may result in the loss of federal funding.

Because the LPA is to receive Federal Funds for any part of this project, the LPA shall perform the services for all phases of work, including, but not limited to preliminary engineering, environmental studies, acquisition of Right-of-Way, construction, construction engineering, etc., according to Federal procedures and requirements. Although Federal Funds may be allocated to the project, all phases or certain phases of work may become ineligible for Federal Funds if Federal procedures and requirements are not met.

Prior to beginning any phase of work on the proposed project, the LPA shall coordinate with the State's Local Projects Division Section Engineer for direction and assistance concerning funding requirements to ensure that all upcoming project work will be accomplished according to Federal procedures and requirements. It is the responsibility of the LPA/RC to verify with documented evidence that federal funding authorization was obtained prior to beginning any new phase of project work.

SECTION 6. FEDERAL APPROVAL

The State, on behalf of the LPA agrees to present the project to the FHWA for its approval, if necessary. This project has been designated as a full oversight project.

Federal approval for proceeding with the project must be obtained by the LPA at the beginning of each of the following phases of the project:

1. Preliminary Engineering and NEPA

2. Right of Way
3. Utilities
4. Construction Engineering
5. Construction

Before each new work phase begins, the LPA must confirm that FHWA (1) has approved the obligation of funds (2) authorized the work in that phase to begin, and (3) given approval for a notice to proceed to be issued. Before providing services covered in any original and/or supplemental services agreement, the LPA must confirm that FHWA (1) has approved the obligation of funds (2) authorized the work in that phase to begin, and (3) given approval for a notice to proceed to be issued.

SECTION 7. LPA GUIDELINES

The LPA agrees to conform to the requirements of the LPA Guidelines Manual throughout all phases of this project. In the event the LPA believes that the LPA Guidelines Manual doesn't address clearly a particular aspect of the project work, the LPA shall seek guidance or clarification from the State's Local Project Division Section Engineer or Project Coordinator.

SECTION 8. OMB CIRCULAR A-133 AUDIT

The funding for the project under this agreement includes pass-through federal monies from the FHWA. According to the Single Audit Act Amendments of 1996 and the implementing regulations contained in OBM Circular A-133, the A-133 Audit is required if the non-federal entity expends \$500,000 or more in total federal awards in a fiscal year. Non-federal entity means state and local governments and non-profit organizations.

The LPA shall have its finance officer or auditor; review the situation to determine what the LPA must do to comply with this federal mandate. If an A-133 audit is necessary, the expenditures related to the federal funds expended under this project should be shown in the report's Schedule of Expenditures of the Federal Awards (SEFA).

The Federal award information needed for the SEFA includes:

Federal Grantor: U.S Department of Transportation – Federal Highway Administration

Pass-Through Grantor: Nebraska Department of Roads

Program Title: Highway Planning and Construction (Federal-Aid Highway Program)

CFDA Number: 20.205

Project Number: ENH-90(6)

If an A-133 Audit is performed, the LPA shall provide a copy of the audit report to the Nebraska Department of Roads, Highway Audits Manager, P.O. Box 94759, Lincoln, NE 68509-4759.

SECTION 9. TOTAL PROJECT COSTS, REIMBURSEMENT AND INVOICING

The LPA is responsible for submitting for payment only those costs that are eligible for Federal-aid. The State, on behalf of FHWA, will review the costs submitted and determine what costs are eligible for payment. Upon request from the State, the LPA will produce all cost records detailing the basis for all costs incurred on the project. The total cost of the project which includes: preliminary engineering, final design, right-of-way, nonbetterment utility rehabilitation, construction, construction engineering, and LPA and State eligible expenses (as outlined below) is currently estimated to be \$576,699.00. The LPA's share of all actual eligible costs is estimated to be \$173,010.00. The State agrees to use the LPA's Federal Funds for the actual eligible costs of the improvement which is estimated to be \$403,689.00. Both the LPA and State recognize this is a preliminary estimate and the final cost may be higher or lower.

