

AGENDA
CITY COUNCIL MEETING
March 3, 2020

1. Call the Meeting to Order – 5:30 p.m.
2. Pledge of Allegiance

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

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. Approval of Minutes – February 18, 2020
4. Approval of Claims
5. Action on the Nebraska Liquor Control Commission Manager Application of Kyle Schellpeper for the Wayne Country & Golf Club (License No. C-012415)

Background: The Wayne Country & Golf Club has changed managers, which is the reason for this application coming before you. You may either approve, deny or make no local recommendation on the same. Rusty Parker and Kyle Schellpeper will be present at the meeting.

6. Action on the Request of Anthony Cantrell on behalf of the Wayne High School, in conjunction with EVERON (Electric Vehicle Energy Research of Nebraska) to close off East 10th Street 200' east of Angel Avenue to Hillside Drive on Saturday, May 2nd, from 8:00 a.m. until 5:00 p.m. for the 2020 Power Drive State Championship and to have the City provide portable restrooms
7. Semi-Annual Report to Council on LB 840 Activity — Luke Virgil, Director of Wayne Area Economic Development
8. Ordinance 2020-2: Amending Wayne Municipal Code Title VII Traffic Code, Chapter 78 Parking, Section 78-12 Stop Sign Locations; East of Main Street, South of 7th Street (intersection of 6th and Windom)
9. Ordinance 2020-3: Amending Wayne Municipal Code Title VII Traffic Code, Chapter 78 Parking, Section 78-9 Yield Signs; Location (delete yield sign at 6th & Windom)
10. Resolution 2020-9: Appointing JEO Consulting Group, Inc., as the Special Engineer to be used for the design and construction of the “2020 Pine Heights Road Improvements, 9th to 10th Street Project” — CDBG No. 19-PW-017 and approving agreement between the City of Wayne and JEO Consulting Group, Inc., for professional services for the “2020 Pine

Heights Road Improvements, 9th to 10th Street Project” — CDBG No. 19-PW-017 — \$162,610

Background: We received “Statement of Qualifications” from five engineering firms for the “2020 Pine Heights Road Improvements, 9th to 10th Street Project.” This is in conjunction with the grant the City received for street and storm sewer improvements in this area. A committee reviewed and scored the “Statement of Qualifications” and is recommending that the firm of JEO Consulting Group, Inc., be approved as the special engineer for this project.

11. **Resolution 2020-10: Approving Agreement between the City of Wayne and Certified Testing Services, Inc., for Geotechnical Exploration Services for the “2020 Pine Heights Road Improvements, 9th to 10th Street Project” – CDBG No. 19-PW-017 — \$10,050**

Background: This agreement pertains to the “2020 Pine Heights Road Improvements, 9th to 10th Street Project” – CDBG No. 19-PW-017.

12. Update on Lift Station No. 2 at the Wastewater Treatment Plant
13. **Action on Agreement with Hawkins Incorporated for repairs to be made on Lift Station No. 2 at Wastewater Treatment Plant**
14. Update on Ransomware Virus
15. Action to set a date for a town hall meeting on annexation
16. Action to Appoint Architectural Review Committee

Background: The original committee appointed back in July, 2013, consisted of Councilmembers Jill Brodersen, Kaki Ley and Jon Haase. Once Councilmember Ley was no longer on the City Council, a third person was never appointed to fill that third position.

17. Adjourn

**MINUTES
CITY COUNCIL MEETING
February 18, 2020**

The Wayne City Council met in regular session at City Hall on Tuesday, February 18, 2020, at 5:30 o'clock P.M.

Mayor Cale Giese called the meeting to order, followed by the Pledge of Allegiance, with the following in attendance: Councilmembers Dwaine Spieker, Terri Buck, Jon Haase, Jennifer Sievers, Chris Woehler and Jason Karsky; Attorney Amy Miller; City Administrator Wes Blecke; and City Clerk Betty McGuire. Absent: Councilmembers Matt Eischeid and Jill Brodersen.

Notice of the convening meeting was given in advance by advertising in the Wayne Herald on February 6, 2020, 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.

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

Councilmember Sievers made a motion, which was seconded by Councilmember Buck, to approve the minutes of the meeting of February 4, 2020, and to waive the reading thereof. Mayor Giese stated the motion, and the result of roll call being all Yeas, with the exception of Councilmembers Eischeid and Brodersen who were absent, the Mayor declared the motion carried and the Minutes approved.

The following claims were presented to Council for their approval:

VARIOUS FUNDS: BAIRD HOLM, SE, 222.67; BAKER & TAYLOR BOOKS, SU, 1693.57; BAKER & TAYLOR BOOKS, BOOKS-VOID, -1693.57; BAKER & TAYLOR BOOKS, SU, 943.49; BORDER STATES INDUSTRIES, SU, 785.11; BRODERS, COLEMAN, RE, 500.00;

BURENHEIDE, ERIC, RE, 100.00; CITY EMPLOYEE, RE, 31.26; CITY EMPLOYEE, RE, 355.69; CITY EMPLOYEE, RE, 52.54; CITY EMPLOYEE, RE, 1327.67; CITY EMPLOYEE RE, 256.28; CITY OF WAYNE, RE, 274.30; CIVICPLUS, SE, 4375.00; COPY WRITE PUBLISHING, SE, 131.32; DANLADI, PHIMWANALA, SE, 360.00; DAS STATE ACCTG-CENTRAL FINANCE, SE, 60.15; DAVE'S DRY CLEANING, SE, 90.00; DEARBORN LIFE INSURANCE COMPANY, SE, 2447.75; DEMCO, SU, 161.42; EASYPERMIT POSTAGE, SU, 853.23; ED M. FELD EQUIPMENT, SU, 93.00; EVETOVICH, MARK, SE, 360.00; EXHAUST PROS & LIGHTNING REPAIR, SE, -100.00; EXHAUST PROS TOTAL CAR CARE, SE, 100.00; FAITH REGIONAL PHYSICIAN SERV, SE, 169.00; FIRST CONCORD GROUP, SE, 400.00; FLOOR MAINTENANCE, SU, 138.62; FREDRICKSON OIL, SU, 915.40; GILL HAULING, SE, 261.25; GROSZ, MIKE, RE, 500.00; GUARANTEE ROOFING, SE, 16947.00; HILAND DAIRY, SE, 94.52; HYDRO OPTIMIZATION, SU, 1068.60; ICMA, SE, 7659.14; INGRAM LIBRARY SERVICES, SU, 1579.65; INGRAM LIBRARY SERVICES, SU, -1579.65; INGRAM LIBRARY SERVICES, SU, 868.97; INTERSTATE ALL BATTERY, SU, 71.26; JAIXEN, CONNIE, RE, 100.00; KELLY SUPPLY COMPANY, SU, 57.26; KLEIN ELECTRIC, SE, 11617.50; LEAK INVESTIGATORS, SU, 122.87; LOFFLER, SE, 224.70; LUTT OIL, SU, 5356.85; MAIN STREET GARAGE, SU, 116.52; MATHESON-LINWELD, SU, 33.51; MERCHANT SERVICES, SE, 1922.81; MERCHANT SERVICES, SE, 28.51; MERCHANT SERVICES, SE 1,438.63; MIDWEST LABORATORIES, SE, 341.00; NE DEPT OF REVENUE, TX, 201.72; NE STATE FIRE MARSHAL, SE, 120.00; NPPD, SE, 33220.76; NNEDD, SE, 465.02; NORTHEAST POWER, SE, 2911.62; OCC BUILDERS, RE, 250.00; ON DECK SPORTS, SU, 1090.99; ORIENTAL TRADING CO, SU, 105.15; OVERDRIVE, SU, 714.94; PAC N SAVE, SU, 147.72; PAC N SAVE, SU, 981.28; PENGUIN RANDOM HOUSE, SU, 63.75; PEPSI COLA OF SIOUXLAND, SU, 614.30; PITNEY BOWES, SE, 253.85; PREMIER BIOTECH, SE, 215.00; QUALITY FOOD CENTER, SU, 25.01; SKARSHAUG TESTING LAB, SE, 213.33; STADIUM SPORTING GOODS, SU, 2000.00; STAPLES, SU, 171.90; STATE NEBRASKA BANK & TRUST, SE, 45.84; STATE NEBRASKA BANK-PETTY CASH, RE, 99.98; UNITED STATES PLASTIC CORP, SU, 52.03; US FOODSERVICE, SU, 1233.10; VERIZON, SE, 399.60; WAYNE AUTO PARTS, SU, 716.33; WAYNE COUNTY CLERK, SE, 36.00; WAYNE HERALD, SE, 120.50; WAYNE HERALD, SE, 1007.85; WAYNE VETERINARY CLINIC, SE, 112.00; WAPA, SE, 19596.24; WIGMAN COMPANY, SU, 788.38; WISNER WEST, SU, 116.56; WORLDPAY INTERGRATES PAYMENTS, SE, 227.45; ZACH HEATING & COOLING, RE, 250.00; ZACH HEATING & COOLING, SU, 28.50; AMAZON, SU, 928.42; AMERITAS, SE, 2881.09; APPEAR, SE, 87.02; BARGHOLZ, CINDY, RE, 150.00; BATTERY SOLUTIONS, SU, 109.95; BIG RIVERS ELECTRIC CORPORATION, SE, 201398.79; BROWN SUPPLY, SU, 239.00; CENTRAL COMMUNITY COLLEGE, SE, 55.00; CITY EMPLOYEE, RE, 20.81; CITY OF WAYNE, PY, 74443.25; CITY OF WAYNE, RE, 100.00; COTTONWOOD WIND PROJECT, SE, 14017.15; DIETRICH UPHOLSTERY, SE, 110.00; DUGAN BUSINESS FORMS, SU, 223.12; ECHO GROUP, SU, 86.91; FLOOR MAINTENANCE, SU, 155.68; GALE/CENGAGE LEARNING, SU, 74.07; GRAINLAND ESTATES, RE, 3893.22; HOMETOWN LEASING, SE, 433.87; IRS, TX, 2921.92; IRS, TX, 9049.71; IRS, TX, 12493.68; JOHN'S WELDING & TOOL, SE, 380.00; MARCO TECHNOLOGIES, SE, 182.96; MIDWEST ALARM SERVICES, SE, 667.03; NE DEPT OF REVENUE, TX, 3843.23; NE PUBLIC HEALTH ENVIRONMENTAL LAB, SE, 126.00; NOTARY PUBLIC UNDERWRITERS, SU, 107.58; NOVA FITNESS EQUIPMENT, SU, 4015.20; SEBADE HOUSING, RE, 9256.89; STAPLES, SU, 214.96; TASTE OF HOME BOOKS, SU, 34.98; THRASHER, RE, 100.00; TOTAL GRAPHICS, SU, 112.50; VAC-SHACK, SU, 599.00; WESCO, SU, 115.56

Councilmember Sievers made a motion, which was seconded by Councilmember Woehler, to approve the claims. Mayor Giese stated the motion, and the result of roll call being

all Yeas, with the exception of Councilmembers Eischeid and Brodersen who were absent, the Mayor declared the motion carried.

Mayor Giese proclaimed the month of March as “Problem Gambling Awareness Month.”

Kyle Overturf of MLG, PC, presented the FY18-19 audit.

Mayor Giese declared the time was at hand for the public hearing on the One and Six Year Street Improvement Program.

Joel Hansen, Street and Planning Director, presented the One and Six Year Street Improvement Program. This is a yearly requirement to receive Highway Allocation Funds from the Nebraska Department of Roads. He noted that just because a project is in the One and Six Year Street Improvement Plan does not mean the project has to be done that year. However, if the City would want to do a project that is not in the One and Six Year Street Improvement Plan, another public hearing would have to be held to amend the plan.

