

**AGENDA
CITY COUNCIL MEETING
January 3, 2012**

5:30 Call to Order

1. [Approval of Minutes – December 20, 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. [Action on 2012 Property and Casualty Insurance Package — Cap Peterson, Northeast Nebraska Insurance Agency](#)

Background: This proposed package covers the annual property, liability, errors and omissions, and workers' compensation insurance for the governmental activities and utility departments. Our current coverage is with Employers Mutual Company (EMC). The other two Nebraska municipal insurance options that will cover large power plants like Wayne's are Cornhusker Casualty and the League Association of Risk Management (LARM), which is a municipal insurance pool organized by the League of Nebraska Municipalities.

We ask EMC to quote premium rates for different levels of deductibles each year to evaluate potential savings. The annual premium for this plan for 2012 is \$232,898. This annual premium is lower than in the past. Part of the reason is that our work comp experience modification factor is down from 1.3 to .82 which has lowered our annual work comp premium from about \$107,000 to \$66,000. Gene Hansen and Garry Poutre have led our Safety Committee efforts and their own departments to prioritize employee safety daily. Cap Peterson will review the 2012 plan with you at the Council meeting and answer questions. Our city employee group health insurance is not included in this policy

Recommendation: Northeast Nebraska Insurance compares pricing for us each year with Cornhusker, but we have not totally bid out this coverage for several years and plan to do so this fall. The recommendation of Betty McGuire, City Clerk, and Lowell Johnson, City Administrator, is to approve the EMC policy proposal for 2012 and prepare a bid document and solicit bids for 2013.

4. [Action on Recommendation from the LB840 Economic Development Advisory Committee for a \\$5,000 loan to the Wayne Community Theater to be used to replace the Garage Doors on the Old Fire Hall Building](#)

Background: The Wayne Community Theater group has owned the 1912 City Hall building since it was donated to them by State National Bank about 6 years ago. The group has a long-term plan to preserve the building for historic purposes and to use it for theater activities. To date, they have stabilized the condition of the building by installing new membrane roofs on both the old and the new parts, cleaning out the old building contents and installing a new water line. The group leases out the space in the newer addition that was built for the fire trucks, and this request is for half the cost of replacing the original bay doors. If approved, the use of these LB840 funds will be classified as tourism because of the people the theater group brings into town.

Recommendation: The request from the theater group was for a grant. The recommendation of the LB840 Economic Development Advisory Committee is to approve the request as a loan.

5. [Report to Council on LB840 Activity — Wes Blecke, Director of Wayne Area Economic Development](#)

Background: This report is required to be made to the Mayor and Council and the citizens every six months. Attached is a list of projects and amounts that have been approved by you since the voters approved this sales tax and economic development plan. This list includes the six applications for assistance that the Committee and the City Council have approved since Wes' last report in June, 2011. No action is required by the City Council.

6. [Ordinance 2011-32: Permitting ATV and Utility Vehicles on Public Streets with Certain Restrictions \(Second Reading\)](#)

7. [Approving Change Order No. 1 \(Final\) for the Kardell Subdivision Sanitary Sewer Improvement Project](#)

Recommendation: This "Change Order" is a \$319 deduction for some quantity adjustments that took place during construction. The Engineer recommends approval thereof.

8. [Resolution 2012-1: Accepting Work on the Kardell Subdivision Sanitary Sewer Improvement Project and Authorizing Final Payment Thereto](#)

Background: This sanitary sewer was initially proposed to flow south from the Kardell Industrial Park Subdivision to cross Highway 35 and continue south to serve the Wayne Plant Market and Northeast Equipment properties and then west to serve all of the properties along Chief's Way and dump into the gravity flow sewer main going past Prime Stop. Instead, we improved the design, lowered the estimated cost, and installed a deep sewer lift station where Industrial Road crosses the old railroad right-of-way. This new deep well lift station can be accessed by service lines from the surrounding lots that include Pacific Coast Feather, Milo Meyer Construction, Concord Components and the new Wayne NG Cars Company. This lift station will pump sewage northwestward into a manhole near the Opportunity Building on the Vintage Hills sewer line coming in along Centennial Road. This deep well lift station will also serve future sewer lines coming in from

Chief's Way and the Pick Industrial Park and the other properties south of Northeast Equipment.

No sanitary sewer district was created to construct this sewer extension and lift station. We will collect the construction costs from future hook-up fees that will be calculated by Olsson Associates. Those hook-up fees will be equivalent to what the assessments would have been had an improvement district been created.

Recommendation: The recommendation of Olsson Associates, the engineer on the project, and Lowell Johnson, City Administrator, is to accept the work and approve the final payment.

9. Action on the Offer to Purchase Real Estate from Williams Form Engineering Corporation Regarding the Purchase of the 1.49 acre parcel known as Lot 1 of the 2nd Replat of Tompkins Industrial Tract #1 Subdivision, Wayne County, Nebraska, for the sum of \$18,000

Background: In the past, we have reserved this parcel for the possible sale to a prospect that purchases the Opportunity Building if they want it.

Recommendation: Williams Form Engineering Corporation wants to include this parcel with their purchase, and WAED is recommending acceptance of their offer.

10. Resolution 2012-2: Authorizing the Sale of Lot 1 of the 2nd Replat of Tompkins Industrial Tract #1 Subdivision, Wayne County, Nebraska, to Williams Form Engineering Corporation
11. Ordinance 2012-1: Directing the Sale of Lot 1 of the 2nd Replat of Tompkins Industrial Tract #1 Subdivision, Wayne County, Nebraska, to Williams Form Engineering Corporation

12. Recess

- a. Convene as Community Development Agency
- b. Approve Minutes – December 20, 2011
- c. Action on Request by Lou Benscoter for an Extension on the Closing Date Regarding the Purchase of Lot 2A, Replat of Kardell Industrial Park, a Subdivision by Wayne NG Cars, LLC

Background: The Wayne NG Car, LLC, investors are still waiting for a production contract and have asked for a 60-day extension of the closing date.

- d. Adjourn CDA and Reconvene as Council

13. Appointments:

Rod Tompkins to the Joint Airport Zoning Board
Dana Tompkins to the Joint Airport Zoning Board

14. Adjourn

APPROVED AS TO FORM AND CONTENT:

Mayor

City Administrator

December 20, 2011

The Wayne City Council met in regular session at City Hall on Tuesday, December 20, 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, Kaki Ley, Kathy Berry and Jill Brodersen; City Attorney Amy Miller; City Administrator Lowell Johnson and City Clerk Betty McGuire.

Notice of the convening meeting was given in advance by advertising in the Wayne Herald on December 8, 2011, and a copy of the meeting notice and agenda were simultaneously given to the Mayor and all members of the City Council. All proceedings hereafter shown were taken while the Council convened in open session.

Councilmember Van Delden made a motion, which was seconded by Councilmember Haase, whereas the Clerk has prepared copies of the Minutes of the meeting of December 6, 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, 1495.20; ANGELA M ICKLER, SE, 2346.25; APPEARA, SE, 97.56; AWWA, FE, 295.00; BAKER & TAYLOR BOOKS, SU, 929.28; BANK FIRST, FE, 180.00; BMI, FE, 278.10; CITY EMPLOYEE, RE, 233.59; CITY EMPLOYEE, RE, 586.10; CITY EMPLOYEE, RE, 184.27; CITY OF WAYNE, RE, 10.00; CITY OF WAYNE, RE, 1600.00; CITY OF WAYNE, RE, 20.00; CITY OF WAYNE, PY, 55569.97; CITY OF WAYNE, RE, 900.00; CITY OF WAYNE, RE, 63.86; COMMUNITY HEALTH, RE, 3.00; COPY WRITE PUBLISHING, SU, 30.07; D4, LLC, SE, 225.00; DAKOTA BUSINESS SYSTEMS, SE, 102.50; DELL MARKETING L.P., SU, 2517.43; DEMCO, SU, 158.49; ECHO GROUP, SU, 1604.72; ELECTRIC FIXTURE, SU, 26.38; ELLIS PLUMBING & HEATING, SE, 30.00;

EMPLOYERS MUTUAL CASUALTY, RE, 117.97; ERIKSEN CONSTRUCTION, SE, 114388.41; FLOOR MAINTENANCE, SU, 464.98; FORT DEARBORN LIFE, SE, 1418.04; FRIESEN CHEVROLET, SU, 188.21; GREAT PLAINS ONE-CALL, SE, 69.33; CITY EMPLOYEE, RE, 21.98; HEARTLAND PAPER CO, SU, 52.00; CITY EMPLOYEE, RE, 1309.79; HOUCHEN BINDERY LTD, SU, 114.50; ICMA, SE, 5555.68; INGRAM BOOK COMPANY, SU, 466.78; IRS, TX, 17773.91; JACK'S UNIFORM, SU, 400.00; JEFF ELLIS, RE, 500.00; KRIZ-DAVIS, SU, 1560.76; LAURA TEST, RE, 500.00; MAIN STREET AUTO CARE, SE, 180.00; MATT NELSON, RE, 500.00; CITY EMPLOYEE, RE, 97.14; MERCY MEDICAL CLINIC, SE, 29.00; MIDWEST LABORATORIES, SE, 2385.43; MIKE TOWNE, SE, 1200.00; MIRIAN AGUIRRE, SE, 150.00; NE DEPT OF REVENUE, TX, 2742.12; NPPD, SE, 209352.98; NIFA, FE, 100.00; OLSSON ASSOCIATES, SE, 2396.93; ORIENTAL TRADING CO, SU, 93.49; PAMIDA, SU, 30.55; CITY EMPLOYEE, RE, 149.18; PENRO CONSTRUCTION, SE, 108702.42; PEPSI-COLA, SU, 742.70; POSTMASTER, SU, 62.29; CITY EMPLOYEE, RE, 347.70; PROVIDENCE MEDICAL CENTER, SE, 110.00; QUILL, SU, 382.72; RANDOM HOUSE, SU, 134.25; RASMUSSEN ELECTRIC, SE, 185.85; CITY EMPLOYEE, RE, 176.13; RONALD GENTRUP, RE, 62.62; SANDI WACHTER, RE, 500.00; SPARKLING KLEAN, SE, 1637.06; SPEEDWAY AUTO PARTS, SU, 125.00; STADIUM SPORTING GOODS, SU, 1175.25; STANLEY SECURITY SOLUTION, SU, 82.84; STATE NATIONAL BANK, SE, 56.35; STATE NATIONAL BANK, RE, 109.17; STEFFEN, SU, 229.37; CITY EMPLOYEE, RE, 1181.75; TERRY MUNSON, RE, 500.00; CITY EMPLOYEE, RE, 506.65; U.S. TOY COMPANY, SU, 52.11; WAYNE COMMUNITY SCHOOLS, SE, 100.00; WAYNE HERALD, SE, 571.00; CITY EMPLOYEE, RE, 696.19; WESCO, SU, 97.98; WAPA, SE, 31977.31; ZEE MEDICAL SERVICE, SU, 63.58; CITY EMPLOYEE, RE, 1200.00; BROWN SUPPLY, SU, 306.18; CITY OF WAYNE, RE, 20.00; CITY OF WAYNE, RE, 336.33; COVENTRY HEALTH, SE, 22558.27; CRISTAL K MCDONALD, SE, 5265.60; D4, LLC, SE, 5551.25; DE LAGE LANDEN FINANCIAL, SE, 394.00; DELL MARKETING, SU, 5131.93; DUTTON-LAINSON, SU, 164.55; ENVIROTECH SERVICES, SU, 5159.64; ELLIS PLUMBING & HEATING, SE, 105.50; JEO CONSULTING GROUP, SE, 19457.20; KRIZ-DAVIS, SU, 29025.51; MATT FRIEND TRUCKING, SU, 62.00; NE NEBRASKA PUBLIC HEALTH, FE, 100.00; NEDA, FE, 200.00; OLSSON ASSOCIATES, SE, 10291.88; PITNEY BOWES, SU, 749.99; QUALITY 1 GRAPHICS, SU, 50.00; R.S. STOVER, SE, 959.15; ROY GRAMLICH, RE, 363.19; CITY EMPLOYEE, RE, 599.99; TYLER TECHNOLOGIES, SE, 1050.14; VERIZON, SE, 138.61; VOSS LIGHTING, SU, 1119.00; WAED, SU, 1200.00; WAYNE AUTO PARTS, SU, 810.25; WAYNE COMMUNITY SCHOOLS, RE, 6055.75

