

**AGENDA  
CITY COUNCIL MEETING  
November 15, 2011**

**5:30 Call to Order**

**1. Approval of Minutes – November 1, 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. Report on the Wayne State College/City Garage Sale — Lisa Nelson, WSC**

**4. Action on Application for Membership of Andy Scholl to the Wayne Volunteer Fire Department Cadet Program – Tom Sievers, Fire Chief**

**5. Action on Application for Membership of Trevor Eisenhauer to the Wayne Volunteer Fire Department – Tom Sievers, Fire Chief**

**6. Power Point Presentation/Update of Aquarius Wastewater Plant Construction and Start-up — Garry Poutre, Supt. of Public Works & Utilities**

**7. Public Hearing:** To consider the Planning Commission's Recommendation Regarding a Rezoning Request from I-1 Light Industrial and Manufacturing to I-2 Heavy Industrial and Manufacturing. The area to be rezoned is described as that part of the SW1/4 of Section 8, Township 26 North, Range 4, East of the 6<sup>th</sup> P.M., Wayne County, Nebraska, which lies west of the centerline of the South Logan Creek (Advertised Time: 5:30 p.m.)

**Background:** The area being proposed (see enclosed map) includes all of the industrial properties east of Centennial Road North, north of Highway 35, and west of Logan Creek. The area is currently split zoned into I-1 and I-2. This proposal rezones the entire area into I-2. The property that the "Opportunity Building" is located on is split into two zoning districts. Wes Blecke, WAED, is working with a possible buyer for the "Opportunity Building" and property for a business expansion into Wayne. The property needs to be unified into I-2. The Planning Commission has scheduled their public hearing on this matter for November 14<sup>th</sup>.

**Recommendation:** The Planning Commission will make a recommendation after their public hearing.

8. [Ordinance 2011-31: Amending the Zoning Map](#)
9. [Ordinance 2011-24: Amending Wayne Municipal Code Sec. 90-358\(1\) Regarding Front Yard – Minimum Yard Requirements of the B-1 Highway Business District \(Third and Final Reading\)](#)
10. [Ordinance 2011-25: Amending Wayne Municipal Code Sec. 90-428\(a\) Regarding Front Yard – Minimum Yard Requirements of the B-3 Neighborhood Commercial District \(Third and Final Reading\)](#)
11. [Ordinance 2011-26: Amending Wayne Municipal Code Sec. 90-422 Permitted Principal Uses and Structures, Sec. 90-423\(2\) Permitted Accessory Uses and Structures, and Sec. 90-424 \(13 & 14\) Exceptions of the B-3 Neighborhood Commercial District \(Third and Final Reading\)](#)
12. [Ordinance 2011-27: Amending Wayne Municipal Code Sec. 90-394 Exceptions and Adding Sec. 90-402 Conditional Uses of the B-2 Central Business District \(Third and Final Reading\)](#)
13. [Ordinance 2011-28: Amending the Zoning of Western Ridge Third Addition to B-1 Highway Business District \(Third and Final Reading\)](#)
14. [Ordinance 2011-29: Extending the Hours of Sale of Alcoholic Liquor to 2:00 a.m. on Thursday, December 15<sup>th</sup> and Friday, December 16<sup>th</sup> \(Wayne State College Graduation\) – Second Reading](#)
15. [Ordinance 2011-30: Extending the Hours of Sale of Alcoholic Liquor to 2:00 a.m. on Saturday, December 31<sup>st</sup> \(New Year’s Eve\) – Second Reading](#)
16. [Resolution 2011-88: Approving Program Agreement with NDOR for the Windom Street, East 3<sup>rd</sup> – East 7<sup>th</sup> Street Project](#)

**Background:** The tear out and repaving of Windom Street is still scheduled for 2012. This agreement is a required housekeeping action. We will design this project using KMA, but NDOR will control the bidding and construction process.

**Recommendation:** The recommendation of the Street Superintendent is to approve the agreement with NDOR for funding and administration of the project.

17. [Resolution 2011-89: Amending Resolution 2011-76, which approved the Bid and Awarded the Contract on the “Henry Victor Memorial Park Sign Project” to Tri-City Sign Company by Adding that the Same is Contingent upon Approval by the Nebraska Game & Parks Commission](#)

**Background:** This housekeeping action is required to add the phrase “is contingent upon approval by the Nebraska Game & Parks Commission” to our Resolution that has already been approved by the City Council and the Game and Parks Commission.

18. Resolution 2011-90: Accepting Work on the 2011 Lagoon Sludge Removal and Application Project and Authorizing Final Payment

19. Action on Recommendation from the LB840 Economic Development Advisory Committee to grant \$5,000 to Wayne Area Economic Development for Community and Business Marketing

**Background:** This action will approve the allowed annual staff and office costs to administer the LB840 sales tax Economic Development Plan for the City. This is a reduction from \$10,000 that was requested and approved last year.

20. Set Date for Council Retreat — January 27<sup>th</sup> and 28<sup>th</sup> or February 3<sup>rd</sup> and 4<sup>th</sup>

21. Discussion Regarding Proposed ATV Ordinance

**Background:** Attached is a draft ordinance that would allow restricted travel on Wayne city streets by utility vehicles and ATV's. The City Council considered action on a similar ordinance several years ago when the Legislature gave cities the authority to allow them. At that time, the ordinance did not pass.

This is a revised draft ordinance that meets Nebraska requirements and is on the agenda for discussion purposes. Additional city requirements like local permits and helmets can be added to the draft, but State requirements cannot be removed.

22. Appointments to the Downtown Building Design Committee:

Melanie Loggins	Matt Ley
Paul Lindner	Jill Brodersen
Marie Mohr	Jeff Morlok
Cap Petersen	Tony Kochenash

23. Adjourn

APPROVED AS TO FORM AND CONTENT:

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Mayor

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City Administrator

November 1, 2011

The Wayne City Council met in regular session at City Hall on Tuesday, November 1, 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, Jon Haase, Dale Alexander, Doug Sturm, and Jill Brodersen; City Attorney Kyle Dahl; City Administrator Lowell Johnson and City Clerk Betty McGuire. Absent: Councilmembers Kaki Ley and Kathy Berry.

Notice of the convening meeting was given in advance by advertising in the Wayne Herald on October 20, 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 Sturm made a motion, which was seconded by Councilmember Haase, whereas the Clerk has prepared copies of the Minutes of the meeting of October 18, 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:** AMERITAS, SE, 1481.66; APPEARA, SE, 27.09; ARNIE'S FORD-MERCURY, SE, 291.96; BANK FIRST, SE, 150.00; BLACK HILLS ENERGY, SE, 205.36; BOMGAARS, SU, 113.20; CITY EMPLOYEE, RE, 107.57; CENTURLINK, SE, 309.01; CITY OF WAYNE, SE, 20.00; CITY OF WAYNE, PY, 54887.06; CLAUSSEN & SONS IRRIG., SE, 50.00; COMMUNITY HEALTH, RE, 3.00; CONSOLIDATED MANAGEMENT, SE, 27.50; CREDIT BUREAU SERVICES, RE, 112.16; DE LAGE LANDEN FINANCIAL, SE, 77.00; CITY EMPLOYEE, RE, 79.27; ECHO GROUP, SU, 1600.00; ECHTENKAMP, DOUGLAS, RE, 260.54; EISCHEID ARTIFICIAL RAIN, SE, 90.00; ELECTRIC FIXTURE, SU, 206.83; ENERGY FEDERATION, SU, 2566.00; ERIKSEN CONSTRUCTION, SE, 48404.27;

FIRST CONCORD GROUP, SE, 3834.32; FLOOR MAINTENANCE, SU, 266.98; FORT DEARBORN LIFE, SE, 106.64; FRANK MRSNY, RE, 432.00; GALE GROUP, SU, 1404.00; GERHOLD CONCRETE, SU, 57.38; HAUGE ASSOCIATES, RE, 33.30; HD SUPPLY WATERWORKS, SU, 1438.29; CITY EMPLOYEE, RE, 46.80; CITY EMPLOYEE, RE, 108.00; ICMA, RE, 5773.70; IRS, TX, 17186.64; JAFF LTD, RE, 340.00; GODFATHER'S, SU, 71.50; JEO CONSULTING GROUP, SE, 23241.19; JOHN'S WELDING AND TOOL, SU, 14.96; CITY EMPLOYEE, RE, 840.76; KNIFE RIVER MIDWEST, SU, 750.30; KRIZ-DAVIS, SU, 1693.10; LEAGUE OF NEBRASKA, FE, 400.00; CITY EMPLOYEE, RE, 144.37; MCGUIRE & NORBY, SE, 4711.88; MERCY MEDICAL CLINICS, SE, 200.00; MIDWEST OFFICE AUTOMATION, SE, 1287.97; MONICA WARNER, RE, 431.67; NE DEPT OF REVENUE, TX, 2601.77; NE LAW ENFORCEMENT, SE, 312.00; NE NEB INS AGENCY, SE, 241.00; NE STATE PATROL, SE, 30.00; NNPPD, SE, 4088.48; OLSSON ASSOCIATES, SE, 566.55; POSTMASTER, SU, 57.39; CITY EMPLOYEE, RE, 208.88; QUILL, SU, 101.52; REPCO MARKETING, SU, 52.50; ROSE EQUIPMENT, SU, 69.18; RUSTY PARKER, RE, 528.00; SPARKLING KLEAN, SU, 429.54; SPX COOLING TECHNOLOGIES, SE, 132931.00; STADIUM SPORTING GOODS, SE, 22.00; STATE NATIONAL BANK, RE, 111.08; STATE NATIONAL BANK, RE, 5141.25; TYLER TECHNOLOGIES, SE, 2966.83; VERIZON, SE, 204.50; VIAERO, SE, 142.08; WAYNE COUNTY COURT, RE, 300.00; WESCO, SU, 2727.47; WEST-E-CON, SE, 450.00; AMERICAN BROADBAND, SE, 1650.80; APPEARA, SE, 76.95; AS CENTRAL SERVICES, SE, 448.00; CITY EMPLOYEE, RE, 107.59; CITY OF PONCA, RE, 14847.07; CITY OF WAYNE, RE, 917.07; CITY OF WISNER, RE, 4749.57; DUTTON-LAINSON, SU, 614.59; CITY EMPLOYEE, RE, 58.84; ELECTRIC FIXTURE, SU, 328.92; FIRST NATIONAL INSURANCE, SE, 272.42; FRIENDS OF THE LIBRARY, SE, 238.00; FRIESEN CHEVROLET, SE, 2.56; HAUFF MID-AMERICAN SPORTS, SU, 187.40; CITY EMPLOYEE, RE, 37.07; HEIDI CLAUSSEN, SE, 280.00; KELLY SUPPLY, SU, 517.99; KRIZ-DAVIS, SU, 3360.99; LOVE SIGNS, SE, 200.00; NE PUBLIC HEALTH, SU, 111.00; NE STATE PATROL, SE, 15.00; NINE ONE ONE, SE, 4050.00; PONCA RURAL FIRE BOARD, RE, 3552.82; QUILL, SU, 43.88; R.S. STOVER, SE, 45664.00; SD MEYERS, SE, 306.00; SCOTT SORENSEN, RE, 73.18; VERIZON, SE, 101.34; VILLAGE OF WINSIDE, RE, 4749.57

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

Mayor Chamberlain advised the public that a copy of the Open Meetings Act was located on the south wall of the Council Chambers and was available for public inspection. In addition, he advised the public that the Council may go into closed session

to discuss certain agenda items to protect the public interest or to prevent the needless injury to the reputation of an individual and if such individual has not requested a public hearing.