Upcoming projects, which include some carry-over projects from previous year(s), include the following:

<u>Project Number</u>	<u>Project Year</u>	<u>Improvement</u>	<u>Estimated Cost</u>

M – 617(91)	2020	Trail & Pedestrian Underpass on W. 7 th Street Located between CAC and Oak Drive	\$1,672,738
M – 617(117)	2020	Nebraska Street from E. 2 nd to E. 7 th – 1,800’ Construct Concrete Paving, Curb & Gutter, Storm Sewer, Sidewalks	\$850,000

M – 617(128)	2021	Pine Heights Road from E. 7 th to E. 10 th and E. 10 th from Pine Heights Road West 220’ – 780’ Construct Concrete Paving, Curb & Gutter	\$630,000
M – 617(127)	2021	Downtown Alleys – 2,880’ Overlay and Concrete Paving	\$480,000

M – 617(129) 2022 Fairgrounds Avenue from S. Main to S. Nebraska – 415' \$195,000
Construct Concrete Paving, Curb & Gutter,
Storm Sewer

M – 617(115) 2022 W. 3rd Street from Oak Dr. to 250' E. of Oak Dr. \$ 70,000
– 250' \$ 70,000
Construct Concrete Paving, Curb & Gutter

M – 617(107) 2023 Clark Street & S. Pearl Street – 745' \$350,000
Construct Concrete Paving, Curb & Gutter,
Storm Sewer

M – 617(114) 2023 W. 2nd Street from Blaine St. to 360' E of Blaine St. – 380,' \$180,000
Construct Concrete Paving, Curb & Gutter,
Storm Sewer

M-617(131) 2023 E. 21st Street from Vintage Hill Drive to Centennial Road and Centennial Road from E. 14th to E. 21st – 4,500' \$1,300,000
Construct Concrete Paving, Curb & Gutter,
Storm Sewer

M – 617(98) 2024 Sherman Street from W. 5th St. to W. 6th St. \$140,000
– 300'
Construct Concrete Paving, Curb & Gutter,
Storm Sewer

M – 617(113) 2024 Sherman Street from W. 3rd St. to W. 4th St. \$140,000
– 300'
Construct Concrete Paving, Curb & Gutter

M – 617(112) 2025 Lagoon Streets – 2,500' \$900,000
Construct Concrete Paving

M – 617(130) 2025 W. 11th Street from Main to Sherman – 1,550' \$850,000
Construct Concrete Paving, Curb & Gutter,
Storm Sewer

M – 617(89) 2025 Lage Subdivision – South of Fairgrounds Avenue – 900' \$400,000

		Construct Concrete Paving, Curb & Gutter, Storm Sewer	
M – 617(120)	2025	Northern Ridge Drive from Highway 15 to W. 21 st St. – 1,800’ Construct Concrete Paving, Curb & Gutter, Storm Sewer	\$800,000
M – 617(104)	2025	S. Lincoln St. from W. 1 st St. to 300’ S. of W. 1 st St. – 300’ Construct Concrete Paving, Curb & Gutter	\$90,000
M – 617(116)	2025	W. 7 th St. from Haas Avenue to Pheasant Run – 1,650’ Storm Sewer & Sidewalk	\$110,000
M – 617(119)	2025	South Windom St. from 232’ S of Folk St. to 333’ S of Folk St. Construct Concrete Paving, Curb and Gutter – 101’	\$25,000

City Clerk McGuire had not received any comments, either verbal or in writing, for or against this public hearing.

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

Councilmember Karsky introduced Resolution 2020-6 and moved for its approval; Councilmember Spieker seconded.

RESOLUTION NO. 2020-6

A RESOLUTION APPROVING THE ONE AND SIX YEAR STREET IMPROVEMENT PROGRAM.

Mayor Giese stated the motion, and the result of roll call being all Yeas, with the exception of Councilmembers Eischeid and Brodersen who were absent, the Mayor declared the motion carried.

Robbie Gamble and Terri Buck were present requesting Council consideration to placing stop signs at the intersections of 6th and Windom Streets, 6th and Nebraska Streets and at every intersection on 6th Street.

After discussion, Council consensus was to prepare an ordinance placing a stop sign at the intersection of 6th and Windom Streets for action at the next meeting.

Heather Headley, Library Director, gave a presentation on the events that have taken place over the past fiscal year at the Library, as well as a brief summary of the Community Needs Assessment Survey Results.

Heather Headley, Library Director, advised the Council that the Interlocal Agreement with Wayne County and the Wayne County Library Association has ended. The Interlocal Agreement was renewed for a ten-year term with the Wayne County Commissioners back in 2010. The agreement establishes a small amount of county cost-share to each of the libraries in Wayne, Winside and Carroll on behalf of the rural residents who use them. Until 2005, the City charged a small amount for library cards for people who lived in the county and did not pay city taxes. In 2005, Wayne, Winside and Carroll all entered into an Interlocal Agreement with the Wayne County Commissioners to establish a small amount of county cost-share to each of the libraries on behalf of the rural residents who use them. The libraries make their requests each year from the county budget, and the Commissioners decide each year the amount allotted. The distribution to Wayne since 2015 has been \$6,500; prior to that, the distribution to Wayne was \$5,000.

Councilmember Sievers introduced Resolution No. 2020-7 and moved for its approval; Councilmember Spieker seconded.

RESOLUTION NO. 2020-7

A RESOLUTION APPROVING RENEWAL OF INTERLOCAL AGREEMENT FOR WAYNE COUNTY AND WAYNE COUNTY LIBRARY ASSOCIATION.

Mayor Giese stated the motion, and the result of roll call being all Yeas, with the exception of Councilmembers Eischeid and Brodersen who were absent, the Mayor declared the motion carried.

Administrator Blecke stated the following Resolution is an annual requirement to obtain funding from the Nebraska Department of Roads to help pay for the operating costs of the local public transportation system (handi-van).

Councilmember Spieker introduced Resolution 2020-8, and moved for its approval; Councilmember Karsky seconded.

RESOLUTION NO. 2020-8

A RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO APPLY FOR NEBRASKA PUBLIC TRANSPORTATION ACT FUNDS FOR THE OPERATION OF THE WAYNE PUBLIC TRANSPORTATION SYSTEM.

Mayor Giese stated the motion, and the result of roll call being all Yeas, with the exception of Councilmembers Eischeid and Brodersen who were absent, the Mayor declared the motion carried.

Diane Bertrand, Senior Center Coordinator, requested Council consideration to approving the submission of the Senior Center Budget to the Northeast Nebraska Area Agency on Aging. The Senior Center must apply for State funding for the meal program, and Council must approve the budget to be submitted to the Northeast Nebraska Area Agency on Aging. In addition, she requested Council action on acceptance of the new fiscal year Service Awards that have been awarded by the Area Agency and approval of any revisions made during the fiscal year to the Service Awards.

Councilmember Spieker made a motion, which was seconded by Councilmember Woehler, approving the submission of the Wayne Senior Center's Fiscal Year 2020 detailed plan of operation and budget to the Northeast Nebraska Area Agency on Aging; acceptance of new fiscal year Service Awards that have been awarded by the Area Agency; and approval of any revisions made during the fiscal year to the Service Awards. Mayor Giese stated the motion, and the result of roll call being all Yeas, with the exception of Councilmembers Eischeid and Brodersen who were absent, the Mayor declared the motion carried.

There being no further business to come before the meeting, Mayor Giese declared the meeting adjourned at 6:28 p.m.



Pete Ricketts
Governor

STATE OF NEBRASKA

NEBRASKA LIQUOR CONTROL COMMISSION

Hobert B. Rupe

Executive Director

301 Centennial Mall South, 5th Floor

P.O. Box 95046

Lincoln, Nebraska, 68509-5046

Phone (402) 471-2571

Fax (402) 471-2814 or (402) 471-2374

TSR USER 800-833-7252 (TTY)

Web Address <http://www.lcc.nebraska.gov/>

February 26, 2020

To: CITY CLERK OF WAYNE

Email: KYLESHELLPEPER@YAHOO.COM

Manager Name: KYLE SCHELLPEPER

Licensee Name: WAYNE COUNTRY & GOLF CLUB

Licensee Trade Name (DBA): WAYNE COUNTRY & GOLF CLUB

License Number: C-012415

Date Due: 4-13-2020

I have attached a copy of a new corporate manager application that was submitted to the Nebraska Liquor Control Commission. Please complete the following information below to indicate your recommendation. Send back to Mary Beth Olson at mary.olson@nebraska.gov or fax to (402) 471-2814. If you have questions concerning this matter, please contact our office at (402) 471-4893.

- APPROVED
- NO LOCAL RECOMMENDATION
- DENIED

COMMENTS: (YOU MAY ATTACH MINUTES AND/OR ADDITIONAL NOTES)

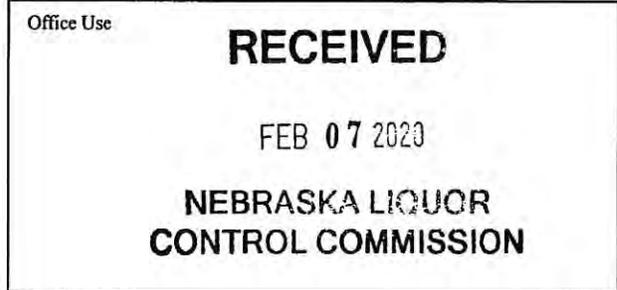
Clerk Signature: _____

Date: _____

MBO

**MANAGER APPLICATION
INSERT - FORM 3c**

NEBRASKA LIQUOR CONTROL COMMISSION
301 CENTENNIAL MALL SOUTH
PO BOX 95046
LINCOLN, NE 68509-5046
PHONE: (402) 471-2571
FAX: (402) 471-2814
Website: www.lcc.nebraska.gov



MUST BE:

- ✓ Include copy of US birth certificate, naturalization paper or current US passport
- ✓ Nebraska resident. Include copy of voter registration card or print out document from Secretary of State website
- ✓ Fingerprinted. See form 147 for further information, read form carefully to avoid delays in processing, this form **MUST** be included with your application
- ✓ 21 years of age or older

Corporation/LLC information

Name of Corporation/LLC: Wayne Country & Golf Club

Premise information

Liquor License Number: 012415 Class Type C (if new application leave blank)

Premise Trade Name/DBA: Wayne Country & Golf Club

Premise Street Address: 302 East 21st Street

City: Wayne County: Wayne Zip Code: 68787

Premise Phone Number: 402-375-1152

Premise Email address: kyleschellpaper@yahoo.com

The individual whose name is listed as a corporate officer or managing member as reported on insert form 3a or 3b or listed with the Commission. To see authorized officers or members search your license information [here](#).

Questy Parker *Brd President*

SIGNATURE REQUIRED BY CORPORATE OFFICER / MANAGING MEMBER
(Faxed signatures are acceptable)

Manager's information must be completed below PLEASE PRINT CLEARLY

Last Name: Schellpeper First Name: Kyle MI: _____

Home Address: 502 Maple Street

City: Pender County: Thurston Zip Code: 68047

Home Phone Number: 402-659-1966

Driver's License Number & State: H12230591

Social Security Number: _____

Date Of Birth: 03/01/1978 Place Of Birth: Norfolk, NE

Email address: kyleschellpeper@yahoo.com

Are you married? If yes, complete spouse's information (Even if a spousal affidavit has been submitted)

YES NO

Spouse's information

Spouses Last Name: Schellpeper First Name: Michaela MI: J

Social Security Number _____

Driver's License Number & State: H12672358

Date Of Birth: 1/27/1984 Place Of Birth: Pender, NE

APPLICANT & SPOUSE MUST LIST RESIDENCE(S) FOR THE PAST TEN (10) YEARS

APPLICANT SPOUSE

CITY & STATE	YEAR FROM	YEAR TO	CITY & STATE	YEAR FROM	YEAR TO
<u>Omaha, NE</u>	<u>Jan 2010</u>	<u>Feb 2019</u>	<u>Pender, NE</u>	<u>Jan 2010</u>	<u>Jan 2020</u>
<u>Pender, NE</u>	<u>March 2019</u>	<u>Current</u>			

MANAGER'S LAST TWO EMPLOYERS

YEAR FROM TO		NAME OF EMPLOYER	NAME OF SUPERVISOR	TELEPHONE NUMBER
March 2010	Dec. 2019	Oak Hills Country Club	Bobby O'Keefe	(402) 895-4383
Jan. 2020	Dec. 2028	O'Neill Country Club	Boyd Stroepe	(402) 336-1676

1. READ CAREFULLY. ANSWER COMPLETELY AND ACCURATELY.

Must be completed by both applicant and spouse, unless spouse has filed an affidavit of non-participation.

Has anyone who is a party to this application, or their spouse, EVER been convicted of or plead guilty to any charge. Charge means any charge alleging a felony, misdemeanor, violation of a federal or state law; a violation of a local law, ordinance or resolution. List the nature of the charge, where the charge occurred and the year and month of the conviction or plea, include traffic violations. Also list any charges pending at the time of this application. If more than one party, please list charges by each individual's name. Commission must be notified of any arrests and/or convictions that may occur after the date of signing this application.

YES NO

If yes, please explain below or attach a separate page.

Name of Applicant	Date of Conviction (mm/yyyy)	Where Convicted (City & State)	Description of Charge	Disposition
Kyle Schellpeper	06/2019	Lincoln, NE	DWI	
	08/2012	Lincoln, NE	DWI	

2. Have you or your spouse ever been approved or made application for a liquor license in Nebraska or any other state?

YES NO

IF YES, list the name of the premise(s):

O'Neill Country Club

3. Do you, as a manager, qualify under Nebraska Liquor Control Act (§53-131.01) and do you intend to supervise, in person, the management of the business?