Councilmember Alexander made a motion and Councilmember Sturm 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.

Darrel Miller and Dan Rose, representing the Wayne Rotary Club, were present requesting Council consideration to allowing them to place five park benches along Phase I and Phase II of the city walking trail. The Rotary Club would purchase the benches and concrete for the pads, utilizing a Rotary District Simplified Grant available through the Rotary Foundation and Rotary District 5650 NE/IA. They were also requesting assistance from the City to locate and install the concrete pads and benches. The grant application is for \$2,000. The award will take place this spring, and the grant money will be available next fall to purchase and install the benches.

Councilmember Sturm made a motion and seconded by Councilmember Frevert approving the request of the Wayne Rotary Club to place five park benches along Phase I and Phase II of the City walking trail and to provide them with assistance to locate and install the pads and benches. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

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

Chair Haase called the meeting of the Community Development Agency to order. Those in attendance were: Members Brian Frevert, Jim Van Delden, Dale Alexander, Ken Chamberlain, Doug Sturm, Kaki Ley, Kathy Berry and Jill Brodersen; City Attorney Amy Miller; City Administrator Lowell Johnson; and City Clerk Betty McGuire.

Chair Haase advised the public that a copy of the Open Meetings Act was located on the south wall of the Council Chambers and was available for public inspection.

The next item on the CDA agenda was to approve the minutes of the December 6, 2011, meeting.

Member Ley made a motion and seconded by Member Sturm approving the minutes of the December 6, 2011, meeting. Chair Haase stated the motion, and the result of roll call being all Yeas, the Chair declared the motion carried.

The next item on the agenda was to consider and adopt CDA Resolution 2011-4 recommending approval of a Second Amended Redevelopment Plan/Contract for Northeast Nebraska Investors, LLC.

This action will amend the effective date to start collecting real estate taxes for the tax increment financing on the new Cobblestone Hotel Project from January 1, 2011, to January 1, 2012. It was noted that the project has started.

Member Sturm introduced CDA Resolution No. 2011-4 titled as follows and moved its passage and approval by the Agency:

CDA RESOLUTION NO. 2011-4

A RESOLUTION OF THE COMMUNITY DEVELOPMENT AGENCY OF THE CITY OF WAYNE, NEBRASKA, RECOMMENDING APPROVAL OF SECOND AMENDED REDEVELOPMENT PLAN/CONTRACT FOR NORTHEAST NEBRASKA INVESTORS, LLC.

Member Chamberlain seconded the motion.

On roll call vote, the following Agency Members voted in favor of the motion: Frevert, Van Delden, Alexander, Chamberlain, Sturm, Ley, Berry, and Brodersen. The following Members voted against the motion: None; the following member was absent: None; and the following members abstained due to a conflict of interest: None. The Chair declared the motion carried.

Wes Blecke, Director of WAED, stated a company, Williams Form Engineering Corporation, is interested in purchasing Lot 1 of Kardell Industrial Park No. 2 Subdivision, which is the property with the "Opportunity Building" on it. In 2007, Wayne Industries applied for a grant in the amount of \$255,000 from the State of Nebraska. \$5,000 of that amount went to the administrative entity, Northeast Nebraska Economic Development District. Of the \$250,000 they were able to use for the physical construction of the building, \$100,000 of that must go back to the State of Nebraska after a qualifying business purchases or leases the building. The other \$150,000 will be given to the City of Wayne, and the City of Wayne will determine whether the same will be used to help incent the business or whether it will be put back into the revolving loan fund. Williams Form will need to employ 10 full-time equivalent jobs for at least 12 months, pay at least \$9.00 per hour, and provide 51% of those jobs to low-to-moderate income individuals.

Ron Townsend, President of Williams Form Engineering Corporation, and Bill Downing, Regional Manager, were present to answer questions. Williams Form Engineering manufactures large anchoring devices for the construction industry. They purchase a lot of their products from Nucor Steel. They are a family-owned company and employ about 230 people throughout the United States. They have 10 manufacturing

plants and a corporate office in Michigan. They will retain a general contractor in Nebraska to head up their project. Once they are ready to turn on the machines, they will have approximately \$1.5 million invested in the project. They hope to have 40-50 people working at this location in 1-3 years.

Member Sturm made a motion and seconded by Member Chamberlain granting Lot 1 of Kardell Industrial Park No. 2 Subdivision, Wayne County, Nebraska, to Wayne Area Economic Development/Wayne Industries. Chair Haase stated the motion, and the result of roll call being all Yeas, the Chair declared the motion carried.

Mr. Blecke explained how the \$225,000 purchase price was arrived at for the “Opportunity Building” and the land. The list price on the building is currently \$463,000. He deducted the land price of \$78,000 (\$12,000 per acre for 6.5 acres), and also the \$150,000 grant from the State of Nebraska, which the Council will take action on later on the agenda, which reduces the amount down to \$235,000. They then used \$10,000 of their marketing funds as an incentive for the business, which brings the amount down to the \$225,000 purchase price.

He advised the Council that initially Williams Form Engineering wanted to lease the building; however, he wanted to sell the building.

He stated that because \$100,000 must be paid back to the State of Nebraska, and because WAED must pay back a \$125,000 loan to State National Bank/First National Bank/F&M Bank, he could not waiver on the \$225,000 purchase price.

Mr. Blecke stated that the CDA/City also owns 1.49 acres just to the east of that property, and Williams Form Engineering has indicated they are very interested in getting a first right of refusal on that parcel for future expansion.

Member Chamberlain made a motion and seconded by Member Frevert approving the Purchase Agreement with Williams Form Engineering Corporation to purchase the “Opportunity Building” and land for \$225,000 which will be used to expand an existing metal working business to Wayne. Chair Haase stated the motion, and the result of roll call being all Yeas, the Chair declared the motion carried.

Mr. Blecke stated that the CDA must release the Deed of Trust on the property. Wayne Industries owns the property, but the CDA has a Deed of Trust on it.

Member Ley made a motion and seconded by Member Berry releasing any liens on Lot 1 of Kardell Industrial Park No. 2 Subdivision, Wayne County, Nebraska. Chair Haase stated the motion, and the result of roll call being all Yeas, the Chair declared the motion carried.

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

Mayor Chamberlain declared the time was at hand for the public hearing to obtain public comment prior to the consideration of a Resolution approving the Second Amended Redevelopment Plan, including a redevelopment contract, for an area of the City previously declared blighted and substandard and in need of redevelopment pursuant to the Community Development Law, Chapter 18, Article 21, Reissue Revised Statutes of Nebraska, as amended (the “Act”). The Mayor opened the public hearing and invited all interested persons to be heard.

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

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

Councilmember Sturm introduced Resolution No. 2011-93 and moved for its approval; Councilmember Ley seconded.

RESOLUTION NO. 2011-93

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF WAYNE, NEBRASKA, APPROVING SECOND AMENDED REDEVELOPMENT PLAN/CONTRACT; AND RELATED MATTERS.

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

Councilmember Alexander made a motion and seconded by Councilmember Haase approving the request of Wayne Industries, on behalf of Williams Form Engineering Corporation, to grant \$150,000 of the \$250,000 CDBG Funds originally used for the construction of the "Opportunity Building" to the company for the purchase of the building. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Mr. Blecke advised the Council he has not seen the Memorandum of Understanding, but is assuming that it will include that Williams Form Engineering Corporation will have 10 full-time equivalent employees for at least 12 months, they will be paying at least \$9.00 per hour, and that at least 51% of those jobs will be offered to low-to-moderate income individuals.

Administrator Johnson stated the Memorandum of Understanding is just transferring the same terms that the City agreed to when we received the grant onto Williams Form Engineering Corporation.

Mr. Townsend advised the Council that they are fully aware of the provisions and are ready to sign the Memorandum of Understanding.

Councilmember Alexander made a motion, which was seconded by Councilmember Sturm approving the Memorandum of Understanding with Williams Form Engineering Corporation. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Joel Hansen, Building Inspector, stated that the building at 203 Main Street (former McNatt Building) is in the process of being sold. The new property owners will apply for a building permit to renovate the basement. New State Fire Marshal regulations require a new rear fire escape stairway from the basement that runs parallel with the back wall of the building. The back wall of the building is just a couple of feet from the edge of the City's 16-foot wide alley. To meet the width of the new Fire Code, the new stairway will encroach into the City's alley by about 8". That encroachment will not hinder traffic, snow removal or utilities.