Joel Hansen, Certified Street Superintendent, stated that one bid was received on the “Curb and Gutter Repair Project” on Main Street between Clark Street and Seventh Street — Robert Woehler & Sons Construction in the amount of \$63 per ft., for a total of \$9,450. This project will repair the curbs and install expansion joint protectors. Even though the contractor did not install the expansion joints, it does not appear that there is anything the State is going to do about it; it is our responsibility per our maintenance agreement with the State. The contractor built the curb and gutters per the specs. Evidently there was a lack of communication between the State, our engineer and city staff.

Councilmember Sturm introduced Resolution No. 2011-84 and moved for its approval; Councilmember Alexander seconded.

#### RESOLUTION NO. 2011-84

A RESOLUTION ACCEPTING BID AND AWARDED CONTRACT ON THE CURB AND GUTTER REPAIR PROJECT ON MAIN STREET BETWEEN CLARK STREET AND 7<sup>TH</sup> STREET.

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

Councilmember Alexander introduced Ordinance 2011-24, and moved for approval of the second reading thereof; Councilmember Sturm seconded.

#### ORDINANCE NO. 2011-24

AN ORDINANCE AMENDING WAYNE MUNICIPAL CODE, CHAPTER 90, ARTICLE V BUSINESS AND COMMERCIAL DISTRICTS, DIVISION 2. B-1

HIGHWAY BUSINESS DISTRICT, SECTION 90-358 MINIMUM YARD REQUIREMENTS; TO REPEAL CONFLICTING ORDINANCES AND SECTIONS; AND TO PROVIDE AN EFFECTIVE DATE.

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

Councilmember Alexander introduced Ordinance 2011-25, and moved for approval of the second reading thereof; Councilmember Brodersen seconded.

ORDINANCE NO. 2011-25

AN ORDINANCE AMENDING WAYNE MUNICIPAL CODE, CHAPTER 90, ARTICLE V BUSINESS AND COMMERCIAL DISTRICTS, DIVISION 3. B-3 NEIGHBORHOOD COMMERCIAL DISTRICT, SECTION 90-428 MINIMUM YARD REQUIREMENTS; TO REPEAL CONFLICTING ORDINANCES AND SECTIONS; AND TO PROVIDE AN EFFECTIVE DATE.

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

Councilmember Brodersen introduced Ordinance 2011-26, and moved for approval of the second reading thereof; Councilmember Alexander seconded.

ORDINANCE NO. 2011-26

AN ORDINANCE AMENDING WAYNE MUNICIPAL CODE, CHAPTER 90, ARTICLE V BUSINESS AND COMMERCIAL DISTRICTS, DIVISION 3. B-3 NEIGHBORHOOD COMMERCIAL DISTRICT, SECTION 90-422 PERMITTED PRINCIPAL USES AND STRUCTURES, SECTION 90-423 PERMITTED ACCESSORY USES AND STRUCTURES, AND SECTION 90-424 EXCEPTIONS, B-3 NEIGHBORHOOD COMMERCIAL DISTRICT; TO REPEAL CONFLICTING ORDINANCES AND SECTIONS; AND TO PROVIDE AN EFFECTIVE DATE.

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

Councilmember Alexander introduced Ordinance 2011-27, and moved for approval of the second reading thereof; Councilmember Brodersen seconded.

ORDINANCE NO. 2011-27

AN ORDINANCE AMENDING WAYNE MUNICIPAL CODE, CHAPTER 90, ARTICLE V BUSINESS AND COMMERCIAL DISTRICTS, DIVISION 2. B-2 CENTRAL BUSINESS DISTRICT, SECTION 90-394 EXCEPTIONS; AND BY ADDING SECTION 90-402 PERMITTED CONDITIONAL USES; TO REPEAL CONFLICTING ORDINANCES AND SECTIONS; AND TO PROVIDE AN EFFECTIVE DATE.

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

Councilmember Berry arrived at 5:37 p.m.

Councilmember Sturm introduced Ordinance 2011-28, and moved for approval of the second reading thereof; Councilmember Alexander seconded.

ORDINANCE NO. 2011-28

AN ORDINANCE AMENDING THE ZONING MAP AND CHANGING THE ZONING OF ALL OF WESTERN RIDGE THIRD ADDITION TO B-1 HIGHWAY BUSINESS.

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

Mayor Chamberlain stated the following two ordinances have been brought back for Council consideration. These were tabled from the meeting of September 20<sup>th</sup>.

Councilmember Frevert introduced Ordinance 2011-29, and moved for its approval; Councilmember Brodersen seconded.

ORDINANCE NO. 2011-29

AN ORDINANCE EXTENDING THE HOURS OF SALE OF ALCOHOLIC LIQUOR FOR THE WAYNE STATE COLLEGE GRADUATION ACTIVITIES.

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Berry who abstained, the Mayor declared the motion carried. The second reading will take place at the next meeting.

John Nelson of Project Extra Mile spoke against the passage of these ordinances.

Cale Giese and Ken Jorgensen spoke in favor of the passage of these ordinances.

Councilmember Van Delden introduced Ordinance 2011-30, and moved for its approval; Councilmember Sturm seconded.

ORDINANCE NO. 2011-30

AN ORDINANCE EXTENDING THE HOURS OF SALE OF ALCOHOLIC LIQUOR FOR NEW YEAR'S EVE.

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Berry who abstained, the Mayor declared the motion carried. The second reading will take place at the next meeting.

Nancy Braden, Finance Director, stated the auditors have required that if we borrow money from ourselves (e.g. Electric Fund) to fund other projects, we must obtain approval or authorization from the Council. We are currently short about \$120,000 in LB840 funds to fund the projects that have been approved this evening, with the exception of the loan guarantee. The 3% interest rate we are paying back to the Electric Fund will come from the 1% sales tax. Of the \$500,000 we have borrowed at this time

from the Electric Fund, only \$100,000 has been paid back. The City still has approximately \$6.5 million in the Electric Fund.

Councilmember Alexander introduced Resolution No. 2011-85 and moved for its approval; Councilmember Frevert seconded.

#### RESOLUTION NO. 2011-85

A RESOLUTION OF THE LB 840 ECONOMIC DEVELOPMENT PLAN OF THE CITY OF WAYNE, NEBRASKA, AUTHORIZING THE BORROWING OF FUNDS FROM THE CITY OF WAYNE ELECTRIC FUND, WAYNE, NEBRASKA.

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

The following Resolution is a requirement by the Nebraska Department of Roads when a state highway will be closed for a celebration/parade. This Resolution pertains to the Annual Christmas on Main Street – Parade of Lights on December 8, 2011.

Councilmember Sturm introduced Resolution No. 2011-86 and moved for its approval; Councilmember Alexander seconded.

#### RESOLUTION NO. 2011-86

A RESOLUTION ACKNOWLEDGING NEBRASKA DEPARTMENT OF ROADS REQUIREMENTS FOR THE TEMPORARY USE OF THE STATE HIGHWAY SYSTEM FOR SPECIAL EVENTS.

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

Joel Hansen, Inspector/Planner, explained the Wayne South Logan Creek Channel Stabilization Design Project. The last 10 years of significant rain have slowly washed some of this area out. This was previously on the agenda back in September, but we were hoping we could do this without an engineering design. We have since found out

that we are required to have an Army Corps of Engineer's Permit on that site which requires us to submit an engineering design. At this point, it looks like our only option is to go ahead and hire an engineer to draw up the design work. The not to exceed sum of \$57,344 is for engineering fees and to obtain the permit from the Corps to do the work.

Administrator Johnson advised the Council that the reason for selecting Olsson Associates for this project is that they already designed the trail which is in that same area so they have all of the profiles. They are also working on the piling design project at the trail overlook by the waterfall. It just made sense to him to have them do this project, too.

Council thought the fee was excessive and directed staff to contact Olsson Associates to see if they would consider lowering the fee.

Administrator Johnson stated Olsson Associates has been assisting Anthony Lawrence with the grant process for this project, and if we do not hire them, we may owe them a fee for the work they have done on the grant and assisting staff with the same.

Councilmember Sturm made a motion to table action on Resolution 2011-87 and Councilmember Alexander seconded. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Discussion took place regarding possible retreat dates. Mayor Chamberlain proposed the following: Friday and Saturday, January 27<sup>th</sup> and 28<sup>th</sup>, or Friday and Saturday, February 3<sup>rd</sup> and 4<sup>th</sup>, 2012. The Council was directed to look at their calendars to see which dates would work better, and contact City Clerk McGuire.

Councilmember Frevert made a motion and seconded by Councilmember Sturm 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 5:59 p.m.