YES NO

4. List the alcohol related training and/or experience (when and where) of the person making application.

*NLCC Training Certificate Issued: _____ Name on Certificate: _____

Applicant Name	Date (mm/yyyy)	Name of program (attach copy of course completion certificate)

*For list of NLCC Certified Training Programs see training

Experience:

Applicant Name / Job Title	Date of Employment:	Name & Location of Business:
Walter Kyle Schellpaper / Manager	Jan. 2006 - Dec. 2008	O'Neill Country Club

5. Have you enclosed form 147 regarding fingerprints?

YES NO

PERSONAL OATH AND CONSENT OF INVESTIGATION

The above individual(s), being first duly sworn upon oath, deposes and states that the undersigned is the applicant and/or spouse of applicant who makes the above and foregoing application that said application has been read and that the contents thereof and all statements contained therein are true. If any false statement is made in any part of this application, the applicant(s) shall be deemed guilty of perjury and subject to penalties provided by law. (Sec §53-131.01) Nebraska Liquor Control Act.

The undersigned applicant hereby consents to an investigation of his/her background including all records of every kind and description including police records, tax records (State and Federal), and bank or lending institution records, and said applicant and spouse waive any rights or causes of action that said applicant or spouse may have against the Nebraska Liquor Control Commission and any other individual disclosing or releasing said information to the Nebraska Liquor Control Commission. If spouse has NO interest directly or indirectly, a spousal affidavit of non-participation may be attached.

The undersigned understand and acknowledge that any license issued, based on the information submitted in this application, is subject to cancellation if the information contained herein is incomplete, inaccurate, or fraudulent.

Applicant Notification and Record Challenge: Your fingerprints will be used to check the criminal history records of the FBI. You have the opportunity to complete or challenge the accuracy of the information contained in FBI identification record. The procedures for obtaining a change, correction, or updating an FBI identification record are set forth in Title 28, CFR, 16.34.

[Handwritten Signature]

Signature of Manager Applicant

[Handwritten Signature]

Signature of Spouse

ACKNOWLEDGEMENT

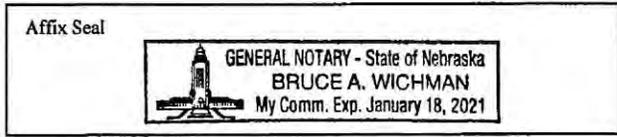
State of Nebraska
County of Thurston

The foregoing instrument was acknowledged before me this

January 31, 2020
date

by Kyle Schellpaper
Michaela Schellpaper
NAME OF PERSON BEING ACKNOWLEDGED

[Handwritten Signature]
Notary Public signature



In compliance with the ADA, this application is available in other formats for persons with disabilities. A ten day advance period is required in writing to produce the alternate format.

**PRIVACY ACT STATEMENT/
SUBMISSION OF FINGERPRINTS /
PAYMENT OF FEES TO NSP-CID**

NEBRASKA LIQUOR CONTROL COMMISSION
301 CENTENNIAL MALL SOUTH
PO BOX 95046
LINCOLN, NE 68509-5046
PHONE: (402) 471-2571
FAX: (402) 471-2814
Website: www.lcc.nebraska.gov



THIS FORM IS REQUIRED TO BE SIGNED BY EACH PERSON BEING FINGERPRINTED:

DIRECTIONS FOR SUBMITTING FINGERPRINTS AND FEE PAYMENTS:

- FAILURE TO FILE FINGERPRINT CARDS AND PAY THE REQUIRED FEE TO THE NEBRASKA STATE PATROL WILL DELAY THE ISSUANCE OF YOUR LIQUOR LICENSE
- Fee payment of \$45.25 per person MUST be made DIRECTLY to the Nebraska State Patrol;
It is recommended to make payment through the NSP PayPort online system at www.ne.gov/go/nsp
Or a check made payable to NSP can be mailed directly to the following address:
Please indicate on your payment who the payment is for (the name of the person being fingerprinted) and the payment is for a Liquor License

The Nebraska State Patrol – CID Division
3800 NW 12th Street
Lincoln, NE 68521

- Fingerprints taken at NSP LIVESCAN locations will be forwarded to NSP – CID
Applicant(s) will not have cards to include with license application.
- Fingerprints taken at local law enforcement offices may be released to the applicants;
Fingerprint cards should be submitted with the application.

Applicant Notification and Record Challenge: Your fingerprints will be used to check the criminal history records of the FBI. You have the opportunity to complete or challenge the accuracy of the information contained in FBI identification record. The procedures for obtaining a change, correction, or updating a FBI identification record are set forth in Title 28, CFR, 16.34.

Trade Name: Wayne Country Club

Name of Person Bring Fingerprinted: Kyle Schellpiper

Date of Birth: 3-1-78 Last 4 SSN: 3846 Date fingerprints were taken: 1-29-2020

Location where fingerprints were taken: Thurston County Jail Pender, NE

How was payment made to NSP?

NSP PAYPORT CASH CHECK SENT TO NSP CK # _____

My fingerprints are already on file with the commission – fingerprints completed for a previous application less than 2 years ago? YES

A handwritten signature in black ink, appearing to read "Kyle Schellpiper".

SIGNATURE REQUIRED OF PERSON BEING FINGERPRINTED

**SPOUSAL AFFIDAVIT OF
NON PARTICIPATION INSERT**

NEBRASKA LIQUOR CONTROL COMMISSION
301 CENTENNIAL MALL SOUTH
PO BOX 95046
LINCOLN, NE 68509-5046
PHONE: (402) 471-2571
FAX: (402) 471-2814
Website: www.lcc.nebraska.gov

Office Use
RECEIVED
FEB 26 2020
NEBRASKA LIQUOR
CONTROL COMMISSION

I acknowledge that I am the spouse of a liquor license holder. My signature below confirms that I will not have any interest, directly or indirectly in the operation of the business (§53-125(13)) of the Liquor Control Act. I will not tend bar, make sales, serve patrons, stock shelves, write checks, sign invoices, represent myself as the owner or **in any way participate in the day to day operations of this business in any capacity.** The penalty guideline for violation of this affidavit is cancellation of the liquor license.

I acknowledge that I am the applicant of the non-participating spouse of the individual signing below. I understand that my spouse and I are responsible for compliance with the conditions set out above. If, it is determined that my spouse has violated (§53-125(13)) the commission may cancel or revoke the liquor license.

Michaela Schellpeper
Signature of **NON-PARTICIPATING SPOUSE**

Michaela Schellpeper
Print Name

Kyle Schellpeper
Signature of **APPLICANT**

Kyle Schellpeper
Print Name

State of Nebraska, County of WAYNE

The foregoing instrument was acknowledged before me
this 26th day of February, 2020 (date)

by Michaela Schellpeper
Name of person acknowledged
(Individual signing document)

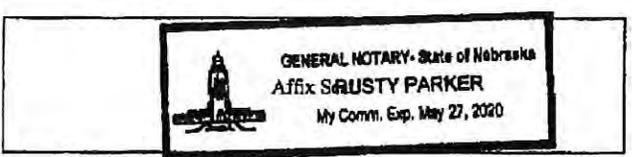
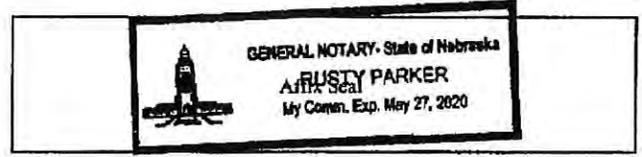
State of Nebraska, County of WAYNE

The foregoing instrument was acknowledged before me
this 26th day of February, 2020 (date)

by Kyle Schellpeper
Name of person acknowledged
(Individual signing document)

Rusty Parker
Notary Public Signature

Rusty Parker
Notary Public Signature



In compliance with the ADA, this spousal affidavit of non participation is available in other formats for persons with disabilities. A ten day advance period is requested in writing to produce the alternate format.

Important Message:
 If you have recently moved, please use the Polling Place feature. Locate Your Polling Place with the street and city address of your new/current residence.

[HOME](#)

[REGISTRATION INFORMATION](#)

[POLLING PLACE](#)

[PROVISIONAL BALLOT](#)

[ABSENTEE BALLOT](#)

[Select Language ▼](#)

Registrant Search Information

Registrant Detail

Name: Kyle W Schellpeper
Party: Republican
Polling Place: Pender Community Center Rm 1
 614 Main St
 Pender, NE 68047

Districts

DISTRICT NAME	DISTRICT TYPE
Legislative District 17	Legislative District
PSC District 4	Public Service Comm District
State Board of Education Dist3	State Board of Education
County Judge Dist 6	Judge of County Court Dist.
District Judge, Dist 6	Judge of District Court Dist.
Supreme Court Judge Dist 3	Judge of Supreme Court Dist.
Board of Regents District 3	Board of Regents
Supervisor District 1	County Board (Commiss./Superv)
Pender Public Schools	School District
Northeast Com College Dist 4	Community College District
U.S. Congressional District 1	U.S. Congressional District
Pender Hospital District	Hospital Board
Pender Township	Township Board
Pender Village	Village Board
Lower Elkhorn NRD SubD 7	Natural Resources District
Appeals Court Judge Dist 3	Judge of Appeals Court Dist.
Lower Elkhorn NRD At Large	Natural Resources District
ESU 1 District 4	ESU District
Nebraska PPD SubD 11	Public Power District

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[Polling Place](#)
[Provisional Ballot](#)
[Absentee Ballot](#)

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Betty McGuire - Power Drive Rally - Street Closure

From: Tony Cantrell <ancantr1@waynebluedevils.org>
To: Betty McGuire <betty@cityofwayne.org>
Date: 2/27/2020 6:52 AM
Subject: Power Drive Rally - Street Closure

Hello,

We are making plans to host another Power Drive rally this spring. Can I get placed on the agenda for an upcoming city council meeting to discuss the closure of east 10th street and portable restrooms?

Details:

Who: EVERON (Electric Vehicle Energy Research of Nebraska) and Tony Cantrell

What: 2020 Power Drive State Championship

When: May 2th, 2020 8:00am - 5:00pm

We are requesting: Street closure of East 10th street 200' East of Angel Avenue to Hillside Drive (red line on attached picture), and portable restrooms for this event. This is the same request as previous years.

We will obtain liability insurance for the event.



6-Month Report to the Wayne City Council

LB 840 Funds Committed (as of 12/31/19)

Applicant	Amount	Type of funding	Purpose	Committee review
LB840 GRANTS				
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)	\$ 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)	\$ 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	\$ 2,750.00	grant	marketing	4/15/2010
Wayne Hospitality Group LLC	\$ 250,000.00	grant	hotel project	10/19/2010
Wayne Area Economic Development	\$ 10,000.00	grant	marketing (general)	12/21/2010
City of Wayne	\$ 13,285.00	grant	water/sewer for Western Ridge III	8/1/2011
Windom Ridge	\$ 5,000.00	grant	housing study targeting 55+	8/1/2011
Miss Mollys Coffee Company	\$ 30,000.00	performance based loan	purchase building/new coffee shop	10/13/2011
Wayne Area Economic Development on behalf of WCNGC	\$ 250,000.00 [info only]	loan guarantee	compressed natural gas car	10/13/2011; 07/12/12
Wayne Area Economic Development	\$ 5,000.00	grant	marketing (general)	11/7/2011
Wayne Community Theater	\$ 5,000.00	grant	overhead doors replaced	12/8/2011
Wayne Area Economic Development (Chicken Show)	\$ 12,050.00	grant	marketing for Wayne Chicken Show	3/8/2012
Rainbow World Child Care Center	\$ 25,000.00	grant	facility addition	10/11/2012
Wayne Area Economic Development	\$ 5,000.00	grant	marketing (general)	11/8/2012
City of Wayne	\$ 17,500.00	grant	water/sewer for Western Ridge III	1/10/2013
Wreidt Properties	\$ 33,000.00 [info only]	grant	trailer relocation	2/14/2013
Angel Village	\$ 240,000.00 [info only]	performance based loan	senior village; common space	2/14/2013
City of Wayne	\$ 30,000.00	grant	Welcome to Wayne signs (4)	11/14/2013
Wayne Area Economic Development	\$ 5,000.00	grant	general administration	12/12/2013
Darrin Barner (WSC Rugby)	\$ 1,600.00 [info only]	grant	to replace goal post pads	1/9/2014
Ken Jorgensen / 4th Jug Bar and Grill	\$ 125,000.00	performance based loan	build a bar and grill/package liquor	4/10/2014
Jen and Chad Claussen	\$ 23,765.00	performance based loan	purchase Swans and building	11/13/2014
Wayne Area Economic Development	\$ 5,000.00	grant	admin/marketing	11/13/2014
Rezurrected Rod and Kustom	\$ 25,000.00	performance based loan	building addition and fiber glass car manu	8/4/2015
Wayne Area Economic Development	\$ 5,000.00	grant	admin/marketing	11/3/2015
City of Wayne	\$ 240,000.00 [info only]	performance based loan	housing cost buy down	3/10/2016
Subtotal of "grant"	\$ 981,136.00	30.66%		