Councilmember Alexander made a motion, which was seconded by Councilmember Frevert granting a temporary encroachment easement into the alley for the McNatt building located at 203 Main Street, with the same being contingent upon the sale of the property. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Administrator Johnson stated that Wayne was the recipient of a \$16,000 grant from the Nebraska Game and Parks Commission to develop and install educational signage along the Phase 1 trail to point out interesting local environmental plant, soil and stream points along Logan Creek. The signs are being constructed, but the installation of the posts into concrete along the trail will not happen until spring. This action approves a request from the City to extend the deadline of the project completion until spring.

Councilmember Frevert made a motion, which was seconded by Councilmember Haase approving the extension of the trail signage grant. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Administrator Johnson presented the Council with Ordinance 2011-32 (ATV and Utility Vehicles) that had additional requirements and changes suggested by a State Patrol Law Enforcement Officer. The ordinance, as proposed, would not allow ATV's to run on Highways 35 or 15. In addition, it would require that the operator must be at least 19 years of age and that no passengers would be allowed on ATV's which are not designed to carry passengers. This is for Council deliberation.

Mayor Chamberlain noted that the only things the Council can make changes or additions to is the "additional requirements." The remainder of the ordinance follows State Statute and cannot be changed.

Attorney Miller recommended deleting subsection (d) of Paragraph 7 because it is not applicable to Wayne. Clarification was needed on subsection (c) of paragraph 9. It was noted, for clarification purposes, that the operator will need to complete a safety program prior to obtaining a license. In addition, she was going to reword Section 2.

Administrator Johnson stated staff will need to prepare a checklist to submit with attached documents to get a license plate, and one of those would be a signatory page on these terms. The other would be some short 15 or 20 minute training session.

Councilmember Sturm wanted to do this on a trial basis for one year.

Councilmember Alexander had concerns about being able to enforce the age limit when they are required to wear helmets. This limits the ability to tell whether or not a driver is 19 years of age.

It was noted the ordinance could be revoked at any time.

Councilmember Sturm introduced Ordinance 2011-32 and moved for approval thereof, including the additional changes as recommended by Attorney Miller; Councilmember Berry seconded.

ORDINANCE NO. 2011-32

AN ORDINANCE AMENDING WAYNE MUNICIPAL CODE, CHAPTER 78 BY ADDING ARTICLE VII 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; AND TO PROVIDE AN EFFECTIVE DATE.

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

Councilmember Brodersen left the meeting at 6:25 p.m.

Administrator Johnson stated the following Resolution would approve an agreement with Northeast Nebraska Economic Development District to do an environmental review for the siren replacement project. The grant source for this project

is Federal funds, and because we will be moving two of the sirens to a different location and drilling holes in the ground, an environmental review is required. The cost for this review by NNEDD will not exceed the sum of \$1,500.

The FCC will be changing the band width of the radio frequency. The current sirens cannot be retrofitted to the narrow banding width. We originally budgeted \$94,000 for this project. If we want to apply for a grant which would cover some of the cost of the project, we must spend the money for an environmental review.

Councilmember Alexander introduced Resolution No. 2011-94 and moved for its approval; Councilmember Haase seconded.

RESOLUTION NO. 2011-94

A RESOLUTION ACCEPTING AND AUTHORIZING THE EXECUTION OF AN AGREEMENT FOR SERVICES WITH THE NORTHEAST NEBRASKA ECONOMIC DEVELOPMENT DISTRICT (NNEDD) TO CONDUCT AN ENVIRONMENTAL REVIEW FOR THE SIREN REPLACEMENT PROJECT.

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

Councilmember Alexander made a motion, which was seconded by Councilmember Haase to adjourn the meeting. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried and the meeting adjourned at 6:29 p.m.

CLAIMS LISTING JANUARY 3, 2012

AMAZON.COM, LLC	BOOKS/CD'S	640.03
AMERICAN BROADBAND	FIBER LINE LEASE	550.00
AMERICAN BROADBAND	TELEPHONE CHARGES	1,438.61
AMERITAS LIFE INSURANCE	POLICE RETIREMENT ADMIN PLAN	1,040.00
AMERITAS LIFE INSURANCE	POLICE RETIREMENT	1,483.65
APPEARA	LINEN AND MAT SERVICE	70.29
ARNIE'S FORD-MERCURY INC	BUCKLE ASSEMBLY	99.53
AS CENTRAL SERVICES	TELECOMMUNICATION CHARGES	448.00
BANK FIRST	FRATERNAL ORDER OF POLICE DUES	180.00
BLACK HILLS ENERGY	GAS BILLS	982.58
BOMGAARS	KEY/BATTERIES/FASTENERS-FD SUP	8.46
CITY EMPLOYEE	HEALTH REIMBURSEMENT	75.27
CITY EMPLOYEE	HEALTH REIMBURSEMENT	120.87
CENTURYLINK	TELEPHONE CHARGES	308.67
CITY OF NORFOLK	INSPECTIONS	338.37
CITY OF WAYNE	AUDITORIUM DEPOSIT REFUND	150.00
CITY OF WAYNE	BUILDING DEPOSIT REFUND	100.00
CITY OF WAYNE	PAYROLL	53,700.25
CITY OF WAYNE	UTILITY REFUNDS	125.00
COMMUNITY HEALTH	HEALTH CHARITIES	3.00
CITY EMPLOYEE	HEALTH REIMBURSEMENT	142.88
ENERGY FEDERATION, INC.	ENERGY WISE LIGHT BULBS	1,720.00
FIRST CONCORD GROUP LLC	CAFETERIA PLAN FEES	5,696.48
FLOOR MAINTENANCE	LAUNDRY DETERGENT/TISSUE/CLEANER	142.48
FORT DEARBORN LIFE	VFD INSURANCE	86.00
FRIESEN CHEVROLET, INC	BELT	188.21
GALE GROUP	BOOKS	222.30
GIS WORKSHOP	GPS TRAINING	14,509.00
HEARTLAND PAPER CO	VACUUM BAGS	24.76
ICMA RETIREMENT TRUST-457	ICMA RETIREMENT TRUST-457	5,386.00
IRS	FEDERAL WITHHOLDING	17,347.08
JEO CONSULTING GROUP	WELLHEAD PROTECTION	3,326.00
JOHNSON'S PLUMBING	BOILER SYSTEM SERVICE CALL	268.50
KNOEPFLER CHEVROLET CO	GASKET/SEAL	9.10
KRIZ-DAVIS COMPANY	FUSE LINK	103.59
CITY EMPLOYEE	COMPUTER PURCHASE	590.00
MATT PARROTT AND SONS	W2 FORMS	354.13
MCGUIRE & NORBY	ATTORNEY FEES	9,364.76
NE DEPT OF REVENUE	STATE WITHHOLDING	2,666.72
NORFOLK WINNELSON CO	AIR GAPS FOR WASHER/SOFTENERS	542.16
N.E. NE AMERICAN RED CROSS	PAYROLL DEDUCTIONS	59.24
NORTHEAST NE PUBLIC POWER	ELECTRICITY	3,442.00
NWOD	DUES- C JUNCK	10.00
OGDEN INK LLC	TONER CARTRIDGE REFILL	12.00
OVERHEAD DOOR COMPANY	TRANSMITTERS	121.50
PIEPER, MILLER & DAHL	ATTORNEY FEES	3,907.86
CITY EMPLOYEE	HEALTH REIMBURSEMENT	32.82
QUILL CORPORATION	OFFICE SUPPLIES	183.48
ROBERT WOehler & SONS	COOLING TOWER FOOTINGS	24,020.39

ROBERT WOehler & SONS	HILLSIDE DRIVE CONCRETE REPAIR	5,115.00
ROURKE PUBLISHING LLC	BOOKS	255.20
SMEAL FIRE APPARATUS CO	AERIAL TRUCK	187,769.00
STADIUM SPORTING GOODS	T-SHIRTS CO-ED VB LEAGUE	192.00
CITY EMPLOYEE	VISION REIMBURSEMENT	137.34
TERRACON CONSULTANTS INC	WWTP	691.50
TERRY SIEVERS	ENERGY INCENTIVE	500.00
THE CHILD'S WORLD	BOOKS	247.30
TOM JACOBSEN	ENERGY INCENTIVE	500.00
UNITED WAY	PAYROLL DEDUCTIONS	10.00
VERIZON WIRELESS SERVICES	CELL PHONES	60.07
VIAERO	CELL PHONES	137.66
WAYNE COMMUNITY HOUSING	ENERGY INCENTIVE	2,000.00
WESCO DISTRIBUTION INC	CONNECTORS	161.03

EMC Insurance Companies

BUSINESS PROTECTION POLICY
 COMMON DECLARATIONS - BUSINESS OWNERS
 POLICY PERIOD
 FROM: SEE SECTION DECLARATIONS TO: 01/04/13 *-----*
 12:01 A.M. STANDARD TIME * ACCOUNT NUMBER *
 AT YOUR MAILING ADDRESS SHOWN BELOW * 8 X 4 - 4 1 - 5 5---13 *
 (UNLESS CHANGED ON THE SECTION DECLARATIONS) *-----*

NAMED INSURED : PRODUCER :

 CITY OF WAYNE NORTHEAST NEBRASKA INSURANCE
 306 PEARL ST AGENCY INC
 PO BOX 8 PO BOX 100
 WAYNE NE 68787-0008 WAYNE NE 68787-0100

AGENT: B 7022
 AGENT PHONE: 402-375-2696
 CARTER A. PETERSON
 CLAIM REPORTING: 888-362-2255

 INSURED IS: MUNICIPALITY BUSINESS DESC: MUNICIPALITY

IN RETURN FOR THE PAYMENT OF THE PREMIUM, AND SUBJECT TO ALL THE TERMS OF THIS POLICY, WE AGREE WITH YOU TO PROVIDE THE INSURANCE AS STATED IN THIS POLICY. THIS POLICY CONSISTS OF THE FOLLOWING COVERAGE PARTS FOR WHICH A PREMIUM IS INDICATED. THIS PREMIUM MAY BE SUBJECT TO ADJUSTMENT. THE COMPANY AFFORDING COVERAGE IS DESIGNATED BY THE NAME IN THE DECLARATIONS OR INFORMATION PAGE FOR EACH SECTION OF THE POLICY.