LPA Incurred Oversight Costs:

Project initiation and oversight costs incurred by the LPA with respect to the entire project will be part of the cost of the project to be paid out of LPA Federal Funds. Before the LPA can incur reimbursable costs, the LPA must receive pre-authorization in accordance with the LPA Reimbursement Procedures located at <http://www.dor.state.ne.us/gov-aff/lpa-guide-man.html#forms4>. Pre-authorized costs for project initiation, project oversight, and incurred expenses such as railroad, utilities, and right-of-way, must be invoiced to the State in accordance with the LPA Reimbursement Procedures and this agreement. The LPA may request reimbursement of their eligible actual costs by submitting an invoice to the State, no more than monthly. The State will reimburse the LPA for the Federal share of the eligible actual costs.

LPA Incurred Professional Services:

Professional services provided by the LPA, such as preliminary engineering and construction engineering, require execution of a Professional Services Agreement to identify the services to be provided by the LPA, associated costs, and method of reimbursement. **Any Professional Services performed prior to Federal authorization and receipt of a Notice to Proceed will not be eligible for Federal-aid.**

Professional Consultant Services:

Upon execution of any professional consultant services agreement for this project, the State may invoice the LPA their share of the total agreement amount. The RC will review and approve any professional services invoices in accordance with the LPA Reimbursement

Procedures. Upon review and approval by the State of RC approved professional services invoices, the State will pay the consultant(s) directly.

Construction, Contingencies and Construction Engineering:

Upon award of the construction contract, the State will invoice the LPA their share of the construction contract plus contingencies and construction engineering, and any unbilled preliminary engineering expenses. The LPA shall pay the State within 30 calendar days of receipt of invoice from the State. The RC will review and approve any Construction Engineering invoices in accordance with the LPA Reimbursement Procedures. Upon review and approval by the State of RC approved professional services invoices, the State will pay the consultant(s) directly.

The criteria contained in Part 31 of the Federal Acquisition Regulations System (48 CFR 31) will be applied to determine the allowability of costs incurred by the LPA under this agreement; to include any Professional Services agreements.

State Incurred Costs

Any project coordination and quality assurance review costs incurred by the State with respect to the entire project will be part of the cost of the project to be paid out of LPA Federal Funds. The State at its discretion may invoice the LPA their share of these costs and the LPA shall make payment within 30 calendar days of receipt of invoice.

Final reimbursement requests must be made within 60 days after the LPA has filed a completed State DR Form 299 with the State. Any invoices submitted after the 60 calendar days will be ineligible for reimbursement.

The final settlement between the State and the LPA will be made after final funding review and approval by the State and after an audit, if deemed necessary, has been performed to determine eligible actual costs. Refer to the AUDITS AND FINAL SETTLEMENT section of this agreement for additional information.

SECTION 10. LPA FINANCIAL RESPONSIBILITY

The LPA's share of the total project cost will be all costs not paid for by Federal Funds. The LPA understands that payment for the costs of this project, whether they be services, engineering, Right-of-Way, utilities, material or otherwise, are the sole responsibility of the LPA where Federal participation is not allowable or available or if the project is subsequently determined to be ineligible for Federal-aid funding. Therefore, where the Federal government refuses to participate in the project or any portion of the project the LPA is responsible for full project payment with no cost or expense to the State in the project or in the ineligible portion of

the project. Should the project be abandoned before completion, the LPA shall pay or repay the State for all costs incurred by the State prior to such abandonment.

SECTION 11. SCHEDULE

The LPA shall provide the State with current project schedules, submittal dates and critical milestone dates. The LPA shall notify and keep the State informed on all project issues.

SECTION 12. PROCUREMENT OF PROFESSIONAL SERVICES

If a Consultant is to be selected to provide professional services for the project (preliminary engineering, construction engineering), the method of procurement and evaluation must follow all guidelines and requirements outlined in the LPA Guidelines Manual. For funding eligibility, the State will review and approve the Request for Proposals prior to advertising. To maintain Federal-aid eligibility for the project, the selected Consultant must be a State Certified Consultant.