6-Month Report to the Wayne City Council

LB 840 Funds Committed (as of 12/31/19)

Applicant	Amount	Type of funding	Purpose	Committee review
City of Wayne	\$ 7,132.00	zero percent loan	housing downpayment match	10/8/2009
Jim Milliken (Godfathers)	\$ 35,500.00	zero percent loan	parking lot	10/8/2009
Inet Library	\$ 86,038.00	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
City of Wayne	\$ 160,000.00 [info only]	zero percent loan	housing incentives (0% loans)	4/12/2012
Rainbow World Child Care Center	\$ 75,000.00	zero percent loan	facility addition	10/11/2012
Mandy Benscoter and Louis Benscoter	\$ 50,000.00	zero percent loan	commercial bldgs on Jaxon St	1/10/2013
John and Molly Temme	\$ 65,000.00	3 percent interest loan	commercial property at 7&Dear	6/27/2013
Geno's Steakhouse	\$ 37,000.00	3 percent interest loan	renovation/windows/etc	7/28/2013
Paulson Construction	\$ 39,750.00	3 percent interest loan	purchase building/move bus. to city	7/28/2013
City of Wayne - SCPB, OCC Bldrs, IPI	\$ 240,900.00	zero percent loan	disaster recovery loans (15 yrs. % payroll)	10/10/2013
Brent L. Pick	\$ 50,000.00	zero percent loan	15 yrs - buy&rebuild Estes/DB/NAPA	11/14/2013
Lutt Oil and Service (Rod L. and Christin E. Cook-Lutt)	\$ 50,000.00	3 percent interest loan	Buy and update Zach's/expand services	12/12/2013
NAPA - Wayne	\$ 50,000.00	zero percent loan	15 yrs - rebuild NAPA	1/9/2014
NAPA - Wayne	\$ 25,000.00	zero percent loan	to rebuild; require annexation	1/9/2014
Leseberg Masonry and Construction	\$ 75,000.00	0% loan; 3% loan	rebuild \$40k at 0%; build \$35k at 3%	1/9/2014
Pat Garvin / Innovative Protectives	\$ 40,000.00	0% loan for 15 yrs	rebuild buildings lost to tornado	2/13/2014
Ken Jorgensen / 4th Jug Bar and Grill	\$ 125,000.00	3% loan for 15 yrs	build a bar and grill/package liquor	2/13/2014; 4/10/14
Dollar Plus	\$ 125,000.00	0% loan for 5 yrs	open Dollar Plus in Downtown Wayne	4/10/2014
Heft Trucking	\$ 50,000.00	0% loan for 15 yrs	rebuild building lost to tornado	6/12/2014
Tim Fertig	\$ 50,000.00	3% loan for 15 yrs(10yr bin)	buy 2nd&Main prop and open fitness	7/28/2014
Jen and Chad Claussen	\$ 23,765.00	3% loan for 15 yrs	purchase Swans and building	11/13/2014
Rezurrected Rod and Kustom	\$ 25,000.00	3% loan for 10 yrs	building addition and fiber glass car manu	8/4/2015
Beck Ag Inc	\$ 50,000.00	3% loan for 3 yrs	build out and business growth	12/10/15; 1/14/16
Adam Manoucheri/Crossroads-Atoll Productions LLC	\$ 40,000.00	3% loan for 15 yrs	purchase and remodel 200&202 Main St	1/14/2016
Josh Hopkins - Hopkins Eyecare	\$ 35,000.00	0% loan for 2 yrs	purchase property for new eye clinic	6/9/2016
Lukas Rix - Rustic Treasures	\$ 55,000.00	0% loan for 5 yrs	purchase and rehab 1912 City Hall	7/14/2016
Wayne Country Club	\$ 150,000.00	0% loan for 15 yrs	addition/remodel club house	10/13/2016
Wayne Country Club	\$ 60,000.00	0% loan for 15 yrs	addition/remodel club house	10/30/2017
Wayne Area Event Center	\$ 350,000.00	new terms below	\$ new event center construction	10/13/2016; 7/2/18
<i>Subtotal of revolving</i>	\$ 2,135,085.00			
		66.72%		
TOTAL FUNDS COMMITTED (as of December 31, 2017)	\$ 3,116,221.00	97.38%		
TOTAL AVAILABLE FOR 15 YEARS (to collect)	\$ 3,200,000.00			

6-Month Report to the Wayne City Council

LB 840 Funds Committed (as of 12/31/19)

LB840 PROJECT NOTES

* Interest accrued/paid on the Fund's borrowed money is NOT included in this total	
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. (all is now a loan)	
f Committee recommended and Council approved \$64,200; only \$7,132 was used after the program closed.	
g Committee recommended a 5 yr loan; Council approved the grant request.	
h Initial housing request from the City was approved; further action by Council allocated housing funds from a different source	
i Revision of previous approval (10/2011) - increased loan guarantee from \$150,000 to \$250,000 (07/2012); allocation became void after 12/31/12 if no company was in Wayne	
j Committee/Council approved \$26,000 for wastewater improvements - only \$13,285 was used	
k Committee recommended \$75,000 loan with interest half of its conventional rate; Council changed the loan to 0% interest	
l \$500,000 was set aside for tornado relief (up to 10% of payroll); only \$241k was used	
m Committee recommended a set number of \$28,000; the Council allowed the request of "up to" \$30,000 for signage	
n Committee recommended approval but believed other sources of funds might be available; Council took no action on this recommendation.	
o Originally a performance based loan; FTE requirement not met so is now a loan	
p Committee recommended approval; City Council did not approve	
q Committee and Council approved; projects were never completed	
r Committee originally recommended \$100,000 loan for 5 yrs at 3%; City of Wayne approved \$150,000 loan for 15 yrs at 0%; Wayne Country Club re-applied to reflect changes to the project scope/bid received; Committee recommended \$210,000 for 15 yrs at 0%; Council approved new loan of \$210,000 for 15 years at 0%;	
s Committee recommended \$250,000 loan for 10 yrs at 3%; Council approved loan of \$350,000 at 3% for 10 years on 10/18/2016; Council approved new terms on 07/03/2018:	
<input type="checkbox"/> A \$350,000 loan;	
<input type="checkbox"/> 3% interest rate;	
<input type="checkbox"/> Defer principal payments for 3 years, but require interest payments throughout the deferment period, with the first deferred interest payment being delayed until November 1, 2018;	
<input type="checkbox"/> Changing the loan repayment period from 10 years to 15 years;	
<input type="checkbox"/> Deferment period would be from March 1, 2018, to February 28, 2021;	
<input type="checkbox"/> Repayment period for principal and interest would begin on March 1, 2021; and	
<input type="checkbox"/> Final payment would be due March 1, 2035.	

ORDINANCE NO. 2020-2

AN ORDINANCE AMENDING CHAPTER 78, ARTICLE I, SECTION 78-12 STOP SIGN LOCATIONS; EAST OF MAIN STREET, SOUTH OF SEVENTH STREET; TO PROVIDE FOR THE REPEAL OF CONFLICTING ORDINANCES OR SECTIONS; AND TO PROVIDE FOR AN EFFECTIVE DATE.

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

Section 1. That Chapter 78, Article I, Section 78-12 of the Wayne Municipal Code is amended to read as follows:

Sec. 78-12. Stop sign locations; west of Main Street, north of Seventh Street.

(a) Stop signs are established at the following locations in the city:

Dearborn Street at the east and west approaches of East 5th Street
Dearborn Street at the east and west approaches of East 6th Street
East 4th Street at the north approach of Dearborn Street
East 4th Street at the north approach of Walnut Street
East 4th Street at the north and south approaches of Windom Street
East 4th Street at the north and south approaches of Nebraska Street
East 6th Street at the east and west approaches of Windom Street
East 7th Street at the south approach of Tomar Drive
East 7th Street at the south approach of Thorman Street
East 7th Street at the south approach of Valley Drive
East 7th Street at the south approach of Dearborn Street
East 7th Street at the south approach of Walnut Street
East 7th Street at the south approach of Windom Street
East 7th Street at the south approach of Nebraska Street
East 7th Street at the south approach of Logan Street
Fairground Avenue at the north approach of South Logan Street
Logan Street at the east and west approaches of East 2nd Street
Logan Street at the east and west approaches of East 6th Street
Logan Street at the east and west approaches of East 3rd Street

Logan Street at the east and west approaches of East 4th Street
Logan Street at the east and west approaches of East 5th Street
Main Street at the east approach of 6th Street
Main Street at the east approach of 4th Street
Main Street at the east approach of 5th Street
South Main Street at the east approach of Fairground Avenue
Tomar Drive at the East approach of East 6th Street
Windom Street at the east and west approaches of East 5th Street

- (b) Except where directed to proceed by a police officer or traffic-control signal, every driver of a vehicle approaching an intersection where a stop is indicated by a stop sign shall stop, which, for the purpose of this section, shall be a completed cessation of movement, at a clearly marked stop line, but if there is no such line, before entering the crosswalk on the near side of the intersection, or if no crosswalk is indicated, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic from the intersecting roadway before entering the intersection. After having stopped, such driver shall yield the right-of-way to any vehicle which has entered the intersection from another street or which is approaching so closely on such street as to constitute an immediate hazard if such driver moved across or into such intersection.
- (c) It shall be unlawful for any person to violate the provisions of this section.

Section 2. All Ordinances or parts of Ordinances in conflict herewith are repealed.

Section 3. This Ordinance shall be in full force and effect after the passage, approval, and publication or posting as provided by law.

PASSED AND APPROVED this _____ day of _____, 2020.

THE CITY OF WAYNE, NEBRASKA,

By _____
Mayor

ATTEST:

City Clerk

ORDINANCE NO. 2020-3

AN ORDINANCE AMENDING CHAPTER 78, ARTICLE I, SECTION 78-9 YIELD SIGNS; LOCATIONS; TO PROVIDE FOR THE REPEAL OF CONFLICTING ORDINANCES OR SECTIONS; AND TO PROVIDE FOR AN EFFECTIVE DATE.

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

Section 1. That Chapter 78, Article I, Section 78-9 of the Wayne Municipal Code is amended to read as follows:

Sec. 78-9. Yield Sign; Locations

A) Yield signs are established at the following locations in the city:

East 14th Street at the south approach of Providence Road
East 14th Street at the north approach of Claycomb Road
East 14th Street at the north approach of Linden Street
East 14th Street at the north approach of Vintage Hill Drive
Pearl Street at the east and west approaches of 11th Street
West 1st Street at the south approach of South Blaine Street
East 6th Street at the east and west approaches of Windom Street
East 21st Street at the south approach of Claycomb Road

(B) The driver of a vehicle approaching a yield sign shall slow to a speed responsible under the existing conditions and, if required for safety to stop, shall stop at a clearly marked stop line, but if there is no such line, before entering the crosswalk or on the near side of the intersection, or, if no crosswalk is indicated, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway. After slowing or stopping, such driver shall yield the right-of-way to any vehicle in the intersection or approaching on another street so closely as to constitute an immediate hazard if such driver moved across or into such intersection.

(C) It shall be unlawful for any person to violate any provisions of this section, and said offense shall be punishable by the waiver and fine schedules prescribed by the Uniform County Court Rules.

Section 2. All Ordinances or parts of Ordinances in conflict herewith are repealed.

Section 3. This Ordinance shall be in full force and effect after the passage, approval, and publication or posting as provided by law.

PASSED AND APPROVED this _____ day of _____, 2020.

THE CITY OF WAYNE, NEBRASKA,

By _____
Mayor

ATTEST:

City Clerk

RESOLUTION NO. 2020-9

A RESOLUTION APPOINTING JEO CONSULTING GROUP, INC., AS THE SPECIAL ENGINEER TO BE USED FOR THE DESIGN AND CONSTRUCTION OF THE “2020 PINE HEIGHTS ROAD IMPROVEMENTS, 9TH TO 10TH STREET PROJECT” — CDBG NO. 19-PW-017 AND APPROVING AGREEMENT BETWEEN THE CITY OF WAYNE AND JEO CONSULTING GROUP, INC., FOR PROFESSIONAL SERVICES FOR THE “2020 PINE HEIGHTS ROAD IMPROVEMENTS, 9TH TO 10TH STREET PROJECT” — CDBG NO. 19-PW-017.