SECTION	COVERAGE	PREMIUM
1	BUSINESSOWNERS	NO COVERAGE
2	INLAND MARINE	4,155.00
3	AUTOMOBILE	19,142.00
4	WORKERS' COMPENSATION	65,952.00
5	UMBRELLA	12,035.00
8	OTHER - PROPERTY	62,890.00
	COMMERCIAL OUTPUT	45,122.00
	GENERAL LIABILITY OC	16,397.00
	GOVERNMENT CRIME	887.00
	LINEBACKER	3,538.00
	LAW ENFORCEMENT	2,780.00

 ESTIMATED TOTAL POLICY PREMIUM \$ 232,898.00

FORMS APPLICABLE TO ALL SECTIONS EXCEPT:

1. BUSINESSOWNERS
2. WORKERS' COMPENSATION
3. WHEN EXCLUDED ON SECTION DECLARATIONS
 IL0017(11/98) IL7004(10/08)

THE ADDRESS AND TELEPHONE NUMBER OF THE SERVICING COMPANY IS:
 EMC INSURANCE COMPANIES PHONE: (402) 493-6990
 PO BOX 2070
 OMAHA, NE. 68103-2070

PLACE OF ISSUE: OMAHA, NE
 DATE OF ISSUE: 12/29/11 COUNTERSIGNED BY:



**Economic Development
Chamber ■ Main Street**

December 12, 2011

Lowell Johnson
City Administrator
306 Pearl Street
PO Box 8
Wayne, NE 68787

RE: Sales Tax Advisory Committee – recommendation for Wayne Community Theatre (\$5,000)

Dear Lowell,

The Sales Tax Advisory Committee met on Thursday, December 8, 2011, and reviewed an application to Wayne's Economic Development Program fund.

The committee recommended approving a request (terms modified by the committee) by the *Wayne Community Theatre* for a \$5,000 loan to be paid back over 5 years with an interest rate determined by the City Council to be used to assist with replacing overhead doors on the old Fire Hall (the west 1977 addition). The modified recommendation by the committee amended the request from a grant to a loan. The vote was unanimous with 4 voting members present.

Using its "LB 840 Application Review" matrix, the committee scored the project with the following: *Doesn't Meet* scored 29; *Doesn't Meet/Somewhat Meets* scored 0; *Somewhat Meets* scored 8; *Somewhat Meets/Meets* scored 6; and *Meets* scored 4. This review scoring is used for deliberation. The committee does not use a raw number threshold to recommend projects to the Council.

Please convey this recommendation to the members of the City Council so necessary steps can be taken to complete the application process. Feel free to contact me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Wes Blecke".

Wes Blecke
Executive Director

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

Application Number:

Date Received
12/1/11

LB940 (form approved 07/31/09)

2011

PART I. GENERAL INFORMATION

TYPE OR PRINT ALL INFORMATION

1. APPLICANT IDENTIFICATION	2. PERSON PREPARING APPLICATION
Applicant Name: <u>Wayne Community Theater</u>	Name/Business: <u>Judith Preece</u>
Mailing Address: <u>PO Box 203</u>	Address: <u>321 E 10th</u>
<u>Wayne</u> <u>NE</u> <u>68787</u>	<u>Wayne</u> <u>NE</u> <u>68787</u>
(City) (State) (ZIP)	(City) (State) (ZIP)
Telephone Number: _____	Telephone Number: <u>402-375-1926</u>
Fax Number: _____	Federal Tax ID # / SS#: _____
Federal Tax ID Number: _____	
Email Address: _____	Email Address: <u>judypreece@hotmail.com</u>
3. BUSINESS TYPE	5. FUNDING SOURCES
<input type="checkbox"/> Corporation <input type="checkbox"/> Limited Liability Company <input type="checkbox"/> Partnership <input type="checkbox"/> Sole Proprietorship <input checked="" type="checkbox"/> Other <u>Non-Profit 501(c)(3)</u>	WEDP Funds Requested: \$ <u>5,000.00</u> Matching Funds: \$ <u>5,000.00</u> Other Funds: \$ <u>1,100.00</u> Total Project Funds: \$ <u>11,100.00</u> (Round amounts to the nearest hundred dollars.)
4. ASSISTANCE TYPE REQUESTED	
<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	

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

Garage door replacement on Fire Hall building used for rental income and property storage

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.

Judith A. Preece Treasurer Nov 30, 2011
Signature in Ink Typed Name and Title Date Signed

Attest Typed Name and Title Date Signed

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

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

Wayne Community Theatre

P O Box 203

Wayne NE 68787-0203

Federal ID #: [REDACTED]

Date: November 30, 2011

Reference: Wayne's Economic Development Program

The Wayne Community Theatre has developed a long history of enhancing the economic growth in the City of Wayne. Our non-profit organization sponsors four functions per year which promote tourism with a positive impact on the community as a whole.

We have the buildings at the corner of Second and Pearl Streets which we use as rental property and costum/stage prop storage. The rental income is used to finance our stage productions, theatre workshops, arts festival and property maintenance. The maintenance of this building is a work in progress and will only improve the general revitalization of the downtown area.

Dale Paulson, the owner of Paulson Construction, has submitted a bid to replace the seven garage doors on the old "Fire Hall" building. In the past several years, Mr. Paulson's business has secured the roofs of both the City Hall building and Fire Hall building. Dale has worked with our theatre group by extending part of the bill as in-kind work to pay our share. He is a local business man who hires extra people to expand his workforce.

Please consider our grant request as an investment in the City of Wayne and the Wayne Community Theatre.

PROPOSAL

Paulson Construction
 57415 849th Rd.
 Wayne, Ne. 68787

PROPOSAL NO.
SHEET NO.
DATE 9-16-11

PROPOSAL SUBMITTED TO: 402-680-8770

NAME	Wayne Community Theater
ADDRESS	117 West 2nd St. Wayne Ne. 68787
PHONE NO.	

WORK TO BE PERFORMED AT:

ADDRESS	Same
DATE OF PLANS	
ARCHITECT	

We hereby propose to furnish the materials and perform the labor necessary for the completion of:

- 6 - 10' wide x 10' 9" tall TC 200 white flush exterior & interior steel insulated overhead doors
- 1 - 10' wide x 10' 12" tall TC 200 white flush exterior & interior steel insulated overhead door

All material is guaranteed to be as specified, and the above work to be performed in accordance with the drawings and specifications submitted for above work and completed in a substantial workmanlike manner for the sum of Paid when completed Dollars (\$ 11,060⁰⁰ / 100)

with payments to be made as follows.

Respectfully submitted Rale Paulson
 Per Paulson Const.

Any alteration or deviation from above specifications involving extra costs will be executed only upon written order, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents, or delays beyond our control.

Note — This proposal may be withdrawn by us if not accepted within 45 days.

ACCEPTANCE OF PROPOSAL

The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payments will be made as outlined above.

Signature _____
Date _____
Signature _____

6-Month Report to the Wayne City Council
 LB 840 Funds Committed (as of 12/31/11)

<u>Applicant</u>	<u>Amount</u>	<u>Type of funding</u>	<u>Purpose</u>	<u>Committee review</u>
Digital Blue	\$ 30,600.00	performance based loan	relocation/expansion	5/27/2009
Louis and Jevonah Benscoter	\$ 36,000.00	performance based loan	land development	8/13/2009
Interactive Impact	\$ 30,000.00	performance based loan	intellectual property development	8/13/2009
Jim Milliken (Godfathers)	a \$ 2,500.00	grant	parking lot (rain garden)	10/8/2009
Wayne Area Economic Development	\$ 10,000.00	grant	marketing (general)	11/12/2009
Wayne Area Economic Development (Project Majestic)	b \$ 200,000.00	grant	theater renovation/remodel	11/12/2009
Wayne Veterans Memorial Project	\$ 72,686.00	grant	memorial completion	2/11/2010
Farmers Market and Community Garden	c \$ 2,750.00	grant	marketing	4/15/2010
Wayne Hospitality Group LLC	d \$ 250,000.00	grant	hotel project	10/19/2010
Wayne Area Economic Development	\$ 10,000.00	grant	marketing (general)	12/21/2010
Inet Library	e \$ 43,019.00	performance based loan	expansion/start up expenses	2/10/2011
City of Wayne	\$ 26,000.00	grant	water/sewer for Western Ridge III	8/1/2011
Windom Ridge	\$ 5,000.00	grant	housing study targeting 55+	8/1/2011
Miss Molly's Coffee Company	\$ 30,000.00	performance based loan	purchase building/new coffee shop	10/13/2011
Wayne Area Economic Development on behalf of WCNCGC	\$ 150,000.00	loan guarantee	compressed natural gas car	10/13/2011
Wayne Area Economic Development	\$ 5,000.00	grant	marketing (general)	11/7/2011
<i>Subtotal of "grant"</i>	<i>\$ 903,555.00</i>			<i>28.24%</i>
City of Wayne	f \$ 7,132.00	zero percent loan	housing downpayment match	10/8/2009
Jim Milliken (Godfathers)	a \$ 35,500.00	zero percent loan	parking lot	10/8/2009
Inet Library	e \$ 43,019.00	3 percent interest loan	expansion/start up expenses	2/10/2011
RBDK LLC	\$ 70,000.00	3 percent interest loan	new dental clinic at 7th & Pearl	8/11/2011
<i>Subtotal of revolving</i>	<i>\$ 155,651.00</i>			<i>4.86%</i>
TOTAL FUNDS COMMITTED (as of June 30, 2011)	\$ 1,059,206.00			33.10%
TOTAL AVAILABLE FOR 15 YEARS (to collect)	\$ 3,200,000.00			

- a Committee recommended \$38,000 zero percent interest loan; Council granted \$2500 of this after the City requested a rain garden in the parking lot.
- b Committee recommended \$75,000; only \$72,686 was spent.
- c Committee recommended \$1,250; Council approved \$2,750.
- d Legally, this is a grant (not required to be paid back); however, the Wayne Hospitality Group LLC plans to honor their previous request's terms of 15 years at 0% interest.
- e Committee recommended only an interest bearing loan for \$43,019; Council approved \$43,019 for an interest bearing loan and \$43,019 for a performance based loan.
- f Committee recommended and Council approved \$64,200; only \$7,132 was used after the program closed.