SECTION 13. PRELIMINARY ENGINEERING

The Parties agree that preliminary engineering, which includes project design, plan development, environmental studies and final design, will be accomplished by the LPA or a State Certified Consultant selected by the LPA. Preliminary engineering costs are estimated to be \$47,006. The scope of professional services to be provided by the selected Consultant must be negotiated by the LPA and outlined in a Professional Services Agreement and executed by the LPA and Consultant. The form of the Professional Services Agreement must be approved by the State for funding eligibility. **Any PE work performed prior to Federal authorization and receipt of a Notice to Proceed will not be eligible for Federal-aid.** The State will pay the Consultant directly. The Consultant and LPA shall invoice the State for reimbursement in accordance with the TOTAL PROJECT COSTS, REIMBURSEMENT AND INVOICING section in this agreement.

The LPA, with State technical advice when requested, agrees to perform or caused to be performed a preliminary survey and all necessary plans, specifications and estimates for the proposed work. All plans, specifications, and estimates must be presented to the State for funding approval to ensure adherence to Federal Standards. The LPA or its Consultant shall design the project according to the current State of Nebraska Standard Specifications for Highway Construction, the American Association of State Highway and Transportation Officials Guide for the Development of Bicycle Facilities and the Designing Sidewalks and Trails for Access Part II or II: Best Practices Design Guide, the Americans with Disabilities Act (ADA)

Accessibility Guidelines and the LPA Guidelines Manual for Federal-aid projects. Any deviations from the above must be approved by the State prior to preparation of plans.

Professional Performance:

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

SECTION 14. ENVIRONMENTAL RESPONSIBILITY

The LPA shall be responsible to complete any federally required environmental reviews, actions, commitments, and documents for this project, and receive approval by the State and the FHWA **prior** to proceeding with appraising property, acquiring any right-of-way, or final design for the project.

The LPA agrees to acquire any or all permits necessary to accomplish the project.

When it is determined that public involvement is a federal requirement for the project, the LPA shall offer an opportunity for a location or design hearing or combined location and design public hearing.

If a public hearing/meeting is required, the LPA may contact the State's Public Hearing Officer (PHO) prior to doing any public hearing activity, so the PHO can advise the LPA of the proper procedures and policies for conducting the hearing, or to answer any questions.

SECTION 15. RAILROAD

This section has intentionally been left blank in this contract.

SECTION 16. UTILITIES

Any utility rehabilitations or installations made within the Right-of-Way on this project after execution of this agreement must be in accordance with the provisions of Federal-aid Highway Policy Guide, 23 CFR 645A, "Utility Relocations, Adjustments and Reimbursement", and Federal-Aid Policy Guide, 23 CFR 645B, "Accommodation of Utilities" issued by the U.S. Department of Transportation, Federal Highway Administration, and a State approved Utility Accommodation Policy. In order to receive Federal-aid for this improvement, the LPA shall

follow the current "Policy for Accommodating Utilities on State Highway Right-of-Way" and the LPA manual. In order for the utility work to be eligible for Federal-aid, a utility agreement between the LPA and the Utility will need to be executed by both parties and approved by the State, and Notice to Proceed will be given by the State to the LPA, prior to beginning the utility work being done. The State's standard utility agreement (State Template AGR167) must be used; a copy of this agreement can be obtained from the LPD Project Coordinator.

Any local project work within a State Highway right-of-way requires an approval in the form of a letter of authorization or a permit from the State. The LPA shall contact the State's District Engineer or Permits Officer to determine if a permit or permits is needed for the project and to make application for those permits if necessary.

All nonbetterment municipally owned and operated utility rehabilitation costs within the corporate limits of the LPA will become a project cost. Outside the corporate limits, the nonbetterment portion of utility rehabilitation costs will be reimbursed for facilities occupying private property.