WHEREAS, the City will be undertaking a project for the design and replacement of pavement, curb and gutters, sidewalks and storm sewer improvements to the following areas: Pine Heights Road between 9th and 10th Street, and approximately 300 feet west and 125 feet east on 10th Street and 75 feet north on Lilac Lane from the intersection of Pine Heights, Lilac Lane and 10th Street in Wayne, Nebraska, in connection with CDBG No. 19-PW-017; and

WHEREAS, the City sought and received “Statement of Qualifications” from five engineering firms, which were reviewed by a Committee; and

WHEREAS, the Committee, after review of said “Statement of Qualifications,” is recommending that the firm of JEO Consulting Group, Inc., be approved/appointed as the special engineer for said project, with fees for services being \$162,610.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Wayne, Nebraska, that the City Administrator is authorized to engage and use the firm of JEO Consulting Group for the “2020 Pine Heights Road Improvements, 9th to 10th Street Project” in connection with the CDBG Community Development Grant – Contract No. 19-PW-017 and the Mayor is hereby directed to sign said agreement for professional services on behalf of the City.

PASSED AND APPROVED this 3rd day of March, 2020.

THE CITY OF WAYNE, NEBRASKA

By _____
Mayor

ATTEST:

City Clerk



**AGREEMENT
BETWEEN OWNER AND ENGINEER
FOR
PROFESSIONAL SERVICES**

THIS IS AN AGREEMENT effective as of _____ ("Effective Date") between City of Wayne ("Owner") and JEO Consulting Group, Inc. ("Engineer").

Owner's project, of which Engineer's services under this Agreement are a part, is generally identified as follows:

2020 Pine Heights Road Improvements, 9th to 10th Street ("Project"), CDBG No. 19-PW-016.

JEO Project Number: 190286

Owner and Engineer further agree as follows:

ARTICLE 1 - SERVICES OF ENGINEER

1.01 Scope

- A. Engineer shall provide, or cause to be provided, the services set forth herein and in Exhibits A1 and A2.

ARTICLE 2 - OWNER'S RESPONSIBILITIES

2.01 Owner Responsibilities

- A. Owner responsibilities are outlined in Section 3 of Exhibit B.

ARTICLE 3 - COMPENSATION

3.01 Compensation

- A. Owner shall pay Engineer as set forth in Exhibit A1 and per the terms in Exhibit B.
- B. The fee for the Project is provided in Exhibit A1, Section 5.
- C. The Standard Hourly Rates Schedule shall be adjusted annually (as of approximately January 1st) to reflect equitable changes in the compensation payable to Engineer. The current hourly rate schedule can be provided upon request.

ARTICLE 4 - EXHIBITS AND SPECIAL PROVISIONS

4.01 Exhibits

- Exhibit A1 – Scope of Services
- Exhibit A2 – CDBG Supplemental Conditions
- Exhibit B – General Conditions

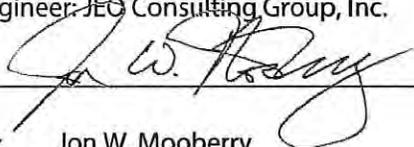
4.02 Total Agreement

- A. This Agreement (consisting of pages 1 to 2 inclusive, together with the Exhibits identified as included above) constitutes the entire agreement between Owner and Engineer and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

Owner: City of Wayne

Engineer: JEO Consulting Group, Inc.



By: Cale Giese

By: Jon W. Mooberry

Title: Mayor

Title: Project Manager

Date Signed: _____

Date Signed: 2/25/2020

Address for giving notices:

Address for giving notices:

Attention: Wes Blecke

JEO Consulting Group, Inc.

306 W. Pearl Street

1937 N. Chestnut Street

Wayne, NE 68787

Wahoo, NE 68066

JEO CONSULTING GROUP INC ■ JEO ARCHITECTURE INC**SCOPE OF SERVICES****PROJECT DESCRIPTION:**

The City of Wayne intends to reconstruct Pine Heights Road between 9th Street and 10th Street with concrete paving with proposed improvements extending approximately 300 feet west and 125 feet east on 10th Street, as well as 75 feet north on Lilac Lane. The following infrastructure improvements within the project corridor are also to be incorporated; replacement of the existing 6" water main with an 8" water main to be located on the east side of 10th Street, and reconstruction the 8" sanitary sewer main along the centerline of 10th Street including services within ROW. Reconstruction of existing sidewalks and curb ramps impacted by proposed construction will be included and designed to meet ADA standards. The scope of this agreement is to provide design, bidding, and construction phase services.

1. DESIGN

- 1.1. Conduct topographic survey of project site generally from right-of-way to right-of-way with cross sections every 50 feet for limits and locations identified in project description.
 - 1.1.1. Topography shall generally extend within the project limits of as described above.
 - 1.1.2. Width shall generally extend 10 feet outside of right-of-way and include all features (fences, retaining walls, etc.).
 - 1.1.3. Locate all public/private utilities using One Call Locate Service to mark existing facilities.
 - 1.1.4. Plot all topography, profiles, and cross sections into CADD Software.
- 1.2. Coordinate geotechnical exploration by Others for pavement core samples and test borings to obtain geologic information and samples of the site soils, laboratory tests to determine the relevant engineering properties of the various soil strata, and a report of geotechnical engineering recommendations.
- 1.3. Complete drainage study and design storm sewer system along 10th Street west of Pine Heights Road meeting minimum design standards, if feasible, and submit technical memo to Owner.
- 1.4. Prepare 60% complete preliminary plans and draft front-end specifications. Plans and specifications to include:
 - 1.4.1. General location maps and symbols sheet.
 - 1.4.2. Survey control sheet(s).
 - 1.4.3. Removal and construction plan sheets.
 - 1.4.4. Plan and profile sheets for proposed improvements.
 - 1.4.5. Storm sewer plan and profile sheets, as needed for proposed improvements.
 - 1.4.6. Water plan and profile construction sheets.
 - 1.4.7. Sanitary sewer plan and profile construction sheets.
 - 1.4.8. Erosion control plan(s) (Included on the removal/construction plan sheets).
 - 1.4.9. Roadway cross section sheets.
 - 1.4.10. Draft front-end specifications with bidding, contract, and any required funding documentation.
- 1.5. Perform an internal quality assurance/quality control (QA/QC) review of the 60% plans.
- 1.6. Submit 60% plans to Owner for review.
- 1.7. Furnish plans to public/private utilities to review proposed improvements for potential conflicts.
- 1.8. Conduct Plan-In-Hand meeting with Owner, Stakeholders, and Utilities (1 meeting).
- 1.9. Conduct Public Open House meeting (1 meeting) and provide the following:
 - 1.9.1. Prepare postcard invite and provide to Owner. Owner to mail postcard or distribute postcard to adjacent property owners within project area.
 - 1.9.2. Prepare public notice for Owner to publish notice of public meeting.
 - 1.9.3. Develop one (1) single page, double sided public meeting handout.

JEO CONSULTING GROUP INC ■ JEO ARCHITECTURE INC

- 1.9.4. Develop up to two (2) meeting displays.
 - 1.9.5. Summary report from public meeting comments.
 - 1.10. Prepare 90% plans, specifications, and an opinion of probable construction cost. Plans and specifications to include:
 - 1.10.1. All sheets previously listed for the 60% complete plans.
 - 1.10.2. Insertion of design detail sheets.
 - 1.10.3. Completion of the front-end documents and special provisions section of the specifications.
 - 1.10.4. Complete all forms for Contract Documents including proposals, advertisements for bids, construction contracts, and payment and performance bonds as required.
 - 1.11. Perform an internal QA/QC review of the 90% complete plans and specifications.
 - 1.12. Prepare NDPDES Permit application and Storm Water Pollution Prevention Plan (SWPPP) for submittal to NDEQ for permit issuance.
 - 1.13. Submit final plans and specifications to NHHS and NDEQ for permit issuance. Owner to pay permit fees.
 - 1.14. Provide completed final documents (Plans, Specifications, and Contract Documents) signed and sealed by a professional engineer registered in the State of Nebraska to Owner.
 - 1.15. Present Final Plans, Specifications, and Opinion of Cost to Owner (1 meeting) and obtain authorization to advertise for bids.
- 2. BIDDING & NEGOTIATION**
- 2.1. Provide assistance with authorizing the advertisement for bids and setting the bid date and time.
 - 2.2. Send Notice to Bidders to Contractors, Builder Bureaus and Plan Rooms.
 - 2.3. Furnish electronic or paper copies of plans, specifications, and contract documents of the project to prospective bidders, material suppliers, and other interested parties upon their request and payment of the non-refundable purchase cost established by the Engineer for the documents.
 - 2.4. Respond to inquiries from prospective bidders and prepare any addenda required.
 - 2.5. Assist the Owner in securing construction bids for the project.
 - 2.6. Assist the Owner at the bid opening consisting of one (1) meeting to ensure proper rules are followed and adhered to during the process to ensure all requirements of State and Federal law are fulfilled.
 - 2.7. Tabulate and analyze construction bids and report on them to the Owner, together with advice and assistance to the Owner in award of construction contract.
 - 2.8. Prepare and submit necessary information to the Owner for project award approval.
 - 2.9. Present and review bids with Owner for project award approval, one (1) meeting.
 - 2.10. Prepare Contract Documents (Construction Contract and Notice to Proceed) for execution by the Prime Contractor(s) and the Owner; provide cursory reviews of all insurance and bonds submittals; then advise the Owner to proceed with execution of all documents.
 - 2.11. Provide copies of all executed Contract Documents to the Owner and Prime Contractor(s).
- 3. CONSTRUCTION ADMINISTRATION & STAKING**
- 3.1. Schedule and conduct a Pre-construction Conference(Pre-Con), consisting of one (1) meeting prior to the start of construction. This conference will review the required timelines set forth in the specifications, lines of communication, key contacts of those involved, review any conflicts with utilities or schedules, review the schedule proposed by the Contractor, review any requirements of the Contractor for locates and staking needs, etc. Discuss construction phasing and access requirements. Minutes of the Pre-construction Conference will be provided to all participants by the Engineer.
 - 3.2. Provide construction staking one time for each of the following (6 trips total);
 - 3.2.1. Verification/Re-establishment of horizontal and vertical control on site.
 - 3.2.2. Storm Sewer: One graded offset hub every 50', two offsets per curb inlet, and one offset per manhole.

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- 3.2.3. Sanitary Sewer: One graded offset hub every 50' and one offset per manhole.
- 3.2.4. Water Main: One graded offset hub every 50' and one offset per fitting, bend, valve, hydrant, etc.
- 3.2.5. Paving Hubs: Including grades where provided at P.C.'s, P.T.'s, and radius points as follows: Two Rows at 25' intervals.
- 3.3. Review shop drawings and related data supplied by the Contractor.
- 3.4. Provide interpretation of the plans and specifications, when necessary.
- 3.5. Review and process Contractor's monthly payment applications and change orders (if necessary) and provide to Owner for review and approval (four progress payments and one final payment estimated).
- 3.6. Conduct monthly progress meetings, up to five (5) meetings estimated.
- 3.7. Attend up to four (4) City Council meetings during construction to provide project updates and assistance with pay applications, change orders, etc.
- 3.8. Consult with and advise Owner during construction in regards to all aspects of the project. Provide weekly/bi-weekly project status updates via email.
- 3.9. Prepare up to four (4) construction notifications to be provided to Owner and distributed to properties/stakeholders located with the project limits of construction.
- 3.10. Provide as-built drawings plan set in PDF format.
- 3.11. Conduct a final walk-thru and inspection of project with the Contractor and Owner, one (1) meeting.
- 3.12. Prepare a final punch list of outstanding items needing completion prior to finalization of the project based on field observations and reviews by the Resident Project Representative, Contractor, and Owner.
- 3.13. Recommend to the Owner the acceptance of the project, and complete the necessary certificate(s). This recommendation will be based on the Engineer's observation of construction utilizing professional judgment and accepted tests to determine that the Contractor has completed their contracts in substantial compliance with the plans, specifications and contract documents.
- 3.14. Assist the Owner during the 12-month warranty period with questions and coordination with the contractor for warranty period correction items.
 - 3.14.1. Issue 6 and 11-month warranty letters to the Owner and Contractor.
 - 3.14.2. Conduct field review of project, one (1) meeting should a field inspection be necessary.
 - 3.14.3. Issue a warranty period correction letter to the contractor for warranty repair items, if necessary.