ORDINANCE NO. 2011-32

AN ORDINANCE AMENDING WAYNE MUNICIPAL CODE, CHAPTER 78 BY ADDING ARTICLE VII. 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; AND TO PROVIDE AN EFFECTIVE DATE.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF WAYNE, NEBRASKA:

Section 1. A new Section 78, Article VII, is added to the Municipal Code of Wayne, 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 a 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 a 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 a 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 a utility-type vehicle while operating the all-terrain vehicle or a utility-type vehicle on a street or highway. The person operating the all-terrain vehicle or a 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.~~ Nebraska State Highway within the city limits of Wayne, except as provided in Paragraph (8).

(7) All ATVs and UTVs are to abide by the state statutes pertaining to the operation of vehicles on roadway's within the state.

(8) Subject to subsection (6) of this section, the crossing of a ~~street or state~~ highway shall be permitted by an all-terrain vehicle or an utility-type vehicle only if:

- (a) The crossing is made at an angle of approximately ninety degrees to the direction of ~~the street or state~~ 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 state~~ highway;

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

(d) Both the headlight and taillight of the vehicle are on when the crossing is made.

(Neb. Rev. Stat. 60-6,356)

(9) Additional Requirements:

(a) The vehicle must be licensed with the City of Wayne and display a city approved, reflective license plate with numbers and/or letters 4 inches high, prominently and clearly displayed on the rear of the vehicle;

(b) Any operator operating an ATV or Utility Vehicle must stop immediately when signaled to do so by a law enforcement officer;

(c) The operator must sign a written acknowledgement of the terms of this Ordinance and complete a safety program approved by the City of Wayne;

(d) The operator must wear a protective helmet that meets the motorcycle helmet standards of the State of Nebraska;

(e) The operator must be at least 19 years of age; and

(f) No operator shall permit any passengers to ride on ATVs which are not specifically designed by the manufacturer to carry passengers.

Section 2. ~~A person who violates Section 1 of this ordinance shall be punished as provided generally in the municipal code.~~ Section 1-9 of the City Code of Wayne, Nebraska, is amended as follows “...such violation of any such provision of this Code or any ordinance shall be punishable by a fine not exceeding \$500 except for Section 78, Article VII, which, for a first offense, shall be punishable by a \$100 fine, which may be paid by waiver. If such person has one prior conviction within one year of the second offense, conviction of the second offense shall be punishable by a \$100 fine, and the operator’s City of Wayne ATV/utility vehicle license shall be impounded for one year from the date of conviction. Penalties for subsequent convictions are not waivable. “Prior conviction within one year” shall be measured by the time that passes from the date of conviction of the prior offense to the date of offense for the subsequent offense.

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 _____, 2012, after its passage, approval, and publication as required by law and shall remain in effect until December 31, 2012.

PASSED AND APPROVED this _____ day of _____, 201_.

THE CITY OF WAYNE, NEBRASKA,

By _____
Mayor

ATTEST:

City Clerk



1707 Dakota Ave., South Sioux City, NE 68776

CHANGE ORDER NO. 1(FINAL)

PROJECT: Kardell Subdivision Sanitary Sewer Improvments
CONTRACTOR: Mark Albenesius, Inc.
CONTRACT DATE: January 4, 2011

DATE OF ISSUANCE: January 3, 2012
December 6, 2011
OA PROJECT NO.: 008-0305
AMOUNT OF ORIGINAL CONTRACT: \$134,983.85

You are directed to make the changes noted below in the subject contract:

See Attached Sheet

The changes result in the following adjustments of Contract Price and Contract Time:

Contract Price Prior to This Change Order	\$134,983.85
Net Increase/ Decrease Resulting from this Change Order.....	(\$319.00)
Current Contract Price Including this Change Order	\$134,664.85

The Above Change Order Accepted:

Mark Albenesius, Inc.
Contractor

By: Mark Albenesius

Date: 11-16-11

OLSSON ASSOCIATES
Consulting Engineers

By: Rodney L. Hanson
Rodney L. Hanson

Date: 11-15-11

The Above Change Order Approved:

City of Wayne
Owner

By: _____

Date: _____

Kardell Subdivision Sanitary Sewer Improvements
 SOUTH SIOUX CITY, NEBRASKA
 MARK ALBENESIUS INC.

Change Order #1 (FINAL)
 OA Project No. 008-0305
 11/15/2011

NO.	ITEM	UNITS	PLAN QUANTITY	FINAL QUANTITY	ADD / (DEDUCT)	UNIT PRICE	TOTAL PRICE
12	Crushed Concrete Surfacing	TN	20	40	20	\$30.20	\$604.00
13	Crushed Concrete Foundation	TN	30	20	(10)	\$30.20	(\$302.00)
14	White Rock Surfacing	TN	20	0	(20)	\$33.00	(\$660.00)
16	Silt Fence	LF	523	536	13	\$3.00	\$39.00
						Total	(\$319.00)

RESOLUTION NO. 2012-1

A RESOLUTION ACCEPTING WORK ON THE "KARDELL SUBDIVISION SANITARY SEWER IMPROVEMENT PROJECT" AND AUTHORIZING FINAL PAYMENT THERETO.

WHEREAS, on the 7th day of December, 2010, the City of Wayne approved Resolution No. 2010-93 awarding the contract on the "Kardell Subdivision Sanitary Sewer Improvement Project" to Mark Albenesious, 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, Olsson Associates.

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, Olsson Associates for the work in the "Kardell Subdivision Sanitary Sewer Improvement 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 3rd day of January, 2012.

THE CITY OF WAYNE, NEBRASKA

By _____
Mayor

ATTEST:

City Clerk



CERTIFICATE OF PAYMENT NO. 3 (FINAL)

Date of Issuance: December 6, 2011

January 3, 2012

1707 Dakota Avenue South Sioux City, NE 68776

Project No. 008-0305

Project: Kardell Subdivision Sanitary Sewer Improvements, Wayne, Nebraska - 2010

Contractor: Mark Albenesius, Inc., 608 152nd Street, South Sioux City, Nebraska, 68776

DETAILED ESTIMATE		
Description	Unit Prices	Extensions
See Attached		

PLEASE REMIT PAYMENT TO: Mark Albenesius, Inc.

Value of Work Completed: \$134,664.85

Original Contract Cost: \$134,983.85
 Approved Change Orders:
 No. \$0.00
 No. \$0.00
 No. \$0.00
 No. \$0.00
 No. \$0.00
 Total Contract Cost: \$134,983.85

Value of completed work \$134,664.85
 Less retained percentage (0 %) \$0.00
 Net amount due including this estimate \$134,664.85

Less: Estimates previously approved:

No. 1 \$100,574.42	No. 6 \$0.00
No. 2 \$19,443.15	No. 7 \$0.00
No. 3 \$0.00	No. 8 \$0.00
No. 4 \$0.00	No. 9 \$0.00
No. 5 \$0.00	No.10 \$0.00

Total Previous Estimates: \$120,017.57

NET AMOUNT DUE THIS ESTIMATE: \$14,647.29

The undersigned hereby certifies that the work done and materials delivered have been checked as to quantity and conformance with the plans and specifications and the Contractor, in accordance with the contract, is entitled to payment as indicated above.

cc: Mark Albenesius, Inc.
Project File

By  OLSSON ASSOCIATES

Project: Kardell Subdivision Sanitary Sewer Improvements, Wayne, Nebraska - 2010
Wayne, Nebraska
Project No. 008-0305
Contractor: Mark Albanesi, Inc., 608 152nd Street, South Sioux City, Nebraska, 68776

No.	Description	Unit	Plan Quantity	Unit Price \$	Contract Price \$	Quantities Completed	Total Amount Completed	100% Due Contractor	0% Retainage	Amt. Paid Prev. Est.	Total Due This Est.
BASE BID SECTION:											
1	Mobilization	LS	1	\$12,961.00	\$12,961.00	1	\$12,961.00	\$12,961.00	\$0.00	\$11,664.90	\$1,296.10
2	Cleaning and Grubbing	LS	1	\$1.00	\$1.00	1	\$1.00	\$1.00	\$0.00	\$0.90	\$0.10
3	Lift Station Earthwork	LS	1	\$12,000.00	\$12,000.00	1	\$12,000.00	\$12,000.00	\$0.00	\$10,800.00	\$1,200.00
4	Build Lift Station	LS	1	\$76,610.00	\$76,610.00	1	\$76,610.00	\$76,610.00	\$0.00	\$68,949.00	\$7,661.00
5	4" PVC Sanitary Force Main, DR 18	LF	1530	\$10.00	\$15,300.00	1530	\$15,300.00	\$15,300.00	\$0.00	\$13,770.00	\$1,530.00
6	4" M.J. 90° Bend	EA	2	\$87.25	\$174.50	2	\$174.50	\$174.50	\$0.00	\$157.05	\$17.45
7	4" M.J. 45° Bend	EA	3	\$82.50	\$247.50	3	\$247.50	\$247.50	\$0.00	\$222.75	\$24.75
8	4" M.J. 11.25° Bend	EA	1	\$79.00	\$79.00	1	\$79.00	\$79.00	\$0.00	\$71.10	\$7.90
9	Force Main Bedding	LF	1530	\$5.30	\$8,109.00	1530	\$8,109.00	\$8,109.00	\$0.00	\$7,298.10	\$810.90
10	18" RCP Storm Pipe, Class III	LF	32	\$44.00	\$1,408.00	32	\$1,408.00	\$1,408.00	\$0.00	\$1,267.20	\$140.80
11	Area Inlet	EA	1	\$2,355.00	\$2,355.00	1	\$2,355.00	\$2,355.00	\$0.00	\$2,119.50	\$235.50
12	Crushed Concrete Surfacing	TN	20	\$604.00	\$604.00	40	\$1,208.00	\$1,208.00	\$0.00	\$543.60	\$664.40
13	Crushed Concrete Foundation	TN	30	\$30.20	\$906.00	20	\$604.00	\$604.00	\$0.00	\$543.60	\$60.40
14	White Rock Surfacing	TN	20	\$33.00	\$660.00	0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
15	Type "B" Seeding	AC	1.15	\$1,739.00	\$1,999.85	1.15	\$1,999.85	\$1,999.85	\$0.00	\$1,799.87	\$199.99
16	Silt Fence	LF	523	\$3.00	\$1,569.00	536	\$1,608.00	\$1,608.00	\$0.00	\$810.00	\$798.00
TOTAL BASE BID SECTION (ITEMS 1-16)								\$134,664.85	\$0.00	\$120,017.57	\$14,647.29

OFFER TO PURCHASE REAL ESTATE

THIS OFFER TO PURCHASE REAL ESTATE ("**Offer**") has been made as of December 27th, 2011, by WILLIAMS FORM ENGINEERING CORPORATION, a Michigan corporation, of 8165 Graphic Drive, Belmont, Michigan 49306 ("**Buyer**"), to the CITY OF WAYNE, a Nebraska municipal corporation, of 306 Pearl St. Wayne, Nebraska 68787 ("**Seller**"), and shall remain effective until 5 p.m. Eastern time on January 4th, 2012, when it shall expire automatically, if not accepted. Upon acceptance by Seller, this Offer shall constitute a binding purchase agreement ("**Agreement**").