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## CLAIMS LISTING NOVEMBER 15, 2011

AMERITAS LIFE INSURANCE	POLICE RETIREMENT	1,416.02
APPEARA	LINEN & MAT SERVICE	77.44
BANK FIRST	FRATERNAL ORDER OF POLICE DUES	150.00
BARONE SECURITY SYSTEMS	FIRE HALL FIRE INSPECTION	81.96
CITY EMPLOYEE	VISION REIMBURSEMENT	184.03
BEVERLY STURM	ENERGY INCENTIVE	500.00
BOARD OF EXAMINERS	STREET SUPERINTENDENTS	10.00
BOMGAARS	GLOVES/CLAMPS/BATTERIES/PRIMER ETC	1,542.97
BROWN SUPPLY CO	ELBOW/COUPLING	591.50
CARHART LUMBER COMPANY	SOFTENER SALT/BRESSLER PARK SHED ETC	2,603.33
CHARTWELLS	SENIOR CITIZEN MEALS	5,504.20
CITY OF WAYNE	BUILDING DEPOSIT REFUND	350.00
CITY OF WAYNE	MILEAGE/PARKING REIMBURSEMENT	155.20
CITY OF WAYNE	PAYROLL	55,245.84
COMMUNITY HEALTH	HEALTH CHARITIES	3.00
COPY WRITE PUBLISHING	SHIPPING & OFFICE SUPPLIES	224.95
CREDIT BUREAU SERVICES	PAYROLL DEDUCTION	112.16
DAVE SWANSON	DOOR ARM REST	99.10
DE LAGE LANDEN FINANCIAL	COPIER LEASE	394.00
DEMCO INC	BOOKMARKS/CALENDARS/LABELS	106.71
EASYPERMIT POSTAGE	POSTAGE	1,676.20
CITY EMPLOYEE	CLOTHING REIMBURSEMENT	42.34
ERIC SCHOH	ENERGY INCENTIVE	249.05
FLOOR MAINTENANCE	TOWELS/NAPKINS/BLEACH/DETERGENT	334.85
FREDRICKSON OIL CO	OIL/GREASE	1,477.73
GALE GROUP	BOOKS	75.81
GEORGE PHELPS	ENERGY INCENTIVE	500.00
GILL HAULING, INC	SANITATION SERVICE	133.00
GRAHAM TIRE	6 TIRES	697.74
GRAINGER, INC.	BLOWER	66.85
GREAT PLAINS ONE-CALL	DIGGERS HOTLINE	62.44
HD SUPPLY WATERWORKS, LTD	WATER METERS	7,166.85
HOLIDAY INN ""MIDTOWN""	LODGING-C BELT	154.00
HOLIDAY INN OF KEARNEY	LODGING-G POUTRE/J BRADY	509.70
ICMA RETIREMENT TRUST-457	ICMA RETIREMENT	5,843.54
INGRAM BOOK COMPANY	BOOKS	454.76
IRS	FEDERAL WITHHOLDING	17,330.66
JASON CAROLLO	MOWING-LIB/SR CENTER/CH/AUDITORIUM	175.00
JOHN'S WELDING AND TOOL	REPAIR LEAKING COOLING PIPE	1,776.72
CITY EMPLOYEE	HEALTH REIMBURSEMENT	714.17
JOYCE TREVETT	ENERGY INCENTIVE	500.00
KAREN GRANBERG	ENERGY INCENTIVE	500.00
KTCH AM/FM RADIO	RADIO ADS	852.00
LERNER PUBLISHING GROUP	BOOKS	141.90
CITY EMPLOYEE	CLOTHING REIMBURSEMENT	60.00
MIDWEST LABORATORIES, INC	BOD TESTING	1,347.05
MIKE TOWNE	WIND ENERGY	700.00

MUNICIPAL SUPPLY	WATER METER	468.60
NE AIR FILTER	AIR FILTERS	529.91
NE DEPT OF REVENUE	STATE WITHHOLDING	2,656.07
NE PUBLIC HEALTH	POLICE SERVICES-ALCOHOL TESTS	168.00
NEBR PUBLIC POWER DIST	ELECTRICITY	212,370.05
NORFOLK DAILY NEWS	LIBRARY SUBSCRIPTION RENEWAL	132.50
NORTHEAST EQUIPMENT	EDGE BLADE/SPRING	33.02
N.E.NE AMERICAN RED CROSS	PAYROLL DEDUCTIONS	49.26
NORTHEAST NE PUBLIC POWER	WHEELING CHARGES	12,180.28
O'KEEFE ELEVATOR COMPANY	ELEVATOR TESTING	875.00
OLSSON ASSOCIATES	RICE COMPLIANCE	3,114.55
PAC N SAVE	SR CENTER MEALS/WATER/LIBR SUPPLIES	500.36
PAMIDA STORE # 165	PLEDGE/BAGGIES/GERMX/BATTERIES	76.05
CITY EMPLOYEE	HEALTH REIMBURSEMENT	828.58
PEPSI-COLA	CAC POP	228.10
PIEPER, MILLER & DAHL	ATTORNEY FEES	5,003.00
PLUNKETT'S PEST CONTROL	PEST CONTROL	93.60
POSTMASTER	WATER SURVEY POSTAGE	54.40
PRESTO X COMPANY	PEST CONTROL	119.15
CITY EMPLOYEE	HEALTH REIMBURSEMENT	155.52
PROVIDENCE MEDICAL CENTER	POLICE SERVICES	130.00
RON'S RADIO	CLEANED HANDHELD-BATTERY LEAK	35.00
ROURKE PUBLISHING LLC	BOOKS	95.70
SCOTT JOHNSON	ENERGY INCENTIVE	500.00
SHARON M HUGHES	ENERGY INCENTIVE	488.70
SPARKLING KLEAN	JANITORIAL SERVICES/SUPPLIES	2,125.60
STADIUM SPORTING GOODS	SHIRTS	168.00
STAN HOUSTON EQUIPMENT CO	SNOW FENCE	49.61
STATE NATIONAL BANK	ACH FEES	49.07
CITY EMPLOYEE	HEALTH REIMBURSEMENT	80.33
UNITED WAY	PAYROLL DEDUCTIONS	10.00
US BANK	POWER SUPPLY/DEWALT BITS/MEALS ETC	1,603.66
UTILITIES SECTION	DIESEL/CHEMICAL/SUBSTATION CONFERENCES	945.00
WASTE CONNECTIONS	SB COMPLEX SANITATION SERVICE	48.10
WAYNE AUTO PARTS	FUEL FILTER/PUMP/SEALS/HUB/DRUMS ETC	1,055.62
WAYNE COMMUNITY HOUSING	ENERGY INCENTIVE	487.50
WAYNE COMMUNITY SCHOOLS	FD AD-YEARBOOK	100.00
WAYNE COUNTY CLERK	FILING FEES	38.50
WAYNE GREENHOUSE	BALLOON/FLOWERS-KICK OFF EVENT	34.00
WAYNE GROCERY LLC	WATER/ICE	5.97
WAYNE HERALD	CAC ADS/ADS & NOTICES/ENERGY WISE	1,323.91
WAYNE VETERINARY CLINIC	CAT/DOG IMPOUNDS	434.00
WESCO DISTRIBUTION INC	TRANSFORMER/TERMINATORS	13,385.99
WESTERN AREA POWER ADMIN	ELECTRICITY	25,027.44
CITY EMPLOYEE	VISION REIMBURSEMENT	89.91
ZACH HEATING & COOLING	PROPANE/FREON RECOVERY	566.00
ZACH OIL COMPANY	GASOLINE	6,039.59

Cadet

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WAYNE VOLUNTEER FIRE DEPARTMENT  
And Rural Fire District No. 2  
510 Tomar Drive, Wayne, NE 68787

APPLICATION FOR MEMBERSHIP

This form is to be completed by the Applicant and filed with the Secretary at a regular meeting of the Wayne Volunteer Fire Department.

Name Andy Scholl Address 509 N Rural  
Phone Number 402-833-3320 Social Security # ~~507-33-2847~~  
507-33-2847  
Employer \_\_\_\_\_ Occupation \_\_\_\_\_  
How long have you been employed by your present employer? \_\_\_\_\_  
Previous Employer and Address \_\_\_\_\_

Have you previously been a member of a Fire Department? NO  
If so, give the name of the fire department, your rank and positions held. If applicable, identify any related credentials and record of training \_\_\_\_\_

Do you have any physical ailments or disabilities that could affect your performance on the department?  
NO

- As a member of this department, you will be required to give freely of your time to attend fire calls, meetings, drills, serve and provide leadership on committees, and participate in community events and fundraising activities. Do you agree to this? yes
- There is a 30-day waiting period from the date of this application until the Department formally acts upon this request. Do you agree to this? yes
- Have you read the Bylaws of the Department, and do you understand them? yes Do you agree to abide by them? yes
- The applicant must understand that if accepted for membership he she will be placed on probation for a six-month period. During that time, he she must meet certain criteria as stated in the Bylaws and follow the Standard Operating Guidelines.

Applicant's Signature Andy Scholl Date 11/1/11

Sponsor's Signature (if applicable) \_\_\_\_\_ Date \_\_\_\_\_

.....  
I agree to a background check with information provided by the Wayne Police Department.

Applicant's Signature Andy Scholl Date 11/1/11

We, the undersigned representing the Standing Membership Committee, having investigated the background of the applicant, feel that he/she would be an asset to the Department and hereby recommend him/her for membership.  
Julia Melus [Signature] Christa Stahl  
Secretary's Signature \_\_\_\_\_ Date \_\_\_\_\_

Chief's Signature \_\_\_\_\_ Date \_\_\_\_\_

.....  
Council approved on \_\_\_\_\_ certified by City Clerk \_\_\_\_\_

.....  
For record purposes only. Date of Birth 8/10/94 revised February 4, 2006

WAYNE VOLUNTEER FIRE DEPARTMENT  
And Rural Fire District No. 2  
510 Tomar Drive, Wayne, NE 68787

APPLICATION FOR MEMBERSHIP

This form is to be completed by the Applicant and filed with the Secretary at a regular meeting of the Wayne Volunteer Fire Department.