4. CONSTRUCTION OBSERVATION (RESIDENT PROJECT REPRESENTATIVE)

- 4.1. JEO will furnish a part-time Resident Project Representative (RPR) working with City staff to observe construction progress and quality of the work. An estimated at 400 hours total or 20 hours per week for 20 weeks of construction is anticipated.
- 4.2. The duties and responsibilities of the RPR are described as follows:
 - 4.2.1. Mark removals for construction.
 - 4.2.2. Review of contractors work for general compliance with the plans and specifications.
 - 4.2.3. Monitor Contractors' progress and project schedule.
 - 4.2.4. Complete Construction Observation Reports when on site.
 - 4.2.5. Measure pay quantities and coordinate concurrence with Contractor.
 - 4.2.6. Review of materials delivered to the site for specification compliance.
 - 4.2.7. Assist the engineer in interpretation of the plans and specifications to the contractor.
 - 4.2.8. Review and coordinate with Owner on materials testing by independent lab hired by Owner.
 - 4.2.9. Attend progress meetings.

5. FEE

- 5.1. The total cost to provide design, bidding, and construction engineering phase services is \$162,610 and will be billed as either a lump sum or hourly not to exceed fee, as noted below in subsection 5.3.

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- 5.2. The above mentioned fees includes JEO's billable time and overhead expenses including telephone calls, copying, postage, travel and meals that are included in our hourly rates and fees. Any additional services beyond the Scope of Services will be provided at an agreeable lump sum or hourly rates, only when authorized by the Owner.

5.3. Tasks	Fee
Design	\$ 77,480 Lump Sum
Bidding & Negotiation	\$ 4,700 Lump Sum
Construction Administration & Staking	\$ 34,430 Lump Sum
Construction Observation	<u>\$ 46,000 Hourly Not to Exceed</u>
Total	<u>\$ 162,610</u>

6. PAYMENT:

- 6.1. We will invoice you monthly for work completed to date, payment is due upon receipt. Invoices unpaid after 30 days will accrue interest at 12% per annum (1.0%/month).

7. TIME FRAME:

- | | |
|-------------------------------------|---|
| 7.1. Notice to Proceed (NTP) | 3/3/2020 |
| 7.2. Topo Survey | 4/10/2020 |
| 7.3. Design | 4/10/2020 to 9/25/2020 |
| 7.4. Public Open House | August 2020 |
| 7.5. Council To Approve Final Plans | 10/6/2020 |
| 7.6. Bidding & Negotiation | 45-60 days from authorization to advertise. |
| 7.7. Estimated Bid Opening | Week of 11/2/2020 |
| 7.8. Council Award of Project | 11/17/2020 |
| 7.9. Estimate Construction | 4/1/2021 – 11/1/2021 |

8. OWNER RESPONSIBILITY:

- 8.1. The Owner must provide the following information to the Engineer:
- 8.1.1. Assist with utility conflict resolution and provide additional utility record information, as needed.
 - 8.1.2. Assist with any stakeholder issues that arise.
 - 8.1.3. Provide Title/Deed Research and ROW/Easement acquisition services and or securing right of entry for Engineer/Contractor to complete work, if needed.

9. EXCLUSIONS:

- 9.1. CDBG administration services.
- 9.2. Topographic survey not outlined in the scope of services.
- 9.3. Geotech investigation (To be completed by others under separate agreement).
- 9.4. Street lighting design.
- 9.5. Title/Deed Research and ROW/Easement acquisition services.
- 9.6. ROW/easement plans and legal descriptions.
- 9.7. Environmental reviews and/or studies not outlined in scope of services.
- 9.8. Any permit fees associated with permit applications.
- 9.9. Special meetings and meetings not outlined in the Scope of Services.
- 9.10. Material testing during construction (To be completed by others under separate agreement).
- 9.11. GIS as-built file data for updating of GIS records (Can be provided via supplement).

10. GENERAL CONDITIONS

- 10.1. JEO's general conditions are attached as Exhibit B.

JEO CONSULTING GROUP INC ■ JEO ARCHITECTURE INC**CDBG SUPPLEMENTAL CONDITIONS****1. Record Maintenance, Record Retention, and Access to Records**

The Consultant agrees to maintain such records and follow such procedures as may be required under 2 CFR §200.300–345 and any such procedures that the City or the Department may prescribe. In general, such records will include information pertaining to the contract, obligations and unobligated balances, assets and liabilities, outlays, equal opportunity, labor standards (as appropriate), and performance. All such records and all other records pertinent to this contract and work undertaken under this contract shall be retained by the Consultant for a period of ten years after the final audit of the City's CDBG project, unless a longer period is required to resolve audit findings or litigation. In such cases, the City shall request a longer period for record retention. The City, the Department, and duly authorized officials of the state and federal government shall have full access and the right to examine any pertinent documents, papers, records and books of the Consultant involving transactions to this local program and contract.

2. Relationship

The relationship of the Consultant to the City shall be that of an independent Consultant rendering professional services. The Consultant shall have no authority to execute contracts or to make commitments on behalf of the City and nothing contained herein shall be deemed to create the relationship of employer and employee or principal and agent between the City and the Consultant.

3. Suspension, Termination and Close Out

If the Consultant fails to comply with the terms and conditions of this contract the City may pursue such remedies as are legally available including, but not limited to the suspension or termination of this contract in the manner specified herein:

- 1. Suspension:** If the Consultant fails to comply with the terms and conditions of this contract, or whenever the Consultant is unable to substantiate full compliance with the provisions of this contract, the City may suspend the contract pending corrective actions or investigation, effective not less than 7 days following written notification to the Consultant or its authorized representative. The suspension will remain in full force and effect until the Consultant has taken corrective action to the satisfaction of the City and is able to substantiate its full compliance with the terms and conditions of this contract. No obligations incurred by the Consultant or its authorized representatives during the period of suspension will be allowable under the contract except:
 - (1) Reasonable, proper and otherwise allowable costs which the Consultant could not avoid during the period of suspension.
 - (2) (2) If upon investigation, the Consultant is able to substantiate complete compliance with the terms and conditions of this contract, otherwise allowable costs incurred during the period of suspension will be allowed.
 - (3) In the event all or any portion of the work prepared or partially prepared by the Consultant be suspended, abandoned, or otherwise terminated the City shall pay the Consultant for work performed to the satisfaction of the City, in accordance with the percentage of the work completed
- 2. Termination for Cause:** The City may terminate its contract with the Consultant if the Consultant fails to comply with the terms and conditions of this contract and any of the following conditions exist:
 - (1) The lack of compliance with the provisions of this contract are of such scope and nature that the City deems continuation of the contract to be substantially detrimental to the interests of the City;

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- (2) The Consultant has failed to take satisfactory action as directed by the City or its authorized representative within the time specified by same;
 - (3) The Consultant has failed within the time specified by the City or its authorized representative to satisfactorily substantiate its compliance with the terms and conditions of this contract; then, the City may terminate this contract in whole or in part, and thereupon shall notify the Consultant of the termination, the reasons therefore, and the effective date provided such effective date shall not be prior to notification of the Consultant. After this effective date, no charges incurred under any terminated portions are allowable.
- 3. Termination for Other Grounds:** This contract may also be terminated in whole or in part:
- (1) By the City, with the consent of the Consultant, or by the Consultant with the consent of the City, in which case the two parties shall devise by mutual agreement, the conditions of termination including effective date and in case of termination in part, that portion to be terminated.
 - (2) If the funds allocated by the City via this contract are from anticipated sources of revenue, and if the anticipated sources of revenue do not become available for use in purchasing said services
 - (3) In the event the City fails to pay the Consultant promptly or within 60 days after invoices are rendered, the City agrees that the Consultant shall have the right to consider said default a breach of this agreement and the duties of the Consultant under this agreement terminated. In such an event, the City shall then promptly pay the Consultant for all services performed and all allowable expenses incurred.
 - (4) The City may terminate this contract at any time giving at least 10- days notice in writing to the Consultant. If the contract is terminated for convenience of the City as provided herein, the Consultant will be paid for time provided and expenses incurred up to the termination date.

4. Changes, Amendments, Modifications

The City may, from time to time, require changes or modifications in the scope of services to be performed hereunder. Such changes, including any increase or decrease in the amount of compensation therefore, which are mutually agreed upon by the City and the Consultant shall be incorporated in written amendments to this contract.

5. Personnel

The Consultant represents that he/she has, or will secure at his/her own expense, all personnel required in performing the services under this contract. Such personnel shall not be employees or have any contractual relationship to the City.

All services required hereunder will be performed by the Consultant or under his supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under state or local law to perform such services.

None of the work or services covered by this contract shall be subcontracted without prior written approval of the City. Any work or services subcontracted hereunder shall be specified by written contract or agreement and shall be subject to each provision of this contract.

6. Assignability

The Consultant shall not assign any interest on this contract, and shall not transfer any interest on this contract (whether by assignment or notation), without prior written consent of the City thereto: Provided, however, that claims for money by the Consultant from the City under this contract may be assigned to a bank, trust company, or

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other financial institutions without such approval. Written notice of any such assignment or transfer shall be furnished promptly to the City.

7. Reports and Information

The Consultant, at such times and in such forms as the City may require, shall furnish the City such periodic reports as it may request pertaining to the work or services undertaken pursuant to this contract, the costs and obligations incurred or to be incurred in connection therewith, and any other matters covered by this contract.

8. Findings Confidential

All of the reports, information, data, etc., prepared or assembled by the Consultant under this contract are confidential and the Consultant agrees that they shall not be made available to any individual or organization without prior written approval of the City.

9. Copyright

No reports, maps, or other documents produced in whole or in part under this contract shall be subject of an application for copyright by or on behalf of the Consultant.

10. Compliance With Local Laws

The Consultant shall comply with all applicable laws, ordinances and codes of the state and local governments and the Consultant shall save the City harmless with respect to any damages arising from any tort done in performing any of the work embraced by this contract.

11. Title VI of the Civil Rights Act of 1964

No person shall, on the grounds of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

12. Section 109 of the Housing and Community Development Act of 1974

No person in the United States shall on the grounds of race, color, national origin, or sex be excluded from participation in, be denied benefits of or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.

13. Section 3 Compliance in the Provision of Training, Employment and Business Opportunities

- a. The work to be performed under this contract is on a project assisted under a program providing direct federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in the area of the project.
- b. The parties to this contract will comply with the provisions of said Section 3. The parties to this contract certify and agree that they are under no contractual or other disability which would prevent them from complying with these provisions.
- c. The consultant will send to each labor organization or representative or workers with which he/she has collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor

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organization or workers' representative of his/her commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

d. The Consultant will include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for, or receipt of federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR Part 135. The Consultant will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Part 135 and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

e. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued hereunder prior to the execution of the contract, shall be a condition of the federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance, its successors and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its consultants and subcontractors, its successors and assigns to those sanctions specified by the grant or loan agreement or contract through which federal assistance is provided, and to such sanctions as are specified by 24 CFR Part 135.

13. Age Discrimination Act of 1975, As Amended (42 U.S.C. 6101, et.seq.)

No person will be excluded from participation, denied program benefits or subjected to discrimination on the basis of age under any program or activity receiving federal funding assistance.

14. Section 504 of the Rehabilitation Act of 1973, As Amended (29 U.S.C. 794)

No otherwise qualified individual will, solely by reason of his or her handicap, be excluded from participation (including employment), denied program benefits or subjected to discrimination under any program or activity receiving federal assistance funds.

15. Executive Order 11246, As Amended.

This Order applies to all federally assisted construction contracts and subcontracts. The Grantee and subcontractors, if any, will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Grantee and subcontractors, if any, will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin.

16. Conflict of Interest 2 CFR §200.318

No officer, employee or agent of the Grantee who will participate in the selection, the award, or the administration of this grant may obtain a personal or financial interest or benefit from the activity or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter. It is further required that this stipulation be included in all subcontracts to this contract. Upon written request, exceptions may be granted upon a case by case basis when it is determined that such an exception will serve to further the purposes of the Act and the effective and efficient administration of the recipient's program or project. These exceptions are granted by the Department.

JEO CONSULTING GROUP INC ■ JEO ARCHITECTURE INC**17. Audits and Inspections**

The City, the Department, the State Auditor and HUD or their delegates shall have the right to review and monitor the financial and other components of the work and services provided and undertaken as part of the CDBG project and this contract, by whatever legal and reasonable means are deemed expedient by the City, DED, the State Auditor and HUD.