Buyer offers to purchase from Seller, on the terms and subject to the conditions set forth in this Offer, that parcel of approximately one and 49/100 (1.49) acres of vacant land, as more particularly on **Exhibit A** attached to this Offer, together with all easements, division rights, hereditaments, and appurtenances associated with that real estate ("**Property**"). Buyer shall not assume any liabilities of Seller, except as expressly described below.

1. **Purchase Price.** The purchase price for the Property shall be Eighteen Thousand U.S. Dollars (\$18,000) ("**Purchase Price**"), payable at closing.

2. **Deposit; Default.**

(a) **Deposit.** Upon Seller's acceptance of this Offer, Buyer shall deposit the sum of One Thousand U.S. Dollars (\$1,000) ("**Deposit**") in escrow with First Source Title & Escrow Co., Attn. Sharon Braun ("**Title Company**") as evidence of good faith and to bind this Agreement pursuant to the escrow agreement attached to this Agreement as **Exhibit B**. All accrued interest on the Deposit shall be considered part of the Deposit. If the purchase and sale contemplated by this Offer ("**Purchase**") is closed, the Deposit shall be applied to the Purchase Price at closing. If Buyer terminates this Agreement pursuant to any termination right granted by this Agreement, the Deposit shall be promptly returned to Buyer.

(b) **Default.** If Buyer defaults in Buyer's obligations under this Agreement so that the Purchase is not closed, then as Seller's sole remedy Seller may terminate this Agreement by notice to Buyer, the Deposit shall be paid to Seller as liquidated damages, and neither Seller nor Buyer shall have any further liability to the other under this Agreement. If Seller defaults in Seller's obligations under this Agreement so that the Purchase is not closed, then Buyer may terminate this Agreement by notice to Seller, in which case the Deposit shall be promptly returned to Buyer, and neither Seller nor Buyer shall have any further liability to the other under this Agreement. Alternatively, Buyer may pursue any other right or remedy available at law or in equity, including, without limitation, injunctive relief and specific performance of this Agreement.

3. **Title; Survey.**

(a) Seller agrees to convey good and marketable title to the Property to Buyer by a warranty deed ("**Warranty Deed**"), subject only to the exceptions that are permitted by this Agreement. As evidence of Seller's title, Buyer shall, within sixty (60) days after the Effective Date (as defined below) ("**Due Diligence Period**"), obtain at Seller's expense, and provide a copy to Seller, a commitment ("**Title Commitment**") to issue an owner's title insurance policy insuring Buyer in the amount of the Purchase Price, without the standard printed exceptions, which shall be in a form approved by the American Land Title Association ("**ALTA**") and acceptable to the Buyer. The Title Commitment shall include the following endorsements to the title insurance policy: ALTA 17-06 (Access and Entry), ALTA 18-06 (Single Tax Parcel), ALTA 9.2-06 (Restrictions, Encroachments, Minerals-Owner's Policy-Unimproved Land), Survey, ALTA 3.1-06 (Zoning-Completed Structure), Inflation, Arbitration deleted (if applicable), ALTA 21-06 (Creditor's Rights), ALTA 15-06 (Nonimputation-Full Equity Transfer) (if applicable), and Additional Insurance. The Title Commitment must show good and marketable title to the Property to be in Seller's name subject only to beneficial easements and restrictions of record that are acceptable to Buyer in its sole discretion and the requirements to be satisfied set forth in the Title Commitment and shall disclose no other easements, restrictions or encumbrances whatsoever.

(b) Buyer shall within the Due Diligence Period obtain at Buyer's expense, and provide a copy to Seller, a 2005 ALTA/ACSM land title survey with Table A items selected by Buyer, certified to the Seller, Buyer, Buyer's lender, if any, Legal Counsel (defined below) and the Title Company insuring the transaction.

(c) Buyer shall notify Seller prior to expiration of the Due Diligence Period if the Title Commitment discloses any exceptions not permitted by this Agreement or if the Survey shows any deviation from apparent boundaries or represented acreage, violation of zoning ordinances, or building and use restrictions, flood hazard area, encroachment, or condition that poses a problem for Buyer's lender or that, in Buyer's sole judgment, could interfere with Buyer's intended use of the Property (individually and collectively, a "**Defect**"). Seller shall notify Buyer within ten (10) days of receipt of Buyer's notice of Defect(s) whether Seller shall remove each Defect. If Seller notifies Buyer that it shall remove the Defect(s), Seller shall do so at Seller's expense on or before the closing date. In addition, Seller shall satisfy the requirements set forth in the Title Commitment on or before the closing date. If Seller fails to timely respond to Buyer's notice of Defect(s), notifies Buyer that it will not remove any Defect, or fails or refuses to remove any Defect on or before closing, then Buyer may: (i) proceed to closing, waiving the Defect at issue; (ii) terminate this Agreement by a written notice to Seller, in which case the Deposit shall be promptly returned to Buyer, and neither Seller nor Buyer shall have any further liability to the other under this Agreement; or (iii) proceed to closing and cure any Defect that is capable of being cured or satisfied by the payment of a sum certain, using sale proceeds not to exceed One Thousand Dollars (\$1,000) otherwise payable to Seller. If after expiration of the Due Diligence Period, there are changes to the Title Commitment or Survey, Buyer shall have an additional seven (7) days to raise any Defects, and in which case, the parties shall have the same rights and obligations as set forth above with respect to the Defects.

(d) The legal description for the Property must be verified by the Title Commitment and Survey. Buyer and Seller mutually agree to amend this Offer, in writing, to correct any discrepancies in the legal description upon completion of the Title Commitment and Survey. If the final legal description of the Property is less than 6.5 acres, Buyer shall have the right to re-negotiate the price or terminate the Offer, in its sole discretion.

4. Inspection.

(a) Buyer and its agents, consultants, and designees ("**Buyer's Agents**") may from time to time inspect the Property prior to the closing, and may enter the Property to perform all inspections of the building and land and investigations of the availability of utilities, cost to improve the Property to meet Buyer's intended use of the Property, zoning and other governmental requirements, and any other investigations and inspections it desires. Promptly upon Seller's acceptance of this Offer, Seller shall provide to Buyer, or make available for review by Buyer and/or Buyer's agents, copies of the following documents to the extent that they are in Seller's possession or control ("**Seller's Documents**"): (i) all building permits, wetlands, and fill permits, zoning variances and approvals, and environmental reports with respect to the Property; (ii) all surveys of the Property; (iii) all site, "as-built", architectural, and engineering plans and specifications for any existing and planned improvements to the Property; (iv) all leases, licenses, or occupancy agreements with respect to the Property; (v) any notices with respect to the Property received from a governmental agency within the five-year period preceding the Effective Date; and (vi) all maintenance and other contracts affecting the Property.

(b) Without limiting the generality of the foregoing, Buyer and Buyer's Agents shall have the right to conduct an environmental assessment of the Property in one or more phases, including the procurement and analysis of samples of soil, groundwater, surface water, indoor air, or any other environmental medium, and any building component or other material located at the Property. The cost of the environmental assessment shall be borne by Buyer. Seller shall provide access and information to, and otherwise cooperate with, Buyer and Buyer's Agents in the environmental assessment. Buyer shall have the right to interview employees and representatives of Seller who have or may have knowledge of conditions and events relevant to the operating history or environmental condition of the Property.

(c) If the municipality where the Property is located ("**Municipality**") requires the completion of any repairs, inspections or reports relating to the Property prior to the sale contemplated by this Agreement ("**Municipal Requirements**"), then Seller shall complete such Municipal Requirements at its expense within thirty (30) days after the Effective Date. If Seller fails to complete the Municipal Requirements within such thirty (30) day period, Buyer may (i) complete the Municipal Requirements and charge Seller for such costs at the closing, or (ii) terminate this Agreement, in which case, the Deposit shall be promptly returned to Buyer, and neither Seller nor Buyer shall have any further liability to the other under this Agreement. Seller shall indemnify and hold Buyer harmless from any and all claims, actions, losses, liabilities, or damages resulting from Seller's failure to perform its obligations under this Paragraph, and this indemnity obligation shall survive the closing.