Name Trevor Eisenbauer Address 412 Bowen Wayne State College 1111 main st.  
Phone Number 402-380-5472 Social Security # 527-29-8052

Employer \_\_\_\_\_ Occupation \_\_\_\_\_  
How long have you been employed by your present employer? \_\_\_\_\_  
Previous Employer and Address Green Carpet

Have you previously been a member of a Fire Department? NO  
If so, give the name of the fire department, your rank and positions held. If applicable, identify any related credentials and record of training. \_\_\_\_\_

Do you have any physical ailments or disabilities that could affect your performance on the department? No

- As a member of this department, you will be required to give freely of your time to attend fire calls, meetings, drills, serve and provide leadership on committees, and participate in community events and fundraising activities. Do you agree to this? Yes
- There is a 30-day waiting period from the date of this application until the Department formally acts upon this request. Do you agree to this? Yes
- Have you read the Bylaws of the Department, and do you understand them? Yes Do you agree to abide by them? Yes
- The applicant must understand that if accepted for membership he/she will be placed on probation for a six-month period. During that time, he/she must meet certain criteria as stated in the Bylaws and follow the Standard Operating Guidelines.

Applicant's Signature Trevor Eisenbauer Date 9/28/11

Sponsor's Signature (if applicable) \_\_\_\_\_ Date \_\_\_\_\_

\*\*\*\*\*  
I agree to a background check with information provided by the Wayne Police Department.

Applicant's Signature Trevor Eisenbauer Date 9/28/11

We, the undersigned representing the Standing Membership Committee, having investigated the background of the applicant, feel that he/she would be an asset to the Department and hereby recommend him/her for membership.

BRW Robert G. Galt [Signature]

Secretary's Signature \_\_\_\_\_ Date \_\_\_\_\_

Chief's Signature \_\_\_\_\_ Date \_\_\_\_\_

\*\*\*\*\*  
Council approved on \_\_\_\_\_ certified by City Clerk \_\_\_\_\_

\*\*\*\*\*  
For record purposes only: Date of Birth 10/09/1991 revised February 4, 2006

**ORDINANCE NO. 2011-31**

**AN ORDINANCE AMENDING THE ZONING MAP AND CHANGING THE ZONING OF AN AREA DESCRIBED AS THAT PART OF THE SOUTHWEST QUARTER OF SECTION EIGHT, TOWNSHIP TWENTY-SIX NORTH, RANGE FOUR, EAST OF THE 6<sup>TH</sup> P.M., WAYNE COUNTY, NEBRASKA, WHICH LIES WEST OF THE CENTERLINE OF THE SOUTH LOGAN CREEK FROM I-1 LIGHT INDUSTRIAL AND MANUFACTURING TO I-2 HEAVY INDUSTRIAL AND MANUFACTURING.**

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

Section 1. That the real estate area shown on the attached map be changed and rezoned from I-1 Light Industrial and Manufacturing to I-2 Heavy Industrial and Manufacturing. The area to be rezoned is more particularly described as:

That part of the Southwest Quarter of Section Eight, Township Twenty-Six North, Range Four, East of the 6<sup>th</sup> P.M., Wayne County, Nebraska, which lies west of the centerline of the South Logan Creek.

Section 2. That the Planning Commission held a public hearing on August 3, 2009, regarding this rezoning request, and have recommended approval thereof subject to the following "Findings of Fact":

Section 3. The official zoning map shall be forthwith changed by the zoning officials to properly show the real estate hereinabove described as now in a B-1 (Highway Business District) zone.

Section 4. All ordinances or parts of ordinances in conflict herewith are hereby amended and repealed.

Section 5. This ordinance shall take effect and be in full force from and after its passage, approval, and publication or posting as required by law.

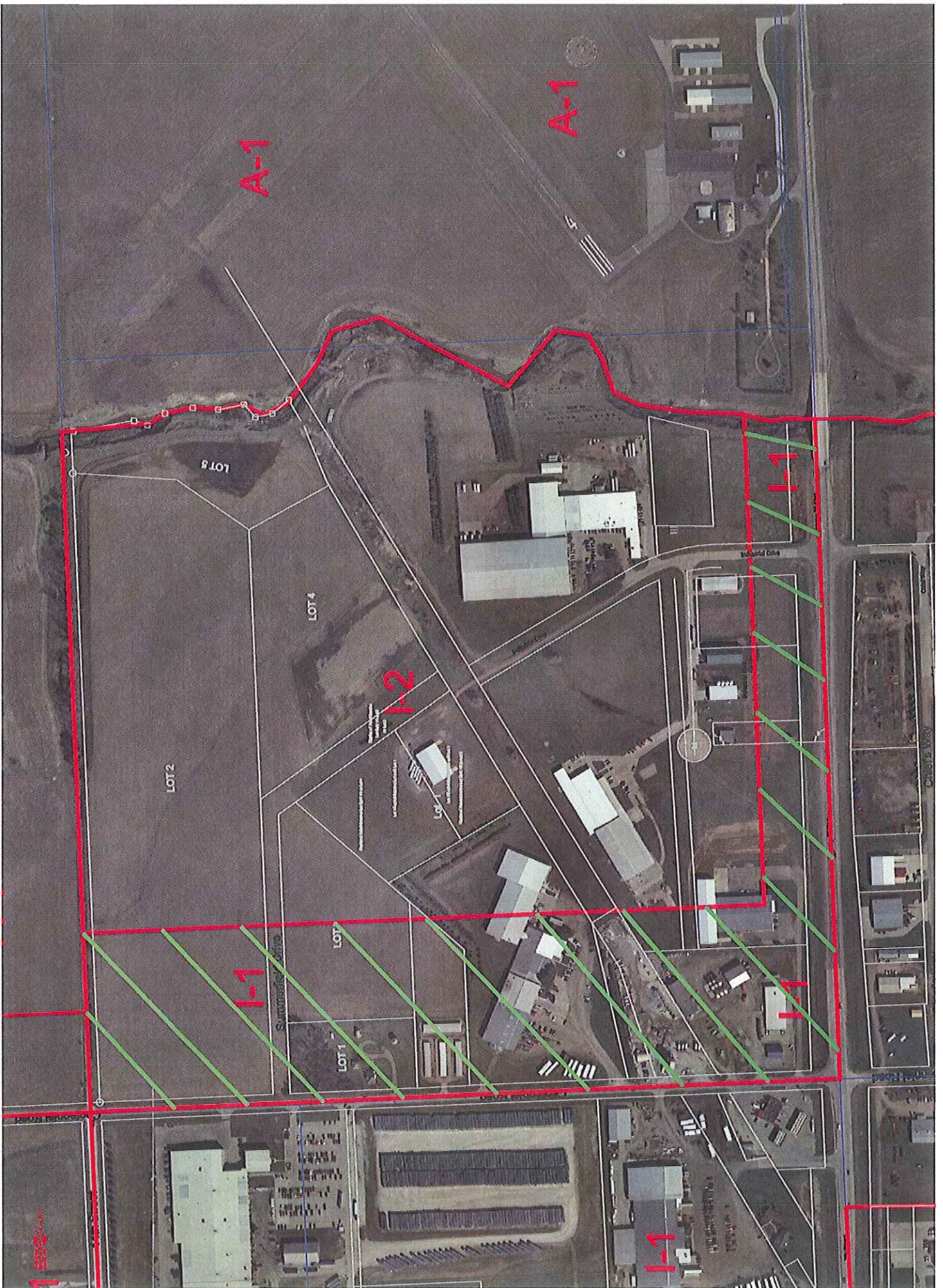
PASSED AND APPROVED this \_\_\_\_\_ day of November, 2011.

THE CITY OF WAYNE, NEBRASKA,

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

ATTEST:

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



ORDINANCE NO. 2011-24

AN ORDINANCE AMENDING WAYNE MUNICIPAL CODE, CHAPTER 90, ARTICLE V BUSINESS AND COMMERCIAL DISTRICTS, DIVISION 2. B-1 HIGHWAY BUSINESS DISTRICT, SECTION 90-358 MINIMUM YARD REQUIREMENTS; TO REPEAL CONFLICTING ORDINANCES AND SECTIONS; AND TO PROVIDE AN EFFECTIVE DATE.

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

Section 1. That Chapter 90, Article V Business and Commercial Districts, Division 2., B-1 Highway Business District, Section 90-358 Minimum Yard Requirements of the Wayne Municipal Code shall be amended as follows:

**Sec. 90-358. Minimum Yard Requirements**

The minimum requirements are as follows:

1. Front yard. There shall be a minimum front yard of not less than a depth of 100 feet from the centerline of a federal aid-primary ~~or federal aid-secondary~~ designated street or highway or 35 feet from the property line, whichever is greater. In all other streets or highways, there shall be a minimum front yard of not less than a depth of 25 feet from the property line. These yard requirements shall apply to any yard abutting a federal aid-primary ~~or federal aid-secondary~~ designated street or highway regardless of the lot's being an interior or corner lot.
2. Rear yard. No rear yard is required, except the minimum rear yard abutting an R district shall be 25 feet.
3. Side yard. No side yard is required, except the minimum side yard abutting an R district shall be ten feet.
4. Distance between structures. The minimum distances between a residential or other principal structure and other structure shall be ten feet.

Section 2. That the Planning Commission held a public hearing on October 3, 2011, regarding these amendments, and have recommended approval thereof subject to the following "Findings of Fact":

1. Staff recommendation; and
2. Consistency with the Comprehensive Plan and the current and future land use maps.

Section 3. Any other ordinance or section passed and approved prior to the passage, approval, and publication of this ordinance and in conflict with its provisions is repealed.

Section 4. This ordinance shall take effect and be in full force from and after its passage, approval, and publication as required by law.

PASSED AND APPROVED this 15<sup>th</sup> day of November, 2011.

THE CITY OF WAYNE, NEBRASKA,

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

ATTEST:

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

ORDINANCE NO. 2011-25

AN ORDINANCE AMENDING WAYNE MUNICIPAL CODE, CHAPTER 90, ARTICLE V BUSINESS AND COMMERCIAL DISTRICTS, DIVISION 3. B-3 NEIGHBORHOOD COMMERCIAL DISTRICT, SECTION 90-428 MINIMUM YARD REQUIREMENTS; TO REPEAL CONFLICTING ORDINANCES AND SECTIONS; AND TO PROVIDE AN EFFECTIVE DATE.