Further, there will be no Federal reimbursement for private or nonmunicipally owned and operated utilities if they are located on public Right-of-Way, however, nonbetterment costs of privately owned and operated utilities that serve a public interest will be reimbursed if they exist on private property and it is necessary to rehabilitate the utilities due to this project. All such reimbursements will be based on items and estimates submitted by the utility and approved by the LPA and State. Should this project necessitate the nonbetterment rehabilitation of any municipally and/or privately owned and operated utilities, the parties hereto agree to enter into a separate agreement (State Template AGR167) to provide for the preliminary engineering, construction and construction engineering of the nonbetterment utilities and the reimbursement to the City by the State for the costs of the rehabilitation of municipally and/or privately owned and operated utilities. Said agreement shall be entered into and approved prior to utility work beginning.

SECTION 17. RIGHT-OF-WAY

The Federal law governing acquisition and relocation on federally assisted projects is Public Law 91-646, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended, commonly called the Uniform Act. The LPA shall comply with the Uniform Act, and the State's Right-of-Way Acquisition guide for LPA's.

The Uniform Act applies whenever Federal dollars are used in any phase of a project, such as planning, engineering, environmental studies, or construction. **The Uniform Act must be**

followed even if there is NO Federal funding in the Right-of-Way phase. The State's Relocation Assistance Act, Neb. Rev. Stat. 76-214 through 76-1238 applies on all projects.

Prior to beginning Right-of-Way appraisals and acquisition, the LPA shall submit to the Local Projects Division Project Coordinator Right-of-Way plans, legal descriptions and an estimate for review and approval for federal funding. If acceptable for funding, the State will issue the LPA a Notice-to-Proceed with the Right-of-Way work phase.

Prior to proceeding with the construction phase, the LPA shall present to the State a Right-of-Way Certificate that certifies the LPA has complied with the Uniform Act requirements and that the project is ready for construction. The State will allow the construction phase of the project to begin, if the documentation submitted by the LPA supports the Right-of-Way Certificate and if all other Right-of-Way requirements have been met.

The LPA shall assure the State, and certify after accomplishment, that any Right-of-Way for this improvement not donated in compliance with FHWA guidelines will be or has been acquired in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended, 49 CFR 24, and the State's Right-of-Way Manual as approved by FHWA.

Any eligible actual Right-of-Way costs incurred by the LPA shall be billed to the State for reimbursement in accordance with the TOTAL PROJECT COSTS, REIMBURSEMENT AND INVOICING section in this agreement.

SECTION 18. RIGHT-OF-WAY ENCROACHMENTS

The LPA, at no cost to the project, shall clear the entire existing Right-of-Way of this project of any private or non-LPA uses or occupancy of the area above, below, or on the existing Right-of-Way. Also, the LPA agrees to keep the old and new Right-of-Way free of future encroachments, except those specifically authorized by permit.

The LPA must have all encroachments cleared from the Right-of-Way before requesting a Right-of-Way Certificate and must attest to said clearance.

SECTION 19. LAND CORNERS

The LPA shall locate and reference or have located and referenced all section corners, quarter section corners and subdivision lot corners required for construction of the proposed project in accordance with Section 39-1708 et. seq., R.R.S. 1943 as amended.

SECTION 20. SPECIAL ASSESSMENTS

Prior to initiating a special assessment on a federal aid project, the LPA shall notify the NDOR LPD-PC of their proposed assessment. If a special assessment is levied as part of a

Federal-aid project, it shall be conducted as described in the NDOR Right of Way manual, which, as of October 2010, is in the process of being revised on this issue. See the revised NDOR Right of Way manual language below.

The LPA is required to provide the four points of documentation to the LPD-PC. They are also required to follow all the terms of the Uniform Act in the acquisition of right of way for a Federal-aid project.

Revised NDOR Right of Way Manual language:

"When federal funds participate in a project, an LPA may not levy a *special assessment*, solely against those property owners from whom acquisitions are made for the public improvement, for the primary purpose of recovering the compensation paid for the real property. This recapture of compensation would constitute a form of forced donation, which is coercive and thus not permitted under the Uniform Act.

However, an LPA may levy an assessment to recapture funds expended for a public improvement, provided the assessment is levied against all properties in the taxation area or in the district being improved and provided it is consistent with applicable local ordinances."