18. Hold Harmless

The Consultant agrees to indemnify and hold harmless the City, its appointed and elected officers and employees, from and against all loss and expense, including attorney's fees and costs by reason of any and all claims and demands upon the City, its elected or appointed officers and employees from damages sustained by any person or persons, arising out of or in consequence of the Consultant's and its agents' negligent performance of work associated with this agreement. The Consultant shall not be liable for property and bodily injury as may result from the negligence of any construction contractor or construction subcontractor.

19. Governing Law

This Agreement will be governed by the laws of the State of Nebraska, without regard to that body of law controlling conflicts of law. Any legal proceeding arising out of, or relating to this Agreement shall be instituted in any court of general jurisdiction in the State of Nebraska. This agreement contains all terms and conditions agreed to by the City and the Consultant. The attachments to this agreement are identified as follows: Agreement For Professional Services, Exhibit A1 – Scope of Services, Exhibit A2 – CDBG Supplemental Conditions, and Exhibit B – General Conditions.

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1. SCOPE OF SERVICES: JEO Consulting Group, Inc. (JEO) shall perform the services described in Exhibit A. JEO shall invoice the owner for these services at the fee stated in Exhibit A.

2. ADDITIONAL SERVICES: JEO can perform work beyond the scope of services, as additional services, for a negotiated fee or at fee schedule rates.

3. OWNER RESPONSIBILITIES: The owner shall provide all criteria and full information as to the owner's requirements for the project; designate and identify in writing a person to act with authority on the owner's behalf in respect to all aspects of the project; examine and respond promptly to JEO's submissions; and give prompt written notice to JEO whenever the owner observes or otherwise becomes aware of any defect in work.

Unless otherwise agreed, the owner shall furnish JEO with right-of-access to the site in order to conduct the scope of services. Unless otherwise agreed, the owner shall also secure all necessary permits, approvals, licenses, consents, and property descriptions necessary to the performance of the services hereunder. While JEO shall take reasonable precautions to minimize damage to the property, it is understood by the owner that in the normal course of work some damage may occur, the restoration of which is not a part of this agreement.

4. TIMES FOR RENDERING SERVICES: JEO's services and compensation under this agreement have been agreed to in anticipation of the orderly and continuous progress of the project through completion. Unless specific periods of time or specific dates for providing services are specified in the scope of services, JEO's obligation to render services hereunder shall be for a period which may reasonably be required for the completion of said services.

If specific periods of time for rendering services are set forth or specific dates by which services are to be completed are provided, and if such periods of time or date are changed through no fault of JEO, the rates and amounts of compensation provided for herein shall be subject to equitable adjustment. If the owner has requested changes in the scope, extent, or character of the project, the time of performance of JEO's services shall be adjusted equitably.

5. INVOICES: JEO shall submit invoices to the owner monthly for services provided to date and a final bill upon completion of services. Invoices are due and payable within 30 days of receipt. Invoices are considered past due after 30 days. Owner agrees to pay a finance charge on past due invoices at the rate of 1.0% per month, or the maximum rate of interest permitted by law.

If the owner fails to make any payment due to JEO for services and expenses within 30 days after receipt of JEO's statement, JEO may, after giving 7 days' written notice to the owner, suspend services to the owner under this agreement until JEO has been paid in full all amounts due for services, expenses, and charges.

6. STANDARD OF CARE: The standard of care for all services performed or furnished by JEO under the agreement shall be the care and skill ordinarily used by members of JEO's profession practicing under similar circumstances at the same time and in the

same locality. JEO makes no warranties, express or implied, under this agreement or otherwise, in connection with JEO's services.

JEO shall be responsible for the technical accuracy of its services and documents resulting therefrom, and the owner shall not be responsible for discovering deficiencies therein. JEO shall correct such deficiencies without additional compensation except to the extent such action is directly attributable to deficiencies in owner furnished information.

7. REUSE OF DOCUMENTS: Reuse of any materials (including in part plans, specifications, drawings, reports, designs, computations, computer programs, data, estimates, surveys, other work items, etc.) by the owner on a future extension of this project, or any other project without JEO's written authorization shall be at the owner's risk and the owner agrees to indemnify and hold harmless JEO from all claims, damages, and expenses including attorney's fees arising out of such unauthorized use.

8. ELECTRONIC FILES: Copies of Documents that may be relied upon by the owner are limited to the printed copies (also known as hard copies) that are signed or sealed by JEO. Files in electronic media format of text, data, graphics, or of other types that are furnished by JEO to the owner are only for convenience of the owner. Any conclusion or information obtained or derived from such electronic files shall be at the user's sole risk.

a. Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it shall perform acceptance tests or procedures within 30 days, after which the receiving party shall be deemed to have accepted the data thus transferred. Any errors detected within the 30 day acceptance period shall be corrected by the party delivering the electronic files. JEO shall not be responsible to maintain documents stored in electronic media format after acceptance by the owner.

b. When transferring documents in electronic media format, JEO makes no representations as to long term compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by JEO at the beginning of the project.

c. The owner may make and retain copies of documents for information and reference in connection with use on the project by the owner.

d. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.

e. Any verification or adaptation of the documents by JEO for extensions of the project or for any other project shall entitle JEO to further compensation at rates to be agreed upon by the owner and JEO.

9. SUBCONSULTANTS: JEO may employ consultants as JEO deems necessary to assist in the performance of the services. JEO shall not be required to employ any consultant unacceptable to JEO.

10. INDEMNIFICATION: To the fullest extent permitted by law, JEO and the owner shall indemnify and hold each other harmless and their respective officers, directors, partners, employees, and consultants from and against any and all claims, losses, damages,

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and expenses (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) to the extent such claims, losses, damages, or expenses are caused by the indemnifying parties' negligent acts, errors, or omissions. In the event claims, losses, damages, or expenses are caused by the joint or concurrent negligence of JEO and the owner, they shall be borne by each party in proportion to its negligence.

11. INSURANCE: JEO shall procure and maintain the following insurance during the performance of services under this agreement:

- a. Workers' Compensation: Statutory
- b. Employer's Liability
 - i. Each Accident: \$500,000
 - ii. Disease, Policy Limit: \$500,000
 - iii. Disease, Each Employee: \$500,000
- c. General Liability
 - i. Each Occurrence (Bodily Injury and Property Damage): \$1,000,000
 - ii. General Aggregate: \$2,000,000
- d. Auto Liability
 - i. Combined Single: \$1,000,000
- e. Excess or Umbrella Liability
 - i. Each Occurrence: \$1,000,000
 - ii. General Aggregate: \$1,000,000
- f. Professional Liability:
 - i. Each Occurrence: \$1,000,000
 - ii. General Aggregate: \$2,000,000
- g. All policies of property insurance shall contain provisions to the effect that JEO and JEO's consultants' interests are covered and that in the event of payment of any loss or damage the insurers shall have no rights of recovery against any of the insureds or additional insureds thereunder.
- h. The owner shall require the contractor to purchase and maintain general liability and other insurance as specified in the Contract Documents and to cause JEO and JEO's consultants to be listed as additional insured with respect to such liability and other insurance purchased and maintained by the contractor for the project.
 - i. The owner shall reimburse JEO for any additional limits or coverages that the owner requires for the project.

12. TERMINATION: This agreement may be terminated by either party upon 7 days prior written notice. In the event of termination, JEO shall be compensated by owner for all services performed up to and including the termination date. The effective date of termination may be set up to thirty (30) days later than otherwise provided to allow JEO to demobilize personnel and equipment from the site, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble project materials in orderly files.

13. GOVERNING LAW: This agreement is to be governed by the law of the state in which the project is located.

14. SUCCESSORS, ASSIGNS, AND BENEFICIARIES: The owner and JEO each is hereby bound and the partners, successors, executors, administrators and legal representatives of the owner and JEO are hereby bound to the other party to this agreement and to the partners, successors, executors, administrators and legal representatives (and said assigns) of such other party, with respect to all covenants, agreements and obligations of this agreement.

a. Neither the owner nor JEO may assign, sublet, or transfer any rights under or interest (including, but without limitation, monies that are due or may become due) in this agreement without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated or restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment shall release or discharge the assignor from any duty or responsibility under this agreement.

b. Unless expressly provided otherwise in this agreement: Nothing in this agreement shall be construed to create, impose, or give rise to any duty owed by the owner or JEO to any contractor, contractor's subcontractor, supplier, other individual or entity, or to any surety for or employee of any of them.

c. All duties and responsibilities undertaken pursuant to this agreement shall be for the sole and exclusive benefit of the owner and JEO and not for the benefit of any other party.

15. PRECEDENCE: These standards, terms, and conditions shall take precedence over any inconsistent or contradictory language contained in any proposal, contract, purchase order, requisition, notice to proceed, or like document regarding JEO's services.

16. SEVERABILITY: Any provision or part of the agreement held to be void or unenforceable shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon the owner and JEO, who agree that the agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

17. NON-DISCRIMINATION CLAUSE: Pursuant to Neb. Rev. Stat. § 73-102, the parties declare, promise, and warrant that they have and will continue to comply fully with Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C.A § 1985, et seq.) and the Nebraska Fair Employment Practice Act, Neb. Rev. Stat. § 48-1101, et seq., in that there shall be no discrimination against any employee who is employed in the performance of this agreement, or against any applicant for such employment, because of age, color, national origin, race, religion, creed, disability or sex.

18. E-VERIFY: JEO shall register with and use the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee pursuant to the Immigration Reform and Control Act of 1986, to determine the work eligibility status of new employees physically performing services within the state where the work shall be performed. Engineer shall require the same of each consultant.

RESOLUTION NO. 2020-10

A RESOLUTION APPROVING AGREEMENT WITH CERTIFIED TESTING SERVICES, INC., FOR GEOTECHNICAL EXPLORATION SERVICES FOR THE “2020 PINE HEIGHTS ROAD IMPROVEMENTS, 9TH TO 10TH STREET PROJECT” — CDBG NO. 19-PW-017.

WHEREAS, the Wayne City Council is desirous of entering into an agreement with Certified Testing Services, Inc., for geotechnical exploration services relating to the “2020 Pine Heights Road Improvements, 9th to 10th Street Project” – CDBG No. 19-PW-017; and

WHEREAS, a proposal has been requested and received from Certified Testing Services, Inc., to provide geotechnical exploration services; and

WHEREAS, Certified Testing Services, Inc., based on the scope of work outlined in the proposal, proposes to perform the same for a lump sum amount of \$2,550, and they have estimated the cost for performing soil and concrete testing to be approximately \$7,500; and

WHEREAS, staff recommendation is to accept the proposal of Certified Testing Services, Inc., for said services for the above-named project.

NOW THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Wayne, Nebraska, that the proposal for the geotechnical exploration services for the “2020 Pine Heights Road Improvements, 9th to 10th Street Project” – CDBG No. 19-PW-017, be accepted as recommended, and the Mayor be and he hereby is hereby authorized to execute the agreement for said services on behalf of the City.

PASSED AND APPROVED this 3rd day of March, 2020.

THE CITY OF WAYNE, NEBRASKA,

By _____
Mayor

ATTEST:

City Clerk



Certified Testing Services, Inc.

419 W. 6th Street • P.O. Box 1193 • Sioux City, Iowa 51102 • Phone (712) 252-5132

February 25, 2020

Attn: Mr. Wes Blecke
City Administrator
City of Wayne
306 Pearl Street
Wayne, Nebraska 68787

RE: Geotechnical Exploration Services
Pine Heights Road and E 10th Street
Improvements
Wayne, Nebraska
CTS Proposal Number 5129

Dear Mr. Blecke,

Introduction

Certified Testing Services, Inc. is pleased to submit this proposal to perform a geotechnical exploration for the above referenced project. This proposal presents our understanding of the furnished project information, scope of work, as well as schedule and fees.

Project Information

Mr. Jon Mooberry, P.E. of JEO Consulting Group Inc. presented project information in an email on February 17, 2020. The email included a Google Earth[®] map showing the site location and a drawing titled, "City of Wayne, Nebraska, Utility Map". CTS understands that the project will consist of the reconstruction of the south approximate 70 feet of Lilac Lane, north of E 10th Street, and Pine Heights Road from E 9th Street north to E 10th Street in Wayne, Nebraska. CTS also understands that the project will include the reconstruction of the sanitary sewer and water main on Lilac Lane and Pine Heights Road and storm sewer work on E 10th Street. We understand that the existing sanitary sewer is 13 feet to 14 feet below the existing grade.