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

Section 1. That Chapter 90, Article V Business and Commercial Districts, Division 3. B-3 Neighborhood Commercial District, Section 90-428 Minimum Yard Requirements of the Wayne Municipal Code shall be amended as follows:

**Sec. 90-428. Minimum Yard Requirements**

The minimum requirements are as follows:

- (a) Front yard. In a B-3 district, there shall be a minimum front yard of not less than a depth of 80 feet from the centerline of a federal aid-primary ~~or federal aid-secondary~~ designated street or highway or 15 feet from the property line, whichever is greater. On all other streets or highways, there shall be a minimum front yard of not less than a depth of 15 feet from the property line. These yard requirements shall apply to any yard abutting a federal aid-primary ~~or federal aid-secondary~~ designated street or highway regardless of the lot's being an interior or corner lot.
- (b) Rear yard. The minimum rear yard abutting an R district shall be ten feet.
- (c) Side yard. The minimum side yard abutting an R district shall be ten feet.
- (d) Distance between structures. The minimum distance between a residential or other principal structure and another structure shall be ten feet.

Section 2. That the Planning Commission held a public hearing on October 3, 2011, regarding these amendments, and have recommended approval thereof subject to the following "Findings of Fact":

1. Staff recommendation; and
2. Consistency with the Comprehensive Plan and the current and future land use maps.

Section 3. Any other ordinance or section passed and approved prior to the passage, approval, and publication of this ordinance and in conflict with its provisions is repealed.

Section 4. This ordinance shall take effect and be in full force from and after its passage, approval, and publication as required by law.

PASSED AND APPROVED this 15<sup>th</sup> day of November, 2011.

THE CITY OF WAYNE, NEBRASKA,

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

ATTEST:

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

**ORDINANCE NO. 2011-26**

**AN ORDINANCE AMENDING WAYNE MUNICIPAL CODE, CHAPTER 90, ARTICLE V BUSINESS AND COMMERCIAL DISTRICTS, DIVISION 3. B-3 NEIGHBORHOOD COMMERCIAL DISTRICT, SECTION 90-422 PERMITTED PRINCIPAL USES AND STRUCTURES, SECTION 90-423 PERMITTED ACCESSORY USES AND STRUCTURES, AND SECTION 90-424 EXCEPTIONS, B-3 NEIGHBORHOOD COMMERCIAL DISTRICT; TO REPEAL CONFLICTING ORDINANCES AND SECTIONS; AND TO PROVIDE AN EFFECTIVE DATE.**

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

Section 1. That Chapter 90, Article V Business and Commercial Districts, Division 3. B-3 Neighborhood Commercial District, Section 90-422 Permitted Principal Uses and Structures of the Wayne Municipal Code shall be amended as follows:

**Sec. 90-422. Permitted principal uses and structures**

The following shall be permitted as uses by right in a B-3 district:

1. Business offices.
2. Professional offices.
3. Retail stores and service establishments which supply commodities or provide services primarily to meet the convenience needs of residents of one or more residential neighborhoods, including:
  1. Apparel stores.
  2. Automobile parking.
  3. Bakery goods store.
  4. Banks and other lending agencies, detached banking facilities, and automatic teller machines, subject to section 90-425.
  5. Barbershops, beauty parlors, tanning salons, and shoeshine shops.
  6. Bookstores.
  7. Car wash establishments, subject to section 90-425.
  8. Charitable institutions (soup kitchens, missions, food pantries).
  9. Cleaning agencies (pickup and delivery only).
  10. Clinic (medical).
  11. Coin-operated laundromats, excluding dry cleaning.
  12. Drugstores and pharmacies.
  13. Dry cleaning and laundry agencies, provided that cleaning and laundering is not done on the premises.
  14. Electrical appliances and incidental repair shops.
  15. Food lockers (no slaughtering).
  16. Foodstores, delicatessens, and supermarkets.

17. Funeral homes and mortuaries.
18. Garden supply stores and nurseries, provided that all equipment, supplies, merchandise and plants shall be kept within a completely enclosed building, and provided that fertilizer of any type shall be stored and sold in packaged form only.
19. Hardware stores.
20. Medical, pharmaceutical, dental, and related health care and personal services.
21. Pressing, altering and repairing of wearing apparel establishments.
22. Radio and television, office equipment, electrical and electronic equipment stores, and repair shops.
23. Restaurants, cafeterias, tearooms and cafes, including outdoor cafes.
24. Shoestores.
25. Specialty shops such as:
  1. Camera shops, photographic supplies and photograph studios.
  2. Candy and confectionery.
  3. Dairy products.
  4. Florists.
  5. Gift shops.
  6. Hobby and art supply.
  7. Locksmiths.
  8. Newsstand/magazine.
  9. Soda fountains.
  10. Stationery stores.
  11. Video and electronic rentals.
26. Tailor and dressmaker shops.
27. Variety stores.
4. Signs in accordance with the provisions of section 90-713.
- 5. Single-Family Dwelling**
- 6. Two-Family Dwelling**

Section 2. That Chapter 90, Article V Business and Commercial Districts, Division 3. B-3 Neighborhood Commercial District, Section 90-423 Permitted Accessory Uses and Structures of the Wayne Municipal Code shall be amended as follows:

**Sec. 90-423. Permitted accessory uses and structures**

The following accessory uses and structures shall be permitted in a B-3 district:

1. Accessory uses and structures normally appurtenant to the permitted uses and structures and to uses and structures permitted as exceptions, provided that:
  1. a) Shall be in conformance with the provisions of Section 90-703 of this code.

~~2. One family dwellings over or to the rear of a permitted use, provided that such dwellings are primarily for the use of the person owning or operating the commercial use on the same site.~~

Section 3. That Chapter 90, Article V Business and Commercial Districts, Division 3. B-3 Neighborhood Commercial District, Section 90-424 Exceptions B-3 Neighborhood Commercial District of the Wayne Municipal Code shall be amended as follows:

#### **Sec. 90-424. Exceptions**

In accordance with article XI of this chapter, the following exceptions are allowed in a B-3 district:

1. Auto sales and services, including open air display of new or used cars.
2. Bowling alleys.
3. Child care centers.
4. Child care homes.
5. Electrical distribution substations, gas regulator stations, communications equipment buildings, public service pumping stations, and/or elevated pressure tanks.
6. On-premises laundry and cleaning.
7. Other trade and service uses which are similar to the permitted principal uses and which are in harmony with the intent of this district.
8. Planned unit developments.
9. Public and quasi-public uses of an educational, recreational or religious type, including preschools, public and parochial elementary schools and junior high schools, high schools, private nonprofit schools, churches, parsonages and other religious institutions; parks and playgrounds.
10. Public uses of an administrative, public service or cultural type, including city, county, state or federal administrative centers and courts, libraries, police and fire stations, and other public buildings, structures and facilities.
11. Private club or lodge.
12. Service stations (gasoline), excluding automotive repair services not included in the definition of "service station" as provided in section 90-10, provided that all operations, except the sale of gasoline and oil, shall be conducted in a building enclosed on at least two sides.
- ~~13. Single family dwelling.~~
- ~~14. Two family dwelling.~~
15. Miniwarehouses.
16. Manufactured homes for residential purposes, provided the home complies with all provisions 90-711.
17. Vehicle Towing Service.

Section 4. That the Planning Commission held a public hearing on October 3, 2011, regarding these amendments, and have recommended approval thereof subject to the following "Findings of Fact":

1. Staff recommendation; and
2. Consistency with the Comprehensive Plan and the current and future land use maps.

Section 5. Any other ordinance or section passed and approved prior to the passage, approval, and publication of this ordinance and in conflict with its provisions is repealed.

Section 6. This ordinance shall take effect and be in full force from and after its passage, approval, and publication as required by law.

PASSED AND APPROVED this 15<sup>th</sup> day of November, 2011.

THE CITY OF WAYNE, NEBRASKA,

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

ATTEST:

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

ORDINANCE NO. 2011-27

AN ORDINANCE AMENDING WAYNE MUNICIPAL CODE, CHAPTER 90, ARTICLE V BUSINESS AND COMMERCIAL DISTRICTS, DIVISION 2. B-2 CENTRAL BUSINESS DISTRICT, SECTION 90-394 EXCEPTIONS; AND BY ADDING SECTION 90-402 PERMITTED CONDITIONAL USES; TO REPEAL CONFLICTING ORDINANCES AND SECTIONS; AND TO PROVIDE AN EFFECTIVE DATE.

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

Section 1. That Chapter 90, Article V Business and Commercial Districts, Division 2. B-2 Central Business District, Section 90-394 Exceptions of the Wayne Municipal Code shall be amended as follows:

**Sec. 90-394. Exceptions**

In accordance with article XI of this chapter, the following exceptions are allowed in the B-2 district:

1. Child care homes and centers.
2. Cleaning and laundry on premises.
3. Commercial recreation facilities (bowling alleys, miniature golf courses, dancehalls, and similar uses).
4. Electric distribution substations and gas regulator stations.
- ~~5. Multifamily residential uses, provided that such uses shall meet the state fire marshal's requirement standards for new construction, unless specifically waived by the planning commission for an existing structure; and:
  - ~~a. Provided the dwelling meets the regulations contained in the R-3 district, unless otherwise provided for in this subsection;~~
  - ~~b. Provided a minimum of two off-street parking spaces for each unit are available;~~
  - ~~c. Whenever the planning commission considers and rules upon a permit for a use by exception (conditional use) as it may pertain to multifamily residential uses which are proposed to occupy the first or ground floor of a structure in the B-2 district, the commission should exclude, as a condition, the area occupied on a lot within 30 feet of a front lot line at ground level such that it be used/usable for any allowable uses other than residential;~~
  - ~~d. Other trade and service uses which are similar to the permitted principal uses and which are in harmony with the intent of this district;~~~~
6. Private clubs and lodges.
7. Service stations (gasoline), excluding automotive repair services not included in the definition of "service station" as provided by this chapter, provided that all operations, except the sale of gasoline and oil, shall be conducted in a building enclosed on at least two sides.
- ~~8. Single family dwelling, provided:
  - ~~a. Such dwelling meets the regulations contained in the R-3 district, unless otherwise provided for in this subsection;~~~~

~~b. A minimum of two off-street parking spaces for each unit are available.~~

9. Storage garages and mini-warehouses.

~~10. Two-family dwelling, provided:~~

~~a. Such dwelling meets the regulations contained in the R-3 district, unless otherwise provided for in this subsection.~~

~~b. A minimum of two off-street parking spaces for each unit are available.~~

11. Public and quasi-public uses of an educational, recreational or religious type, including preschools, public and parochial elementary schools and junior high schools, high schools, private nonprofit schools, churches, parsonages, and other religious institutions; parks and playgrounds.
12. Public uses of an administrative, public service or cultural type, including city, county, state or federal post offices, administrative centers and courts, libraries, police and fire stations, and other public buildings, structures and facilities.
13. Public utility facilities.
14. Sports arenas within buildings.
15. Temporary shelter for homeless.
16. Manufactured homes, for residential purposes, provided the home complies with all provisions of Section 90-711.