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

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

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

SECTION 21. LETTING

At the request of FHWA, the State, on behalf of the LPA, will hold a bid letting for this project. The State agrees to receive and review all plans, specifications, estimates and surveys of the LPA and to advertise and conduct a bid letting for this project. The State will recommend the selection of low bidders and the awarding of a contract or contracts which shall be concurred in by the LPA, and the construction contract shall be signed by the LPA.

The LPA shall submit the final plans package (100 percent plans, specifications, engineers' estimate, status of utilities, environmental permits, right-of-way certificate and contract bidding documents) to the State's Local Projects Division Project Coordinator for review when the package is complete. The State will review the submitted items and proceed with advertising the project for bids when appropriate. The LPA is solely responsible for the accuracy and completeness of the plans and bidding documents. The selection of low bidders and awarding of a contract or contracts must be concurred in by the LPA prior to State award. The LPA will sign the contract and will issue all applicable purchasing agent appointments and tax exempt certificates for this project.

SECTION 22. CONTRACTOR PAYMENTS

All project contractor construction costs will be paid directly to the contractor by the State, on behalf of the LPA. Progress invoices and final invoices shall be prepared by the RC or Consultant using **Trans*Port Site Manager Software**. The RC or Consultant must be trained by the State in the use of **Trans*Port Site Manager Software**. Any progress and final invoices approved by the LPA or RC shall be submitted to the State Representative for funding approval and processed for payment.

SECTION 23. CONSTRUCTION ENGINEERING

The LPA will be solely responsible for all construction engineering on this project. The Parties agree that the construction engineering, which is an eligible project expense and which includes construction management, staking, inspection and field testing, will be accomplished by LPA forces or a State Certified Consultant selected in accordance with the LPA Guidelines Manual. Prior to the selected Consultant providing any construction engineering services, the scope of services and associated costs must be negotiated by the LPA and outlined in a Professional Services Agreement executed by the Consultant and the LPA. The form of the Professional Services Agreement must be approved by the State for funding eligibility. **Any construction engineering services performed prior to execution of said agreement,**

Federal authorization and receipt of a written Notice to Proceed will not be eligible for Federal funding.

The inspection, sampling and testing of all materials must be done in accordance with the current State of Nebraska Standard Specifications for Highway Construction, the State Materials Sampling Guide, the Quality Assurance Program for Construction, and the State Standard Methods of Tests or applicable AASHTO or ASTM procedures and as outlined in the Professional Services Agreement.

The LPA shall provide adequate quality control, construction administration on the project and will be responsible for the sampling and delivery of project materials for testing to a qualified laboratory.

In all cases, the LPA is solely responsible for inspecting the project, performing quality assurance, and insuring that the project is constructed in compliance with this contract, plans, specifications, scope of work, regulations, statutes, etc. The State Representative will evaluate the LPA's work solely for federal funding eligibility.

SECTION 24. PROJECT COMPLETION

Upon project completion, the LPA shall complete and sign a State DR Form 299, "Notification of Project Completion and Materials Certification" and provide it to the State Representative for further action.

The LPA by signing DR Form 299 certifies that all sampling and test results of materials used on the project, manufacturer's certificates of compliance and manufacturer's certified test reports meet contract requirements and are on file with the LPA. The LPA shall make them available for inspection to the State and the FHWA or their authorized representatives when requested in writing to do so.

The State Representative assigned to the project will conduct a final review of the project and will determine if the project meets federal program requirements. If the State District Construction Representative determines the project, meets federal program requirements the State District Construction Representative will sign the DR Form 299 and send it to the State District Engineer for signature. The State District Engineer will forward the form to the State's Local Projects Division Section Engineer for signing, project closeout and final payment. If the State District Construction Representative determines the project does not meet federal program requirements, the State District Construction Representative will notify the LPA's RC in writing of what needs to be done to bring the project into compliance before the State District Construction Representative will sign the DR Form 299 and recommend the project is ready for

closeout. The LPA shall contact the State's District Engineer for State District Construction Representative assignment. It is understood that any time spent by the State Representative on this project will be part of the cost of the project and the State's expenses will be included as costs of the project, as specified in this agreement.