5. **Seller's Representations and Warranties.** Seller represents and warrants to Buyer, which representations and warranties shall be true to the closing date, as follows:

(a) There are no pending or threatened condemnation proceedings against the whole or any part of the Property;

(b) There are no claims, litigation, proceedings, inquiries, investigations, or disputes pending or threatened against or relating to the Property;

(c) Seller has at all times operated the Property in compliance with all applicable laws, ordinances, orders, codes, rules, regulations, building and use restrictions, and other legal requirements, including, without limitation, Seller's timely application for, possession of, and compliance with all applicable environmental permits (collectively, "Applicable Law"), and the Property is free and clear of all violations of Applicable Law;

(d) The Property is owned by the Seller, and Seller through the persons executing this Agreement on behalf of the Seller, has full power and authority to enter into this Agreement, and to assume and perform all of Seller's obligations under this Agreement;

(e) There are no agreements, contracts, or leases, written or oral, which affect the Property in any manner other than this Agreement and any agreements disclosed by the Title Commitment;

(f) To the best of Seller's knowledge, there has been no production, generation, use, storage, transport, treatment, spill, release, infiltration, or disposal at the Property or any adjoining property of any hazardous substance or solid or hazardous waste (as those terms are defined in applicable federal and state environmental protection laws and regulations, including, without limitation, petroleum and its derivatives, polychlorinated biphenyls, radon gas, urea formaldehyde foam insulation and asbestos (collectively, "Hazardous Substances")), except as may be disclosed by Seller's documents or any environmental assessment report obtained by Buyer as provided above;

(g) To the best of Seller's knowledge, no Hazardous Substance is present on, in, or under the Property in a quantity or concentration that would give rise to a claim of liability against any person under Applicable Law, except as disclosed by Seller's documents or any environmental assessment report obtained by Buyer as provided above;

(h) To the best of Seller's knowledge, there are not now, and never have been, any aboveground or underground storage tanks at the Property;

(i) There are no improvements on the Property;

(j) There is no pending or proposed special assessment affecting or which may affect the whole or any part of the Property;

(k) Seller has and can deliver to Buyer good and marketable title to the Property, subject only to the exceptions permitted by this Agreement, and the Property has legal and physical access from a publicly dedicated and improved right-of-way;

(l) All necessary action to approve, execute, deliver, and perform this Agreement has been taken by Seller, and this Agreement is the valid and binding obligation of Seller, enforceable against Seller in accordance with its terms; and

(m) Seller is not a "specially designated national and blocked person" on the most current list published by the U.S. Treasury Department Office of Foreign Asset Control; that Seller is not listed in the annex to, and is not otherwise subject to the provisions of, Executive Order No. 13224 (the "Executive Order"); and that Seller is not acting on behalf of any Person or entity that is listed in the annex to, or is otherwise subject to the provisions of the Executive Order.

Seller shall hold Buyer harmless, indemnify, and at Buyer's option, defend Buyer, from and against any loss, including, without limitation, reasonable attorney fees, incurred by reason of Seller's breach of any of the foregoing representations and warranties.

6. **Buyer's Contingencies.** The obligation of Buyer to close the Purchase shall be contingent upon:

(a) Buyer's reasonable satisfaction with the results of its investigation of the compliance of the Property with applicable laws, ordinances and regulations, to be performed at Buyer's discretion and expense within the Due Diligence Period;

(b) Buyer's satisfaction, in its sole discretion, with the results of all inspections of the Property that Buyer desires, to be performed at Buyer's discretion and expense within the Due Diligence Period;

(c) All representations and warranties of Seller set forth in this Agreement being true as of the closing date;

(d) Seller having timely performed and complied in all respects with all covenants, obligations, and agreements to be performed or complied with by Seller under this Agreement;

(e) Buyer's ability to obtain prior to closing fixed rate nonrecourse secured financing for at least eighty percent (80%) of the Purchase Price, with an interest rate no greater than five and one-half percent (5.5%) per annum, a 20-year amortization, on such other terms and conditions as are satisfactory to Buyer in its sole discretion. Buyer shall promptly advise Seller when Buyer receives a commitment for such financing and the lender is ready to close such financing;

(f) Buyer's satisfaction, in its sole discretion, with its review of Seller's Documents and the condition, permitted use and development prospects for the Property. Buyer shall perform such review, at its expense, within the later of ten (10) days after the date that Seller delivers the last of Seller's Documents to Buyer or expiration of the Due Diligence Period;

(g) Buyer's satisfaction, in its sole discretion, with the environmental condition of the Property.

Except as otherwise set forth in Subparagraph(s) 6(c) and 6(d) above, Buyer shall promptly commence and proceed diligently and in a reasonable manner to attempt to satisfy each of the contingencies set forth above, at Buyer's expense. Seller agrees to cooperate in such endeavor. If Buyer is unable to satisfy one or more of the contingencies, and is not willing to waive the contingency(ies), then Buyer may terminate this Agreement by a written notice to Seller, in which case the Deposit shall be promptly returned to Buyer, and neither Seller nor Buyer shall have any further liability to the other under this Agreement.

7. **Seller's Contingencies.** The obligation of Seller to close the Purchase shall be contingent upon Seller's City Council's approval of the Purchase on January 3, 2012.

8. **Closing.**

(a) The closing shall take place as soon as reasonably possible following the satisfaction of the conditions and contingencies set forth in this Agreement, but no later than thirty (30) days after expiration of the Due Diligence Period, or such later date as is mutually agreed upon by Seller and Buyer. Within these limitations, the closing shall take place via an escrow agent by mail delivery at such time and place and on such date as shall be specified by Buyer on at least one week's notice to Seller, or in the absence of such notice, at 10 a.m. on the last day permitted for closing. The escrow agent shall be the Title Company who furnishes the title policy for the Property as provided in Paragraph 3 above.

(b) At closing, Seller shall execute and deliver the following:

- (i) The Warranty Deed, in recordable form;
- (ii) If requested by Buyer, a quit claim deed that legally describes the Property as provided in the survey prepared in accordance with this Agreement;
- (iii) A real estate transfer tax valuation affidavit;
- (iv) A closing statement setting forth the Purchase Price and closing adjustments;
- (v) Affidavit(s) in the form prescribed by the Title Company for the removal of its standard printed exceptions;
- (vi) A resolution or other evidence of authorization of the Purchase acceptable to the Title Company;
- (vii) A certificate of nonforeign status;
- (viii) Any other documents reasonably necessary or legally required to evidence the Purchase; and

(ix) If the Property is contaminated, any other documents reasonably or customarily required.

(c) At closing, Seller shall deliver, or cause to be delivered, the following:

(i) Actual physical possession of the Property, free of all tenants or other occupants. Seller shall deliver possession of the Property to Buyer in good condition and working order and broom clean, and in at least as good a condition as on the date of this Offer, reasonable wear and tear excepted. Seller shall continue to maintain the building and other components of the Property in their current condition until the closing; and

(ii) An ALTA owner's title insurance policy which shall insure Buyer's title as required by Paragraph 3 above.

(d) At closing, Buyer shall execute and/or deliver the following:

(i) The Purchase Price, as adjusted by prorations and other charges under this Agreement;

(ii) A closing statement setting forth the Purchase Price and closing adjustments; and

(iii) Any other documents reasonably necessary or legally required to evidence the Purchase.

(e) At closing, Seller shall pay all recording and filing costs in connection with curing its title to the Property, the transfer taxes for the Warranty Deed and the title insurance premium for Buyer's owner's policy of title insurance including, fees for any title insurance endorsement(s) required under this Agreement. Buyer shall pay the recording fee for the Warranty Deed. Seller and Buyer shall each pay one-half of any closing fee charged by the Title Company conducting the closing.

9. **Taxes and Assessments.** All real estate and personal property taxes and special assessments with respect to the Property, if any, whether or not payable in installments or deferrable without penalty or interest to a later date, that first become due and payable (or in the case of special assessments, a lien upon the Property) on or before the closing date, or which are assessed retroactively for the period of time prior to the closing date, shall be paid by Seller, prorated as provided below. Buyer shall be responsible for all other taxes and assessments with respect to the Property. Real estate taxes that first became or will become due and payable during the year of the closing shall be prorated on calendar year basis.

10. **Real Estate Brokers.** Seller and Buyer each agrees and represents to the other that no broker is involved in the Purchase who is entitled to a commission. If a broker makes a claim for remuneration in connection with the Purchase, Seller and Buyer each shall indemnify and hold harmless the other from any amount that the other may be required to pay to a broker that the other did not retain, including, without limitation, reasonable attorney fees expended to defend against such claim.

11. **Condemnation; Fire; Other Casualty.** Seller shall promptly notify Buyer of any impending or actual condemnation proceedings against the whole or any part of the Property of which Seller has actual notice or any fire or other casualty to the Property. If any portion of the Property is threatened to be taken or is taken as a result of condemnation proceedings or is damaged as a result of fire or other casualty prior to the closing, Buyer shall have the right:

(a) To terminate this Agreement by a written notice to Seller within ten (10) days after receipt of notice of such proceedings or damage, in which case the Deposit shall be promptly returned to Buyer, and neither Seller nor Buyer shall have any further liability to the other under this Agreement; or

(b) To proceed to closing as provided in this Agreement, agreeing to take the Property in its then-current condition, in which case Buyer will be entitled to receive all of the condemnation or insurance proceeds payable as a result of such condemnation or such damage, which Seller will assign to Buyer at closing pursuant to an assignment that is reasonably acceptable to Buyer. Notwithstanding the foregoing, in the event of a federal condemnation proceeding, Seller will not assign the proceeds of the claim to Buyer, and Seller will instead deposit one hundred twenty-five percent (125%) of the anticipated amount of the proceeds from the claim into an escrow account with Title Company, which will be distributed to Buyer upon the issuance of a warrant to Seller for such federal condemnation claim. The amount of such distribution to Buyer will be the amount of the warrant and the remainder of the amount deposited will be returned to Seller.

12. **Miscellaneous.**

(a) This Agreement shall bind and benefit Seller, Buyer and their respective successors, assigns, heirs, executors, and personal representatives. Buyer may freely assign this Agreement, but Buyer shall not be released from liability under this Agreement.

(b) Seller and Buyer recognize that the law firm of Warner Norcross & Judd LLP ("**Legal Counsel**") is representing Buyer in the Purchase. Seller has either hired independent legal counsel or knowingly elected not to hire independent counsel to represent Seller in the Purchase. In such capacity, Legal Counsel has prepared this Agreement and may be called upon to prepare other documents necessary to close the Purchase. No ambiguity or inconsistency in this Agreement shall be construed against Buyer solely because Legal Counsel prepared this Agreement.

(c) All notices under this Agreement shall be in writing and shall be delivered to Seller and Buyer at their respective addresses set forth above, or at another address designated by like notice to one another. Personal delivery, facsimile transmission, or mailing of a notice by certified mail, postage prepaid, or delivery by recognized overnight service shall be sufficient notice. Notice shall be effective upon receipt, if personally delivered or faxed, upon mailing, if mailed, or upon deposit with the overnight delivery service.

(d) The "**Effective Date**" of this Agreement shall be the date Buyer receives Seller's written acceptance of this Offer. Time is of the essence of this Agreement, except

that Buyer may waive this provision for the purpose of meeting conditions and contingencies under this Agreement. If the date for closing, for the delivery of a document, or for giving of a notice, falls on a Saturday, Sunday or bank holiday, then it shall be automatically deferred to the next day that is not a Saturday, Sunday or bank holiday.