Section 2. That Chapter 90, Article V Business and Commercial Districts, Division 2. B-2 Central Business District of the Wayne Municipal Code shall be amended by adding Section 90-402. Permitted conditional uses thereto:

**Sec. 90-402. Permitted conditional uses.**

**A building or premises in a B-2 district may be used for the following in conformance with the prescribed conditions:**

**1. Multifamily Residential Uses:**

- a. **Provided that such use shall meet the State Fire Marshal's requirements;**
- b. **Provided the dwelling meets the regulations contained in the R-3 District, unless otherwise provided for in this subsection;**
- c. **Provided a minimum of two off-street parking spaces for each unit are available;**
- d. **Provided the first or ground floor level must exclude a residential use on the area within 30 feet of the front lot line with said area reserved for nonresidential use; and**
- e. **Provided the lot must also contain an existing nonresidential use.**

**2. Single-family dwelling, provided:**

- a. **Provided that such use shall meet the State Fire Marshal's requirements;**
- b. **Provided the dwelling meets the regulations contained in the R-3 District, unless otherwise provided for in this subsection;**
- c. **Provided a minimum of two off-street parking spaces for each unit are available;**

- d. Provided the first or ground floor level must exclude a residential use on the area within 30 feet of the front lot line with said area reserved for nonresidential use; and
  - e. Provided the lot must also contain an existing nonresidential use.
3. Two-family dwelling, provided:
- a. Provided that such use shall meet the State Fire Marshal's requirements;
  - b. Provided the dwelling meets the regulations contained in the R-3 District, unless otherwise provided for in this subsection;
  - c. Provided a minimum of two off-street parking spaces for each unit are available;
  - d. Provided the first or ground floor level must exclude a residential use on the area within 30 feet of the front lot line with said area reserved for nonresidential use; and
  - e. Provided the lot must also contain an existing nonresidential use.

Section 3. That the Planning Commission held a public hearing on October 3, 2011, regarding these amendments, and have recommended approval thereof subject to the following "Findings of Fact":

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

Section 4. Any other ordinance or section passed and approved prior to the passage, approval, and publication of this ordinance and in conflict with its provisions is repealed.

Section 5. This ordinance shall take effect and be in full force from and after its passage, approval, and publication as required by law.

PASSED AND APPROVED this 15<sup>th</sup> day of November, 2011.

THE CITY OF WAYNE, NEBRASKA,

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

ATTEST:

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

**ORDINANCE NO. 2011-28**

**AN ORDINANCE AMENDING THE ZONING MAP AND CHANGING THE ZONING OF ALL OF WESTERN RIDGE THIRD ADDITION TO B-1 HIGHWAY BUSINESS.**

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

Section 1. That the real estate area shown on the attached map be changed and rezoned to B-1 (Highway Business). The area being rezoned is described as Western Ridge Third Addition.

Section 2. That the Planning Commission held a public hearing on October 3, 2011, regarding this rezoning request, and have recommended approval thereof subject to the following "Findings of Fact":

1. Staff recommendation; and
2. Consistency with the Comprehensive Plan and the current and future land use maps.

Section 3. The official zoning map shall be forthwith changed by the zoning officials to properly show the real estate hereinabove described as now in a B-1 (Highway Business District) zone.

Section 4. All ordinances or parts of ordinances in conflict herewith are hereby amended and repealed.

Section 5. This ordinance shall take effect and be in full force from and after its passage, approval, and publication or posting as required by law.

PASSED AND APPROVED this 15<sup>th</sup> day of November, 2011.

THE CITY OF WAYNE, NEBRASKA,

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

ATTEST:

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

**ORDINANCE NO. 2011-29**

**AN ORDINANCE EXTENDING THE HOURS OF SALE OF ALCOHOLIC LIQUOR FOR THE WAYNE STATE COLLEGE GRADUATION ACTIVITIES.**

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

That the hours of sale of alcoholic liquor shall be extended to 2:00 o'clock a.m., only, on Thursday, December 15, 2011, and Friday, December 16, 2011, in conjunction with the Wayne State College Graduation Activities.

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

THE CITY OF WAYNE, NEBRASKA,

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

ATTEST:

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

**ORDINANCE NO. 2011-30**

**AN ORDINANCE EXTENDING THE HOURS OF SALE OF ALCOHOLIC LIQUOR FOR NEW YEAR'S EVE.**

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

That the hours of sale of alcoholic liquor shall be extended to 2:00 o'clock a.m., only, on Saturday, December 31, 2011, in conjunction with New Year's Eve.

PASSED AND APPROVED this \_\_\_\_\_ day of November, 2011.

THE CITY OF WAYNE, NEBRASKA,

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

ATTEST:

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

**RESOLUTION NO. 2011-88**

**A RESOLUTION APPROVING LPA PROGRAM AGREEMENT – STP FUNDS FOR THE WINDOM STREET, EAST 3<sup>RD</sup> STREET TO EAST 7<sup>TH</sup> STREET ROADWAY IMPROVEMENT PROJECT.**

**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 URB-6709(2),  
NDOR Control Number 31991,  
Windom Street, East 3<sup>rd</sup> – East 7<sup>th</sup> Street

PASSED AND APPROVED this 15<sup>th</sup> day of November, 2011.

THE CITY OF WAYNE, NEBRASKA,

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

ATTEST:

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

## LPA PROGRAM AGREEMENT- STP FUNDS

CITY OF WAYNE, NEBRASKA  
STATE OF NEBRASKA, DEPARTMENT OF ROADS  
PROJECT NO. URB-6709(2)  
STATE CONTROL NO. 31991  
WINDOM STREET, EAST 3<sup>RD</sup> – EAST 7<sup>TH</sup> ST

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 routes in the LPA 's jurisdiction have been designated as being eligible for 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 Funds have been made available by Title 23 of the United States Code, providing for improvements on eligible routes, and

WHEREAS, the Federal share payable on any portion of a STP project will be a maximum of 80 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 routes, 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

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/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 not 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:** URB-6709(2)

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 \$596,085. The LPA's share of all actual eligible costs is estimated to be \$119,297. The State agrees to use the LPA's Federal Funds for the actual eligible costs of the improvement which is estimated to be \$476,788. 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 \$95,485. 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 AASHTO Policy on Geometric Design of Highways and Streets, the Nebraska Minimum Design Standards of the Board of Public Roads, Classifications and Standards, the Americans with Disabilities Act (ADA) Accessibility Guidelines and LPA Guidelines Manual for Federal-aid projects. Any deviations from the above publications must be approved for funding by the State on behalf of FHWA.

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**

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

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

LPA must also complete and sign the **NDOR Conflict of Interest Disclosure Form for LPAs for Local Federal-aid Transportation Projects**, for each project. This form is located on the State website at the following location:

<http://www.dor.state.ne.us/gov-aff/lpa/chapter-forms/coi/coi-disclosure-doc-lpa.pdf>

Consultants and sub-consultants providing services for LPA's, or submitting proposals for services, shall notify, or be required to notify, the LPA and the NDOR LPD PC and submit a revised Conflict of Interest Disclosure Form for Consultants for any changes in circumstances, or discovery of any additional facts, that could result in someone employed by, or who has an ownership, personal, or other interest with Consultant or sub-consultant having a real or potential conflict of interest on an LPA federal-aid transportation 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.