Upon project completion and final review, the LPA shall send one set of "As-Built" plans to the State's Local Projects Section Engineer and one set to the State's District Engineer.

SECTION 25. AUDIT AND FINAL SETTLEMENT

Final settlement cannot be made between the State and the LPA until the LPA has filed a completed State DR Form 299 with the State, and both the LPA and the State have signed it.

The final settlement between the State and the LPA will be made after final funding review and approval by the State and after an audit, if deemed necessary, has been performed to determine eligible actual costs. The amount of the final settlement between the State and the LPA will be the calculated LPA's share of the total eligible project costs less the total local funds paid to the State by the LPA.

If the LPA's share of the eligible project costs is more than the local funds paid to the State, the State will bill the LPA an amount up to the LPA's share of the eligible project costs. The LPA agrees to reimburse the State for any overpayments discovered by the State within thirty (30) days of receipt.

If the LPA's share of the eligible project costs is less than the local funds paid to the State, the State will reimburse the LPA an amount up to the LPA's share of the eligible project costs.

SECTION 26. CHANGES TO LPA ROUTES

Changes to the LPA routes which affect the function or operation of the improvement made either during construction or after the project is completed, will require prior approval of the State. Requests for changes during project construction must be made to the State Representative who will then forward it to the Local Projects Division Project Coordinator for final approval.

SECTION 27. MAINTENANCE AND ENVIRONMENTAL COMMITMENTS

Upon project completion, the LPA shall maintain the project at its own expense, and agrees to make provisions each year for the maintenance costs involved in properly maintaining this facility. The LPA shall also be responsible for any required environmental commitments and monitoring after the construction of the project. The LPA will release and hold harmless the State and FHWA from any suits brought against the State arising out of the LPA's construction, operation, and maintenance of or related to the project.

SECTION 28. TRAFFIC CONTROL

The LPA shall be responsible for all traffic control along the project, and on project related detours, before, during and after construction. Traffic control must conform to the Manual on Uniform Traffic Control Devices. By requesting financial settlement of the project the LPA certifies that all traffic control devices on the finished project have been properly completed or installed.

SECTION 29. CONFLICT OF INTEREST LAWS

This LPA Federal-aid transportation project will be subject to federal conflict of interest provisions, including 23 CFR § 1.33 and 49 CFR § 18.36(b)(3). Generally, federal conflict of interest laws prohibit a full or part-time public employee, public official or agent who negotiates, approves, accepts, administers, or is otherwise involved with, any consultant contract or subcontract on a federal-aid project, from having a direct or indirect financial or personal interest, real or apparent, in such consultant contract with the public entity for which he or she is a public official, employee or agent. Conflicts of Interest can also arise when someone associated with a public employee or official has an interest in an LPA Consultant contract, or if they own real estate that may be needed for the project.

LPA shall:

- (1) Create an internal process for LPA to (a) identify in advance its officials, employees and agents, that are also employees, owners or persons with an interest in a Private Business that Provides Goods or Services for Transportation Projects, (b) identify whether anyone who has such an interest has any duties for the LPA as to the negotiating, approving, accepting, administering (or have influence over the persons handling those duties) or other duties involved in the consultant contracting process for federal-aid transportation projects, and (c) identify whether any LPA officials, employees or agents have an ownership interest in any real estate that may be acquired or used as a part of a federal-aid project of LPA.
- (2) Properly complete and submit all required conflict of interest forms; and disclose to the State any actual or potential conflicts of interest it has identified.
- (3) Not enter into a contract with a Private Business that Provides Goods or Services for Transportation Projects when LPA knows, or has reason to believe, that a conflict of interest exists.

LPA understands that if the State or FHWA determine that a conflict of interest exists on LPA's project, LPA will not be eligible for Federal-aid funding and LPA will be required to reimburse State for any costs incurred on the project.

SECTION 30. DRUG FREE WORKPLACE

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

SECTION 31. RECORDS RESPONSIBILITY

The LPA shall maintain all correspondence files, books, documents, papers, field notes, quantity tickets, accounting records and other evidence pertaining to costs incurred and shall make such material available at its office at all reasonable times during the contract period and for three years from the date of final cost settlement under this agreement; such records must be available for inspection by the State and the FHWA or any authorized representatives of the Federal government, and the LPA shall furnish copies to those mentioned in this section when requested to do so.