(e) This Agreement may not be amended, altered or modified except by means of a writing signed by the person against whom enforcement of any waiver, change, modification, or discharge is sought.

(f) The representations, warranties and agreements set forth in this Agreement shall survive the closing of the Purchase.

(g) This Agreement may be signed in one or more counterparts, and by different parties to this Agreement on separate counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document. Faxed signatures, or scanned and electronically transmitted signatures, on this Agreement or any notice delivered pursuant to this Agreement, shall be deemed to have the same legal effect as original signatures on this Agreement.

(h) This Agreement and the exhibits to this Agreement contain all of the representations and statements by Seller and Buyer to one another and express the entire understanding between Seller and Buyer with respect to the Purchase. All prior and contemporaneous communications concerning the Purchase are merged in and replaced by this Agreement.

Buyer has signed this Offer to Purchase Real Estate as of the date set forth above.

WILLIAMS FORM ENGINEERING
CORPORATION

By  _____

Its Ron Townsend President

Buyer

ACCEPTANCE

For good and valuable consideration, the receipt of which Seller acknowledges, this Offer is accepted as written. Seller agrees to sell the Property to Buyer on the terms and subject to the conditions set forth above.

Dated: _____, 20__

CITY OF WAYNE

By _____

Its _____

Seller

EXHIBIT A

Property

Lot 1 of the 2nd Replat of Tompkins Industrial Tract #1 Subdivision, located in the SW 1/4 of Section 8, Township 26 North, Range 4 East, of the 6th P.M., Wayne County, Nebraska

Exhibit B

Escrow Agreement

THIS ESCROW AGREEMENT ("**Agreement**") has been made as of _____, 2011, by thee CITY OF WAYNE, a Nebraska municipal corporation, of 306 Pearl St., Wayne, Nebraska 68787 ("**Seller**"); WILLIAMS FORM ENGINEERING CORPORATION, a Michigan corporation, of 8165 Graphic Drive, Belmont, Michigan 49306 ("**Buyer**"); and _____, a _____, of _____ ("**Escrow Agent**"), based on the following facts:

A. Seller and Buyer have entered into a contract ("**Contract**") for the sale and purchase of certain real estate described on **Exhibit A** attached to this Agreement ("**Property**").

B. The Contract provides that Buyer will deposit an earnest money deposit in escrow with Escrow Agent. All earnest money deposits now or in the future deposited by Buyer with Escrow Agent under this Agreement, and all interest that may in the future accrue on those deposits, are collectively referenced in this Agreement as the "**Escrow Fund**."

C. Seller and Buyer desire to designate Escrow Agent as the holder of the Escrow Fund deposited under the Contract on the terms set forth in this Agreement.

ACCORDINGLY, SELLER, BUYER, AND ESCROW AGENT AGREE:

1. **Escrow Agent.** Seller and Buyer designate Escrow Agent as the holder of the Escrow Fund for the purposes set forth in this Agreement. Escrow Agent agrees to perform its duties as set forth in this Agreement.

2. **Deposit of Escrow Fund.** Buyer delivers to Escrow Agent a check for One Thousand Dollars (\$1,000) to be held by Escrow Agent under this Agreement, and Escrow Agent acknowledges receipt of the check for One Thousand Dollars (\$1,000).

3. **Termination of Escrow.** This Agreement will terminate and the Escrow Fund shall be delivered out of escrow upon the first to occur of any of the following events:

(a) The receipt by Escrow Agent of a written notice signed by both Seller and Buyer directing it to release the Escrow Fund;

(b) The closing of the transaction contemplated under the Contract;

(c) The receipt by Escrow Agent of a court order governing disposition of the Escrow Fund; or

(d) April 1, 2012, unless the Seller and Buyer extend this date, or Escrow Agent receives notice that ownership of the Escrow Fund is the subject of a dispute.

If this Agreement terminates under **subparagraphs (a) or (c)** above, the Escrow Fund will be paid as directed in such notice or order. If this Agreement terminates under **subparagraph (b)**

above, the Escrow Fund will be paid over at the closing contemplated by the Contract, under the terms and conditions of the Contract. If this Agreement terminates under **subparagraph (d)** above, the Escrow Fund will be paid to Buyer.

4. Liability of Escrow Agent. Upon making delivery of the Escrow Fund and performing its obligations and services under this Agreement, Escrow Agent shall be released from any further liability under this Agreement. Escrow Agent will have no obligation under this Agreement except to exercise good faith and ordinary care. Escrow Agent may act upon receipt of any certificate or other written document, and will have no responsibility to determine or inquire into or otherwise corroborate the happening or occurrence of any event or condition described in such certificate or document.

In the event of any disagreement or controversy under this Agreement or if Escrow Agent in good faith is in doubt as to what action it should take with respect to the Escrow Fund, Escrow Agent will have the absolute right at its election to take any or all of the following actions:

(a) To hold the Escrow Fund until the Seller and Buyer agree upon the proper disposition of it; or

(b) To hold the Escrow Fund until Escrow Agent receives a court order concerning the disposition of the Escrow Fund in form and substance satisfactory to Escrow Agent; or

(c) To file a suit in interpleader in an appropriate court naming the Seller and Buyer to this Agreement and all other claimants and interested parties as parties, and deposit the Escrow Fund with the clerk of such court in full satisfaction of its responsibilities under this Agreement.

5. Expenses. Seller and Buyer will share equally all the fees of Escrow Agent which are \$ _____, and all reasonable expenses and other costs as may be incurred by Escrow Agent which are authorized by this Agreement, including, without limitation, reasonable attorneys' fees.

6. Investment of Escrow Fund. Escrow Agent will invest the Escrow Fund in a money market savings account at _____ insured by the United States Government which earns interest on a daily basis and will not incur an early withdrawal penalty. The account will be in the name of Escrow Agent, for the benefit of Buyer. Buyer certifies to Escrow Agent that Buyer's taxpayer identification number is _____. All interest earned will become a part of the Escrow Fund and will be paid with the Escrow Fund to the person entitled to the Escrow Fund.

7. Successors and Assigns. This Agreement will be binding upon, inure to the benefit of, and be enforceable by the Seller, Buyer, and Escrow Agent to this Agreement and their respective successors, heirs, personal representatives, and assigns.

8. Notices and Amendments. All notices or other communications to be given under this Agreement must be in writing and will be deemed to have been duly given, made, and received when delivered personally or mailed by certified mail, return receipt requested and first

class postage prepaid, to the Seller's, Buyer's, and Escrow Agent's addresses set forth above, or to such other addresses as may be designated by a similar written notice. No waiver or amendment of this Agreement or any provision of this Agreement shall be effective unless in writing signed by the Seller, Buyer, and Escrow Agent to this Agreement.

9. **Counterparts.** This Agreement may be signed in two or more counterparts, which together will comprise one and the same instrument.

The Seller, Buyer, and Escrow Agent have signed this Agreement as of the date set forth above.

CITY OF WAYNE

By _____

Its _____

Seller

WILLIAMS FORM ENGINEERING
CORPORATION

By _____

Its _____

Buyer

By _____

Its _____

Escrow Agent

Exhibit A

Property

Lot 1 of the 2nd Replat of Tompkins Industrial Tract #1 Subdivision, located in the SW 1/4 of Section 8, Township 26 North, Range 4 East, of the 6th P.M., Wayne County, Nebraska

RESOLUTION NO. 2012-2

A RESOLUTION AUTHORIZING THE SALE OF CERTAIN PROPERTY TO WILLIAMS FORM ENGINEERING CORPORATION, A MICHIGAN CORPORATION.

WHEREAS, the City of Wayne is the owner of the following described property, to-wit:

Lot 1 of the 2nd Replat of Tompkins Industrial Tract #1 Subdivision, located in the Southwest Quarter of Section 8, Township 26 North, Range 4, East of the 6th P.M., Wayne County, Nebraska, containing 1.49 acres more or less.

WHEREAS, Williams Form Engineering Corporation is interested in purchasing said property from the City of Wayne; and

WHEREAS, there are no current delinquent real estate taxes or special assessments payable to Wayne County, Nebraska.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and the Council of the City of Wayne, Nebraska, that the City Attorney is directed to prepare an ordinance directing the sale of a tract of land described as follows:

Lot 1 of the 2nd Replat of Tompkins Industrial Tract #1 Subdivision, located in the Southwest Quarter of Section 8, Township 26 North, Range 4, East of the 6th P.M., Wayne County, Nebraska, containing 1.49 acres more or less.

to Williams Form Engineering Corporation, a Michigan Corporation, for the sum of \$1.00 and other valuable consideration.

PASSED AND APPROVED this 3rd day of January, 2012.

THE CITY OF WAYNE, NEBRASKA

By _____
Mayor

ATTEST:

City Clerk

ORDINANCE NO. 2012-1

AN ORDINANCE DIRECTING THE SALE OF LOT ONE (1) OF THE 2ND REPLAT OF TOMPKINS INDUSTRIAL TRACT #1 SUBDIVISION, WAYNE COUNTY, NEBRASKA, TO WILLIAMS FORM ENGINEERING CORPORATION, A MICHIGAN CORPORATION.

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

Section 1. The Mayor and City Council are directed to convey by Warranty Deed to Williams Form Engineering Corporation, a Michigan Corporation, the property owned by the City and legally described as Lot One (1) of the 2nd Replat of Tompkins Industrial Tract #1 Subdivision, located in the Southwest Quarter of Section 8, Township 26 North, Range 4, East of the 6th P.M., Wayne County, Nebraska, for the sum of Eighteen Thousand Dollars (\$18,000.00) and other valuable consideration.

Section 2. Notice of the sale and the terms contained in Section 1 shall be published for three consecutive weeks in the Wayne Herald, provided that if a remonstrance against said sale signed by legal electors thereof equal in number to 30% of the electors of the City voting at the last regular municipal election held therein, be filed with the governing body within thirty days of the passage and publication of this ordinance, said property shall not then, nor within one year thereafter, be sold.

Section 3. This ordinance shall take effect and be in full force from and after its passage, approval, and publication according to law.

PASSED AND APPROVED this _____ day of January, 2012.

THE CITY OF WAYNE, NEBRASKA

By _____
Mayor

ATTEST:

City Clerk