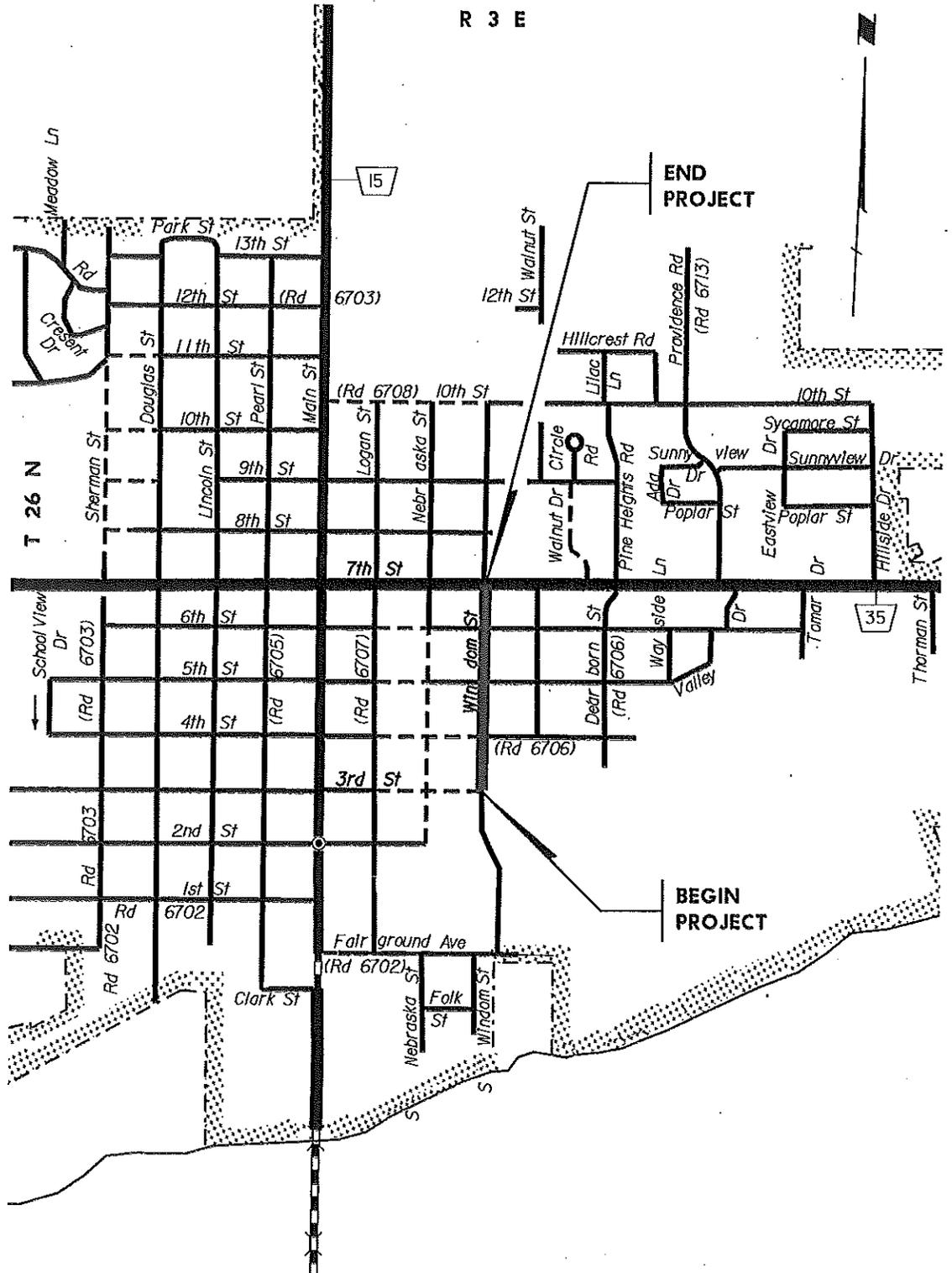
SECTION 36. TITLE VI NONDISCRIMINATION CLAUSES

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

**WAYNE**  
WAYNE COUNTY  
NEBRASKA

R 3 E



**URB-6709(2)**  
C.N. 31991

**EXHIBIT "A"**

RESOLUTION NO. 2011-89

A RESOLUTION AMENDING RESOLUTION 2011-76 WHICH ACCEPTED THE BID OF AND AWARDED THE CONTRACT TO TRI-CITY SIGN COMPANY FOR THE "HENRY VICTOR MEMORIAL PARK SIGN PROJECT."

WHEREAS, two bids were received on September 26, 2011, on the "Henry Victor Memorial Park Sign Project"; and

WHEREAS, the bids have been reviewed by City Staff; and

WHEREAS, City Staff is recommending that the contract be awarded to Tri-City Sign Company in the amount of \$10,890.00; **however, it is contingent upon the same being approved by the Nebraska Game & Parks Commission.**

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the City of Wayne, Nebraska, that they find and declare that the bid for the "Henry Victor Memorial Park Sign Project", as submitted by the following contractor, is reasonable and responsive, and the same is hereby accepted:

<u>Bidder</u>	<u>Amount</u>
Tri-City Sign Company Grand Island, NE	\$10,890.00

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

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

PASSED AND APPROVED this 15<sup>th</sup> day of November, 2011.

THE CITY OF WAYNE, NEBRASKA,

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

ATTEST:

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

**RESOLUTION NO. 2011-90**

**A RESOLUTION ACCEPTING WORK ON THE 2011 LAGOON SLUDGE REMOVAL AND APPLICATION PROJECT AND AUTHORIZING FINAL PAYMENT.**

WHEREAS, on the 6<sup>th</sup> day of September, 2011, the City of Wayne approved Resolution No. 2011-67 awarding the contract on the 2011 Lagoon Sludge Removal and Application Project to DRT Biosolids, Inc.; and

WHEREAS, the contract has been completed according to the terms and specifications of the plans and specifications and according to the report of the project engineer, JEO Consulting Group, Inc.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Wayne, Nebraska, that the Recommendation of Acceptance by the project engineer, JEO Consulting Group, Inc., for the work in 2011 Lagoon Sludge Removal and Application Project be and the same is hereby accepted.

BE IT FURTHER RESOLVED, by the Mayor and Council of the City of Wayne, Nebraska, that the City Administrator is authorized to make final payment to the contractor, including the retainage, pursuant to the project contract.

PASSED AND APPROVED this 15<sup>th</sup> day of November, 2011.

THE CITY OF WAYNE, NEBRASKA

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

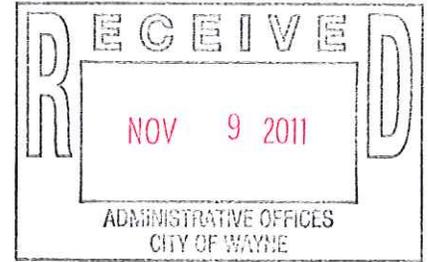
ATTEST:

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



Engineering  
Architecture  
Surveying  
Planning

November 9, 2011



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

RE: Wayne, NE  
2011 Lagoon Sludge Removal and Application  
JEO Project No. 101111

Dear Lowell:

Enclosed for the Council's consideration are four (4) copies of Application for Payment No. 1 (Final) for the above referenced project. Work completed includes pumping approximately 5.45 million gallons and approximately 1560 Tons of sludge for disposal vial land application. The project was completed in general conformance with the plans and specifications. Therefore, JEO recommends approval Application for Payment No. 1 (Final) in the amount of \$150,000.

Also enclosed is our Recommendation of Acceptance (ROA) for your signature. Upon approval of the pay application and ROA, please forward one copy with payment to the Contractor, and return one copy to JEO. You can provide photocopies to NDEQ or USEPA for reimbursement through the funding agencies.

Sincerely,

A handwritten signature in blue ink that reads "Roger S. Protzman".

Roger S. Protzman, P.E.  
Project Manager

RSP:skw  
Enclosures

**APPLICATION FOR PAYMENT NO. 1 (FINAL)**

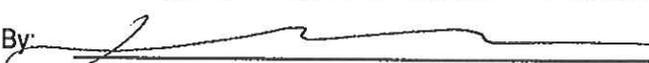
To: City of Wayne, Nebraska  
 From: DRT Biosolids, Inc.  
 Contract For: 2011 Lagoon Sludge Removal and Application  
 ENGINEER's Project No. 101111  
 For Work accomplished through the date of: 11/3/11

1. Original Contract Price:	\$ 150,000.00
2. Net change by Change Orders and Written Amendments (+ or -):	\$ -
3. Current Contract Price (1 plus 2):	\$ 150,000.00
4. Total completed and stored to date:	\$ 150,000.00
5. Percent of Project Completed	_____
6. Retainage (per agreement):	_____
_____ of completed Work and Stored Materials:	\$ -
(10% of the first 50% of work completed & stored)	
Total Retainage:	\$ -
7. Total completed and stored to date less retainage (4 minus 6):	\$ 150,000.00
8. Less previous Application for Payments:	\$ -
<b>9. DUE THIS APPLICATION (7 MINUS 8):</b>	<b>\$ 150,000.00</b>

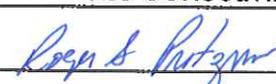
Accompanying Documentation:

**CONTRACTOR'S Certification:**

The undersigned CONTRACTOR certifies that (1) all previous progress payments received from OWNER on account of Work done under the Contract referred to above have been applied on account to discharge CONTRACTOR's legitimate obligations incurred in connection with Work covered by prior Applications for Payment numbered 1 through 1 inclusive; (2) title of all Work, materials and equipment incorporated in said Work or otherwise listed in or covered by this Application for Payment will pass to OWNER at time of payment free and clear of all Liens, security interests and encumbrances (except such as are covered by a Bond acceptable to OWNER indemnifying OWNER against any such Lien, security interest or encumbrance); and (3) all Work covered

Dated: NOV 9 2011 \_\_\_\_\_ DRT BIOSOLIDS, INC.  
 By:  \_\_\_\_\_

Payment of the above AMOUNT DUE THIS APPLICATION is recommended.

Dated: 11/9/11 \_\_\_\_\_ JEO CONSULTING GROUP, INC.  
 By:  \_\_\_\_\_

**APPLICATION APPROVED BY: City of Wayne, Nebraska**

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

**ATTEST:**

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

**CONTRACTOR'S PROGRESS ESTIMATE**

**Owner:** City of Wayne  
306 Pearl Street, P. O. Box 8  
Wayne, Nebraska 68786

**Date:** November 9, 2011

**Project:** 2011 Lagoon Sludge Removal & Application  
Wayne, Nebraska

**Estimate No.:** 1 (FINAL)

**Contractor:** DRT Biosolids, Inc.  
7140 State Hwy. 40  
Bloomer, Wisconsin 54724

**JEO Project No.:** 101111

ITEM NO.	CONTRACT QTY	UNIT	DESCRIPTION	QTY TO DATE	UNIT PRICE	TOTAL
1	1,562.5	Dry Tons	Lagoon Sludge Removal and Application	1	\$150,000.00	\$150,000.00
TOTAL COMPLETED AND STORED TO DATE						\$150,000.00

## APPLICATION FOR WAYNE'S ECONOMIC DEVELOPMENT PROGRAM (WEDP) FUND

Application Number:
Date Received November 4, 2011

LB840 (form approved 073109)