SECTION 32. FAIR EMPLOYMENT PRACTICES

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

SECTION 33. DISABILITIES ACT

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

SECTION 34. LAWFUL PRESENCE IN USA AND WORK ELIGIBILITY STATUS PROVISIONS

The LPA agrees to comply with the requirements of Neb.Rev.Stat. §4-108 to 4-114 with its Federal-aid project, including, but not limited to, the requirements of §4-114(1)(b)) to place in any contract it enters into with a public contractor a provision requiring the public contractor to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska.

SECTION 35. DISADVANTAGED BUSINESS ENTERPRISES (DBE)

A. Policy

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

B. Disadvantaged Business Enterprises (DBEs) Obligation

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

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

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

SECTION 36. TITLE VI NONDISCRIMINATION CLAUSES

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

- (1) Compliance with Regulations: The LPA shall comply with the Regulations of the Department of Transportation relative to nondiscrimination in federally assisted programs of the Department of Transportation (Title 49, Code of Federal Regulations, Parts 21 and 27, hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this agreement.
- (2) Nondiscrimination: The LPA, with regard to the work performed by it after award and prior to completion of the contract work, shall not discriminate on the basis of disability, race, color, sex, religion or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The LPA shall not

participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix "A," "B," and "C" of Part 21 of the Regulations.

- (3) Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the LPA for work to be performed under a subcontract, including procurements of materials or equipment, each potential subcontractor or supplier shall be notified by the LPA of the LPA's obligations under this agreement and the Regulations relative to nondiscrimination on the basis of disability, race, color, sex, religion or national origin.
- (4) Information and Reports: The LPA shall provide all information and reports required by the Regulations, or orders and instructions issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the State or the FHWA to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the LPA shall so certify to the State, or the FHWA as appropriate, and shall set forth what efforts it has made to obtain the information.
- (5) Sanctions for Noncompliance: In the event of the LPA's noncompliance with the nondiscrimination provisions of this agreement, the State will impose such contract sanctions as it or the FHWA may determine to be appropriate, including but not limited to,
 - (a) Withholding of payments to the LPA under this agreement until the LPA complies, and/or
 - (b) Cancellation, termination or suspension of this agreement, in whole or in part.
- (6) Incorporation of Provisions: The LPA shall include the provisions of paragraph (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, order, or instructions issued pursuant thereto. The LPA shall take such action with respect to any subcontract or procurement as the State or the FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that, in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the LPA may request the State to enter into such litigation to protect the interests of the State, and in addition, the LPA may request the United States to enter into such litigation to protect the interests of the United States.

SECTION 37. REPRESENTATIONS

This agreement contains the entire agreement of the LPA and State. No representations were made or relied upon by LPA or State other than those that are expressly set forth herein. No agent, employee or other representative of LPA or State is empowered to alter any of the terms in this agreement unless done in writing and signed by an authorized officer of the LPA and State.

SECTION 38. ACKNOWLEDGEMENTS

The LPA agrees to acknowledge federal and state funding with proper signage such as recognition plaques on buildings or markers on trails. The funding acknowledgement shall state, "This project made possible through funds provided by the Nebraska Department of Roads Transportation Enhancement Program and the Federal Highway Administration." This statement shall also be incorporated into all press releases, web sites and printed information about the project.

IN WITNESS WHEREOF, the LPA and State hereto have caused these presents to be executed by their proper officials thereunto duly authorized as of the dates below indicated.

EXECUTED by the LPA this ____ day of _____, 2011.