Scope of Work

Based on the information supplied, CTS proposes to perform two borings to 20 feet below the existing grade on Pine Height Road and two borings to depths ranging from 15 feet to 20 feet below the existing grade on E 10th Street. At the completion of the fieldwork, samples collected in the field will be transported to the laboratory and tested to determine select engineering properties that will be used in our analysis. The results of the fieldwork, laboratory testing, project information and other information will be evaluated by a professional engineer familiar with the soil conditions in the project area and presented in a report.

Items that will be addressed in the report include our understanding of the project information, topographic and subsurface information, review of geologic and subsurface information, review of field and laboratory test procedures, recommendations on the suitability of the subgrade soils for bedding utilities and trench backfill, provide recommendations for pavement subgrade preparation, recommendations for pavement thickness for PCC, provide existing pavement thickness, and provide groundwater information.

The scope of services is based on the public utilities being located by CTS and the site being accessible to a truck mounted drill rig. It is understood that the Mr. Mooberry will provide permission to access the work area. **It should be noted that Nebraska One Call service will not locate private utilities. The City of Wayne or their representative should make CTS aware of all private utilities. CTS cannot be held responsible for private utilities that we cut that we are not made aware of their specific location.** Field and laboratory testing will be performed, where applicable, in accordance with ASTM procedures. Our scope of work does not include an evaluation of existing environmental conditions.

Cost

Based on the scope of work discussed above, CTS proposes to perform the work for a lump sum amount of \$2,550.00, which includes two hard copies and an electronic copy of the final report and traffic control. CTS has estimated that the cost for performing the construction testing based on twelve trips for performing soil and concrete testing to be approximately \$7,500.00 and would be billed based on the attached "Construction Testing Schedule of Services and Fees". Where possible CTS will prorate the travel cost with other projects in the area. It is further proposed to perform the work in accordance with the attached general conditions.

Our lump sum geotechnical fee covers the activity required to present our findings in report form. Our lump sum geotechnical fee includes up to one hour of engineering services for the review of drawings and specifications in our office to determine their compliance with our report. This proposal does not include the preparation of construction specifications, special conferences and other activities requested after submittal of our report.

Schedule and Authorization

Based on our present schedule, we can commence the fieldwork within five to ten working days, if weather conditions allow. CTS's written report would follow within five working days of completion of the fieldwork.

CTS will proceed with the fieldwork based on the receipt of a signed copy of this proposal. To speed up the process a copy of the signature page may be faxed to (712) 252-0110 or emailed to jbertsch@ctsgeo.com and would serve as written authorization. Please complete as many items as possible on the attached project data sheet and return the signed agreement.

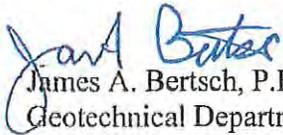
CTS appreciates the opportunity to submit this proposal and look forward to working with you on this project. If you should have any questions or need additional information, feel free to contact our office.

Sincerely,

CERTIFIED TESTING SERVICES, INC.



Matthew R. Dailey, P.E.
Senior Geotechnical Engineer



James A. Bertsch, P.E.
Geotechnical Department Manager

MRD/JAB/md

Attachments: Geotechnical Schedule of Services and Fees
Construction Testing Schedule of Services and Fees
Project Data Sheet
General Conditions

<p>AGREED TO THIS _____ DAY OF _____, 20 _____</p> <p>SIGNATURE: _____</p> <p>PRINTED NAME: _____</p> <p>TITLE: _____</p> <p>FIRM: _____</p>
--

GEOTECHNICAL SCHEDULE OF SERVICES AND FEES

<u>Field Services</u>	<u>Unit</u>	<u>Unit Fees</u>
Mobilization	Per Mile	\$3.75
Drilling	Per Foot	11.00
Sampling	Each	10.00
Coring and Patching	Each	75.00
Standby	Per Hour	150.00
 <u>Lab Services</u>		
Atterberg Limits	Each	\$90.00
Moisture Content	Each	8.50
Dry Density	Each	10.50
Unconfined Compression	Each	15.50
Gradation Test	Each	90.00
 <u>Report</u>		
Senior Engineering Technician	Hour	64.00
Crew Chief	Hour	74.00
Staff Engineer	Hour	130.00
Senior Engineer	Hour	160.00

CONSTRUCTION TESTING SCHEDULE OF SERVICES AND FEES

<u>Service</u>	<u>Unit</u>	<u>Unit Fees</u>
Vehicle Fee	Per Mile	\$0.75
Standard Proctor	Each	\$140.00
Aggregate Sieve Analysis	Each	\$90.00
Soils Technician	Per Hour	\$68.00
Soils Technician (OT)	Per Hour	\$78.00
Concrete Technician	Per Hour	\$68.00
Concrete Technician (OT)	Per Hour	\$78.00
Project Manager	Per Hour	\$90.00
Geotechnical Engineer	Per Hour	\$160.00
Compressive Strength of Cylinders	Each	\$15.00
Entry and Curing Charge for Spare	Each	\$9.00
Report Preparation	Per Hour	\$40.00

No hidden fees

**CERTIFIED TESTING SERVICES, INC
PROJECT DATA SHEET
SUBSURFACE EXPLORATION**

1. Project Name: _____
2. Project Location: _____
3. Your Job Number _____ Purchase Order No.: _____
4. Project Manager: _____ Telephone No.: _____
5. Distribution of Reports:
Copies To: _____ Copies To: _____

Attn: _____ Attn: _____
6. Invoicing Address:

Attn: _____

GENERAL CONDITIONS SUBSURFACE EXPLORATION SERVICES

SECTION 1: Scope of Work

CTS shall perform the services defined in the contract and shall invoice the client for those services at the fee schedule rates. Any cost estimates stated in this contract shall not be considered as a firm figure unless otherwise specifically stated in this contract. If unexpected site conditions are discovered, the scope of work may change, even as the work is in progress. CTS will provide these additional services at the contract fee schedule rate.

Rates for work beyond the scope of this contract and not covered by the contract fee schedule can be provided by the client with verbal authorization, and will provide written confirmation of fees, if requested. All costs incurred because of delays in authorizing the additional work will be billed to the client.

Fee schedules are valid for one year following the date of the contract unless otherwise noted.

SECTION 2: Access to Sites

Unless otherwise agreed, the client will furnish CTS with right-of-access to the site in order to conduct the planned exploration.

While CTS will take all reasonable precautions to minimize any damage to the property, it is understood by the client that in the normal course of work some damage may occur, the restoration of which is not part of this agreement.

SECTION 3: Soil Boring Locations

The client will furnish CTS with a diagram indicating the location of the site. Test boring locations may also be indicated on the diagram. CTS reserves the right to deviate a reasonable distance from the boring locations specified unless this right is specifically revoked by the client in writing at the time the location diagram is supplied. CTS reserves the right to terminate this contract if conditions preventing drilling at the specified locations are encountered which were not made known to CTS prior to the date of this contract.

The accuracy and proximity of provided survey control will affect the accuracy of in situ test location and evaluation determinations. Unless otherwise noted, the accuracy of test locations and elevations will be commensurate only with pacing and approximate measurements or estimates.

SECTION 4: Utilities

In the performance of its work, CTS will take all reasonable precautions to avoid damage or injury to subterranean structures or utilities.

The client agrees to hold CTS harmless and indemnify CTS for any claims, payments or other liability, including costs and attorney fees incurred by CTS for any damages to subterranean structures which are not called to CTS's attention and correctly shown on plans furnished to CTS.

SECTION 5: Samples

CTS will retain all soil and rock samples for 30 days after submission of the report. Further storage or transfer of samples can be made at owner expense upon written request.

SECTION 6: Unanticipated Hazardous Materials

It shall be the duty of the owner or his representative to advise CTS of any known or suspected hazardous substances which are or may be related to the services provided; such hazardous substances including but not limited to products, materials, by-products, wastes or samples of the foregoing which CTS may be provided or obtain performing its services or which hazardous substances exist or may exist on or near any premises upon which work is to be performed by CTS's employees, agents or subcontractors.

If during the course of providing services CTS observes or suspects the existence of unanticipated hazardous materials, CTS may at its option terminate further work on the project and notify client of the condition. Services will be resumed only after a renegotiation of scope of services and fees. In the event that such renegotiation cannot occur to the satisfaction of CTS, CTS may at its option terminate this contract.

SECTION 7: Reports and Invoices

CTS will furnish three (3) copies of the report to the client. Additional copies will be furnished at the rate specified in the fee schedule.

CTS will submit invoices to the client monthly and a final bill upon completion of services. Payment is due upon presentation of invoice and is past due thirty (30) days from the invoice date. Client agrees to pay a finance charge of one and one-half percent (1 1/2%) per month, but not exceeding a maximum rate allowed by law, on past due accounts.

SECTION 8: Ownership of Documents

All reports, boring logs, field data, field notes, laboratory test data, calculations, estimates, and other documents prepared by CTS as instruments of service, shall remain the property of CTS, unless there are other contractual agreements.

SECTION 9: Confidentiality

CTS shall hold confidential all businesses or technical information obtained from the client or his affiliates or generated in the performance of services under this agreement and identified in writing by the client as "confidential". CTS shall not disclose such information without the client's consent except to the extent required for 1) Performance of services under this agreement; 2) Compliance with professional standards of conduct for preservation of public safety, health, and welfare; 3) Compliance with any court order or other governmental directive

and/or 4) Protection of CTS against claims or liabilities arising from performance of services under this agreement. CTS obligations hereunder shall not apply to information in the public domain or lawfully acquired on a non-confidential basis from others.

SECTION 10: Standard of Care

Services performed by CTS under this Agreement will be conducted in the manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing under similar conditions. No other warranty, express or implied, is made or intended by the proposal for consulting services or by furnishing oral or written reports of the findings made.

The client recognizes that the subsurface conditions may vary from those encountered at the location where borings, surveys or explorations are made by CTS and that the data, interpretations and recommendations of CTS are based solely upon the data available to CTS. CTS will be responsible for those data, interpretations, and recommendations, but shall not be responsible for the interpretation by others of the information developed.

SECTION 11: Subpoenas

The client is responsible, after notification, for payment of time charges and expenses resulting from our required response to subpoenas issued by any party in conjunction with our work. Charges are based on fee schedules in effect at the time the subpoena is served.

SECTION 12: Limitation of Liability

In recognition of the relative risks, rewards, and benefits to both the client and to CTS, the risks have been allocated such that the client agrees to limit CTS's liability to the client and all other parties claiming to have relied on CTS's work provided through the client to the amount of applicable insurance coverage. This limitation of liability is a business understanding between the parties voluntarily and knowingly entered into, and shall apply to all theories of recovery including, but not limited to, breach of contract, warranty, tort, (including negligence), strict or statutory liability, or any other cause of action except for willful misconduct or gross negligence.

This limit of liability shall only apply to any and all claims, losses, costs, or damages whatsoever arising out of, resulting from, or in any way related to the project or the agreement.

SECTION 13: Insurance and Indemnity

CTS represents that it and its staff are protected by worker's compensation insurance and that CTS has such coverage under public liability and property damage insurance policies which CTS deems to be adequate. It is the policy of CTS to require certificates of insurance from all consultants or subcontractors employed by CTS. Certificates for all such policies of insurance will be provided to client upon request in writing. Within the limits and conditions of such insurance, CTS agrees to indemnify and save client harmless from and against any loss, damage, injury or liability arising from any negligent acts of CTS or its employees. CTS shall not be responsible for any loss, damage or liability beyond the amounts, limits and conditions of such insurance. CTS shall not be responsible for any loss, damage or liability arising from any acts by a client, its agents, staff or other consultants employed by others.

CTS's compensation hereunder is not commensurate with the potential risk of injury or loss that may be caused by exposures to pollution, hazardous waste or toxic or other dangerous substances or conditions. Accordingly, except as expressly provided in this contract, the client waives any claim against CTS and agrees to indemnify and save CTS, its agents, and its employees harmless from any claim, liability or defense cost for injury or loss sustained by any party from such exposures allegedly arising out of or related to CTS's performance of services hereunder.

SECTION 14: Termination

This Agreement may be terminated by either party upon seven (7) days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof. Such termination shall not be effective if that substantial failure has been remedied before expiration of the period specified in the written notice. In the event of termination, CTS shall be paid for services performed to the termination notice date plus reasonable termination expenses. Expenses or termination or suspension shall include all direct costs of CTS required to complete analysis and records necessary to complete its files and may also include a report on the services performed to the date of notice of termination or suspension.

SECTION 15: Precedence

These Standards, Terms and Conditions shall take precedence over any inconsistent or contradictory provisions contained in any proposal, contract, purchase order, requisition, notice to proceed, or like document regarding CTS's services.



Certified Testing Services, Inc.

419 W. 6th Street
P.O. Box 1193
Sioux City, Iowa 51102