# 2011

### PART I. GENERAL INFORMATION

*TYPE OR PRINT ALL INFORMATION*

1. APPLICANT IDENTIFICATION	2. PERSON PREPARING APPLICATION								
Applicant Name Wayne Area Economic Development	Name/Business Irene Fletcher, Assistant Executive Director								
Mailing Address 108 W 3 <sup>rd</sup> St	Address 108 W 3 <sup>rd</sup> St								
Wayne NE 68787 (City) (State) (ZIP)	Wayne NE 68787 (City) (State) (Zip)								
Telephone Number 375-2240	Telephone Number 375-2240								
Fax Number Federal Tax ID Number 20-3524694	Federal Tax ID # / SS# 20-3524694								
Email Address info@wayneworks.org	Email Address ifletcher@wayneworks.org								
3. BUSINESS TYPE	5. FUNDING SOURCES								
<input checked="" type="checkbox"/> Corporation <input type="checkbox"/> Limited Liability Company <input type="checkbox"/> Partnership <input type="checkbox"/> Sole Proprietorship <input type="checkbox"/> Other _____	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 70%;">WEDP Funds Requested</td> <td style="text-align: right;">\$ 5,000</td> </tr> <tr> <td>Matching Funds</td> <td style="text-align: right;">\$ 18,060</td> </tr> <tr> <td>Other Funds</td> <td style="text-align: right;">\$ 15,000</td> </tr> <tr> <td><b>Total Project Funds</b></td> <td style="text-align: right;"><b>\$ 38,060</b></td> </tr> </table>	WEDP Funds Requested	\$ 5,000	Matching Funds	\$ 18,060	Other Funds	\$ 15,000	<b>Total Project Funds</b>	<b>\$ 38,060</b>
WEDP Funds Requested	\$ 5,000								
Matching Funds	\$ 18,060								
Other Funds	\$ 15,000								
<b>Total Project Funds</b>	<b>\$ 38,060</b>								
<b>4. ASSISTANCE TYPE REQUESTED</b> <input type="checkbox"/> Low interest loan <input type="checkbox"/> Interest buy down <input type="checkbox"/> Performance-based loan <input checked="" type="checkbox"/> Grant <input type="checkbox"/> Other _____	<i>(Round amounts to the nearest hundred dollars.)</i>								

**6. PROGRAM SUMMARY:** Brief narrative description of the project for which WEDP funds are requested

WAED continues to market and promote the community through the Wayne Works and other campaigns. Marketing for 2012 will include continuing the aforementioned plus the Opportunity Building, Historic Downtown Commercial District, residential recruitment/workforce attraction, and building pride in calling Wayne home (to work, to live, to play). WAED's Marketing Committee is working on other strategies including strategic advertising in print media in higher unemployment areas to let people know that Wayne has jobs. Additional people in Wayne helps business, schools, City and County. The matching funds come from WAED membership revenue; other funds come from County allocation (\$5000 – new this year) and City's contribution (\$10,000) for Opportunity Building marketing.

**7. CERTIFYING OFFICIAL:** Chief Executive Officer or owner of applicant requesting WEDP funds.

To the best of my knowledge and belief, data and information in this application are true and correct, including any commitment of local or other resources This applicant will comply with all Federal, state, and local requirements governing the use of WEDP funds.

Signature in ink 	Irene Fletcher, Assistant Executive Director Wes Blecke, Executive Director	11/04/11 11/04/11
Attest	Typed Name and Title	Date Signed

**SUBMIT THE ORIGINAL AND ONE COPY (UNBOUND) OF THE ENTIRE APPLICATION TO:**

Wayne Economic Development Program Fund  
108 W 3<sup>rd</sup> St  
Wayne, NE 68787  
(402) 375-2240 Fax (402) 375-2246

**PART II. FUNDING SUMMARY**

**(Round amounts to the nearest hundred dollars.)**

Eligible Activities	WEDP Funds	Matching Funds	Other Funds	Total Funds	Sources of Matching or Other Funds
The purchase of real estate, options for such purchases, the renewal or extension of such options, and public works improvements					
Payments for salaries and support of City staff to implement the Program or for contracting of an outside entity to implement any part of the Program.					
Expenses for business and industry recruitment activities to locate or relocate a qualifying business into the area and for equity investment in a qualifying business.					
The authority to issue bonds pursuant to the act subject to City Council approval.					
Grants or agreements for job training.					
Small business and microenterprise development including expansion of existing businesses.					
Interest buy down agreements.					
Expand and promote Wayne through marketing, workforce attraction, and tourism related activities.	5,000	18,060	5,000 (County) 10,000 (City)	38,060	Wayne County, City of Wayne (other), Wayne Area Economic Development (matching)
Development of housing related programs to foster population growth.					
Activities to revitalize and encourage growth in the downtown area.					
May contribute to or create a revolving loan fund from which low interest or performance based loans will be made to qualifying entities on a match basis.					
Other approved activity					
<b>TOTAL PROGRAM COSTS</b>	<b>5,000</b>	<b>18,060</b>	<b>15,000</b>	<b>38,060</b>	

**APPLICANT CERTIFICATIONS**

- a. There are no legal actions underway or being contemplated that would significantly impact the capacity of this company to effectively proceed with the project; and to fulfill all WEDP requirements.

If benefiting business/organization is a proprietorship or partnership, sign below:

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

If benefiting business/organization is a Corporation, sign below:

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



Attest

Wes Blecke/Executive Director  
Typed Name/Title

11/04/11  
Date

**ALL-TERRAIN VEHICLE AND UTILITY-TYPE VEHICLE MODEL ORDINANCE**  
[From the League of Nebraska Municipalities]

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE RELATING TO all-terrain vehicles and utility-type vehicles; to amend Ordinance No. \_\_\_ relating to all-terrain vehicles to include utility-type vehicles; to allow the operation of all-terrain vehicles and utility-type vehicles within the corporate limits under certain circumstances; to impose restrictions on the use of all-terrain vehicles and utility-type vehicles; to establish penalties for violation; to repeal conflicting ordinances and sections; to provide an effective date.

BE IT ORDAINED BY THE MAYOR AND COUNCIL/CHAIRPERSON AND BOARD OF TRUSTEES OF THE CITY/VILLAGE OF \_\_\_\_\_, NEBRASKA:

Section 1. A new Section \_\_\_\_\_ is added to the Municipal Code of \_\_\_\_\_, Nebraska as follows:

(1) For purposes of this section:

(a) All-terrain vehicle means any motorized off-highway vehicle which (a) is fifty inches or less in width, (b) has a dry weight of nine hundred pounds or less, (c) travels on three or more low-pressure tires, (d) is designed for operator use only with no passengers or is specifically designed by the original manufacturer for the operator and one passenger, (e) has a seat or saddle designed to be straddled by the operator, and (f) has handlebars or any other steering assembly for steering control.

(Neb. Rev. Stat. 60-6,355)

(b) Street or highway means the entire width between the boundary limits of any street, road, avenue, boulevard, or way which is publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

(Neb. Rev. Stat. 60-624)

(c)(i) Utility-type vehicle means any motorized off-highway vehicle which (A) is not less than forty-eight inches nor more than seventy-four inches in width, (B) is not more than one hundred thirty-five inches, including the bumper, in length, (C) has a dry weight of not less than nine hundred pounds nor more than two thousand pounds, (D) travels on four or more low-pressure tires, and (E) is equipped with a steering wheel and bench or bucket-type seating designed for at least two people to sit side-by-side.

(ii) Utility-type vehicle does not include golf carts or low-speed vehicles.

(Neb. Rev. Stat. 60-6,355)

(2) An all-terrain vehicle and an utility-type vehicle may be operated on streets and highways within the corporate limits of the city/village only if the operator and the vehicle comply with the provisions of this section.

(3) An all-terrain vehicle or an utility-type vehicle may be operated only between the hours of sunrise and sunset and shall not be operated at a speed in excess of thirty miles per hour. When operating an all-terrain vehicle or an utility-type vehicle as authorized in subsection (2) of this section, the headlight and taillight of the vehicle shall be on and the vehicle shall be equipped with a bicycle safety flag which extends not less than five feet above ground attached to the rear of such vehicle. The bicycle safety flag shall be triangular in shape with an area of not less than thirty square inches and shall be day-glow in color.

(4) Any person operating an all-terrain vehicle or an utility-type vehicle as authorized in subsection (2) of this section shall have:

(a) A valid Class O operator's license or a farm permit as provided in Neb. Rev. Stat. 60-4,126; and

(b) Liability insurance coverage for the all-terrain vehicle or an utility-type vehicle while operating the all-terrain vehicle or an utility-type vehicle on a street or highway. The person operating the all-terrain vehicle or an utility-type vehicle shall provide proof of such insurance coverage to any peace officer requesting such proof within five days of such a request.

(5) All-terrain vehicles and utility-type vehicles may be operated without complying with subsections (3) and (4) of this section on streets and highways in parades which have been authorized by the State of Nebraska or any department, board, commission, or political subdivision of the state.

(6) An all-terrain vehicle or an utility-type vehicle shall not be operated on any controlled-access highway with more than two marked traffic lanes, and the crossing of any controlled-access highway with more than two marked traffic lanes shall not be permitted. Subsections (2) through (4) and (7) of this section authorize and apply to operation of an all-terrain vehicle or an utility-type vehicle only on a street or highway other than a controlled-access highway with more than two marked traffic lanes.

(7) Subject to subsection (6) of this section, the crossing of a street or highway shall be permitted by an all-terrain vehicle or an utility-type vehicle without complying with subsections (3) and (4) of this section only if:

(a) The crossing is made at an angle of approximately ninety degrees to the direction of the street or highway and at a place where no obstruction prevents a quick and safe crossing;

(b) The vehicle is brought to a complete stop before crossing the shoulder or roadway of the street or highway;

(c) The operator yields the right-of-way to all oncoming traffic that constitutes an immediate potential hazard;

(d) In crossing a divided highway, the crossing is made only at an intersection of such highway with another highway; and

(e) Both the headlight and taillight of the vehicle are on when the crossing is made.  
(Neb. Rev. Stat. 60-6,356)

(8) \_\_\_\_\_ [Insert any other restrictions here.]

Section 2. A person who violates Section 1 of this ordinance shall be punished as provided generally in the municipal code.

Section 3. Any other ordinance or section passed and approved prior to passage, approval, and publication of this ordinance and in conflict with its provisions is repealed.

Section 4. This ordinance shall take effect and be in full force on January 1, 2011, after its passage, approval, and publication as required by law.

Passed and approved this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Mayor/Chairperson

(SEAL)

\_\_\_\_\_  
Clerk