WITNESS:
Betty McGuire

CITY OF WAYNE
Lois Shelton

LPA Clerk

Mayor

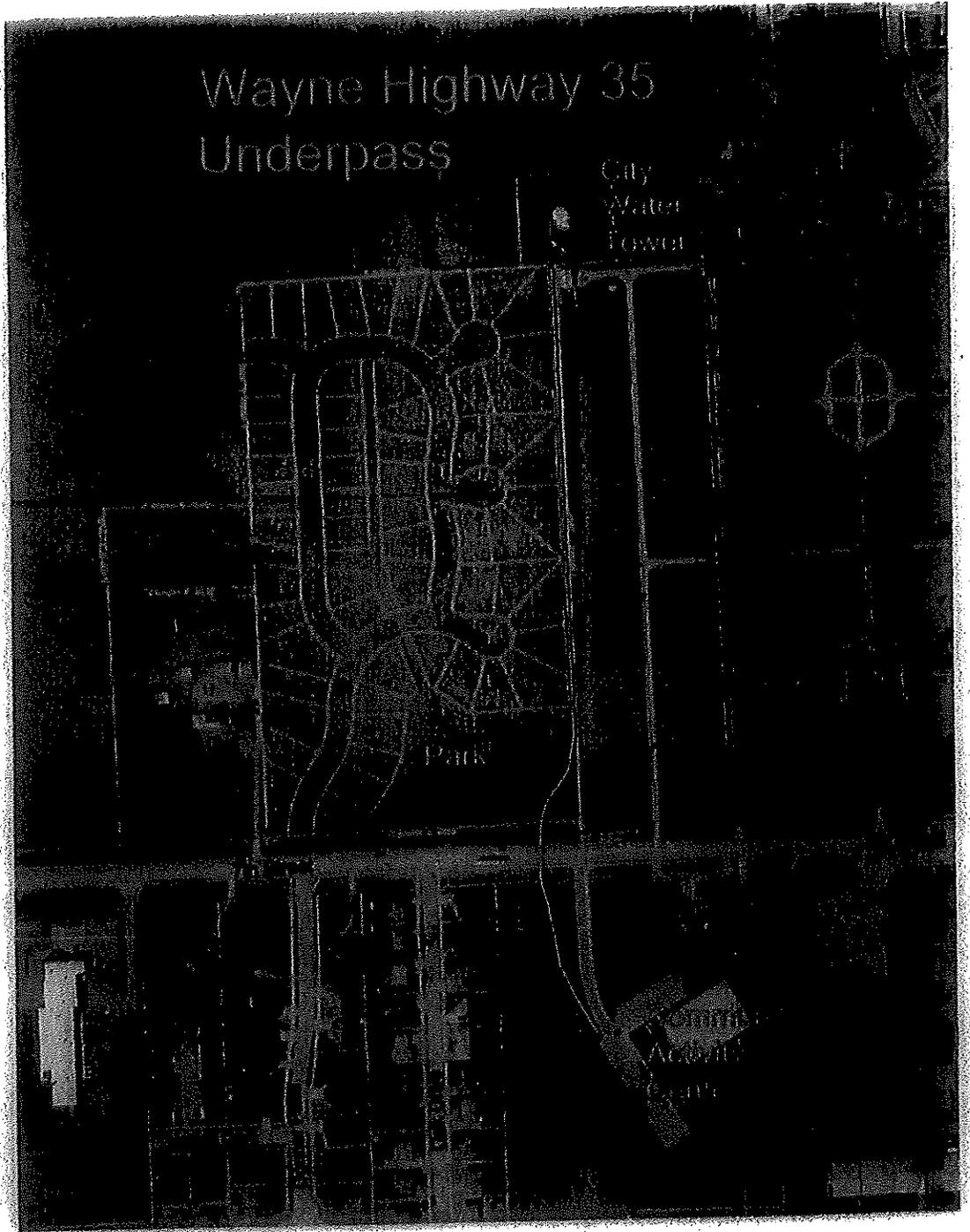
EXECUTED by the State this ____ day of _____, 2011.

STATE OF NEBRASKA
DEPARTMENT OF ROADS
Jim Wilkinson, P.E.

Local Projects Division Engineer

RECOMMENDED:
Kristine Winter

District 3 Engineer



Project No. ENH-90(6)

CN32153

WAYNE HIGHWAY 35 UNDERPASS PROJECT

EXHIBIT "A"